

ITEM 3 SUBMISSION TO TfNSW – SOUTH FACING RAMPS M1 DAPTO

West Dapto is the fastest-growing residential area in New South Wales outside the Sydney region and many new developments are underway or have already been finished in this area. Over the next few decades, it will become home to around 19,500 new homes and more than 56,500 people. West Dapto will also bring new employment land and job opportunities to Wollongong.

With this projected growth, an integrated transport system that caters for private vehicles, public transport, pedestrians, bike riders and freight is needed to address the key issues and contribute to the long-term sustainability and liveability of the area.

Transport for NSW (TfNSW) is seeking community feedback on plans to improve connectivity to the M1 at Dapto. M1 entry and exit ramps at Dapto will contribute to a safer road network, a more comfortable journey for people, and will encourage economic development by facilitating smoother transportation of people, goods and services.

This report seeks Council endorsement of the draft submission to be sent to TfNSW as part of their current public exhibition period.

RECOMMENDATION

Council endorses the draft submission on the South Facing Ramps M1 Princes Motorway, Dapto to Transport for NSW which includes Emerson Road as the preferred location.

REPORT AUTHORISATIONS

Report of: Nathan McBriarty, Manager Infrastructure Strategy + Planning (Acting)

Authorised by: Joanne Page, Director Infrastructure + Works

ATTACHMENTS

- 1 Submission to TfNSW
- 2 West Lake Illawara SIC

BACKGROUND

Wollongong City Council estimates the West Dapto Urban Release Area will provide about 19,500 dwellings and an additional population of around 56,500 people once the area is fully developed over 50 years (West Dapto Vision 2018, WCC). This increase in population will place pressure on the existing transport network resulting in a worsening of congestion and average network speeds, increasing the amount of time and vehicle operating costs for travellers in addition to exacerbating other existing issues on the transport network.

The West Dapto Vision features the importance of sustainable and accessible transportation infrastructure to support the growth and well-being of the community. By prioritising improvements to the M1 through delivering south facing ramps, traffic flow can be enhanced, which will reduce congestion, and provide safer and more efficient access to and from the Dapto area.

TfNSW are currently seeking feedback until 21 February 2024 on potential locations for entry and exit ramps on the M1 at Dapto including:

- Kanahooka Road
- Fowlers Road
- Emerson Road

Although the planning work by TfNSW on the M1 ramps is appreciated, the larger strategic, long-term plan to deliver on the planned outcomes for the West Dapto Urban Release Area (WDURA) including public transport servicing and planning to relieve capacity and congestion issues on the M1 has not yet been delivered by TfNSW.

PROPOSAL

This report seeks Council's consideration and endorsement of the draft submission prior to forwarding to TfNSW.

TfNSW's work on developing plans for south facing ramps through Dapto is acknowledged and appreciated. Given the integral relationship between the M1 access arrangements and transport planning AND implications for the WDURA, Council would greatly appreciate the opportunity for further consultation and involvement in development of the M1 ramps strategy.

All the options put forward by TfNSW for additional entry and exit ramps to connect to the M1 Princes Motorway, Dapto are proposed to reduce the distance and travel time for motorists.

The key opportunities and concerns raised in the draft submission include:

- To meet the desired outcome of reducing the distance and travel time for motorists, the project must include the State Government committed road capacity improvements of additional lanes in both north and southbound directions for public transport uplift and private vehicles.
- The TfNSW public transport service plan must be completed, and funding allocated for the delivery of the adopted routes and services to provide alternative and sustainable transport options to the private vehicle. In addition, this work will provide clear direction to development to provide accessible and inviting public transport associated infrastructure at stops.
- Ramp metering at Kanahooka Road in the short term could assist with current M1 capacity issues and should be explored to support smoother travel flow and less weaving, ultimately improving safety at the location.
- Kanahooka Road – concerns around significant flooding and the ability to deliver flood reliable roads with the delivery of the ramps and the proximity of the connecting network to the level crossing adjacent to the Princes Highway. The infrastructure investment at this location duplicates the Northcliffe Drive access which is in close proximity. There is available space to construct ramps and the associated acceleration and deceleration area and is the least challenging location to design and construct ramps.
- Emerson Road – has a larger road widening reservation which will reduce the impact to residential properties and is aligned with previous State and Council Strategic planning. This location integrates with the M1 in the south (Northcliffe Drive remaining in the north).
- Fowlers Road – modelling has shown that there would be significant increased demand on Fowlers Road, which would require grade separation and would impact the Princes Highway intersection. This location would also require the acquisition of many residential properties. The advantages of this option are that it is a central location for access into Dapto and the WDURA, linking directly into the Fowlers Road extension.
- Micro-simulation modelling will be required for the local road network to determine any additional impacts to the local network, road safety, and the cost of future infrastructure on local roads.
- Further consideration and clarity are needed on the State's proposed role for the West Lake Illawarra Major Road Spine in the context of the M1 south facing ramps and M1 capacity considerations. Any desire for a function beyond that of the release area role should be clarified as a matter of urgency.

The draft submission to TfNSW, provided as Attachment 1, includes further detail on the three locations proposed by TfNSW and other key issues and considerations relating to the project.

CONSULTATION AND COMMUNICATION

In preparation of the draft submission, the Transport team sought input from the West Dapto Urban Release Team.

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong, Our Future 2032 *Community Strategic Plan goals*:

- Goal 4 – We are a connected and engaged community.
- Goal 5 – We have a healthy community in a liveable city.
- Goal 6 – We have affordable and accessible transport.

SUSTAINABILITY IMPLICATIONS

Whilst there are currently no direct costs for Council in relation to the TfNSW proposals, there are potential future impacts and infrastructure costs for the connecting local road network. Detailed analysis and micro-simulation modelling will be undertaken for the project to ensure that sustainable transport movements are undertaken.

There has been no analysis of multi-modal options including bus servicing improvements which is a more sustainable approach given the constraints of the road corridors and limited ability for further capacity improvements. These matters have been highlighted in the draft submission and Council Officers will continue to liaise with TfNSW to encourage the development of a more holistic, sustainable integrated transport network for West Dapto.

RISK MANAGEMENT

The attached draft submission to TfNSW seeks to highlight potential risks associated with the exhibited proposals, including economic and social risks. Council will work with TfNSW following their consideration of the community feedback, to address any risks based on the plans as they develop.

FINANCIAL IMPLICATIONS

There are currently no direct financial implications for Council in relation to the forwarding of a submission to TfNSW for the proposed M1 south facing ramps at Dapto, early consultation.

CONCLUSION

The M1 entry and exit ramps project will provide significant benefits for all residents of the region who use this important road. It will reduce congestion, support the enhancement of public transport, reduce time spent in the car and provide significant productivity benefits for workers and employers.



Wollongong City Council Submission – Transport for NSW South Facing Ramps

1 Summary

Council welcomes the planning work Transport for NSW are undertaking to seek early engagement on M1 south facing ramps at Dapto. This work aligns with what our community has told us and the strategic planning initiatives outlined by Wollongong City Council. These ramps support the West Dapto Urban Release Area (WDURA) through supporting the West Dapto Vision transport principles; by providing a future road network that will be the ‘backbone’ of the community, providing for all types of access and movement through the release area. Constructing south facing ramps at Dapto will create a reliable access road network for people to travel to and from the area south of Dapto.

It is important to consider this work as an integrated transport system that is proposed catering for freight, public transport, and the private car, aiming to address key issues and contribute to the overall development of the area.

The ramps align with the Council’s *Our Wollongong, Our Future 2032 Community Strategic Plan* which was derived from community’s needs and aspirations and directly support the Strategic Goals:

- Goal 4 – We are a connected and engaged community.
- Goal 5 – We have a healthy community in a liveable city.
- Goal 6 – We have affordable and accessible transport.

The ramps will contribute to a safer road network, a more comfortable journey for people, and will encourage economic development by facilitating smoother transportation of people, goods and services.

Council supports the collaborative effort between Transport for NSW and the Wollongong City Council on this project to conduct a comprehensive study to identify specific improvement opportunities for M1 south facing ramps and surrounding network roads. This study should consider traffic patterns, safety concerns, local road network impacts, and environmental considerations to inform a strategic program of works to enhance the M1 and the people who use it.

2 Strategic Context

Wollongong City Council estimates the West Dapto Urban Release Area will provide about 19,500 dwellings and an additional population of about 56,500 people once fully developed over 50 years (West Dapto Vision 2018, WCC). This increase in population will place pressure on the existing transport network resulting in a worsening of congestion and average network speeds, increasing the amount of time and vehicle operating costs for travellers in addition to exacerbating other existing issues on the transport network.

The West Dapto Vision features the importance of sustainable and accessible transportation infrastructure to support the growth and well-being of the community. By prioritising improvements to the M1 through delivering south facing ramps, we can enhance traffic flow, reduce congestion, and provide safer and more efficient access to and from the Dapto area.

The establishment of efficient and attractive public transport options for West Dapto is imperative to achieve sustainable growth outcomes. This importance is echoed in many Council and State Government documents, including the Illawarra Regional Transport Plan and Illawarra – Shoalhaven Regional Plan. The new land release area in West Dapto presents an opportunity to promote ‘best practice’ in public transport and non-motorised modes, reducing reliance on the private car, contributing to a mode shift target, and creating a more resilient and liveable community.



The M1 is a main transport corridor in the region, and there is already significant congestion being experienced in peak hour traffic which will increase as new residents move into WDURA. To better support the transport network for the region, improved access to the M1 is critical, which includes south bound access to the M1 for Dapto and an upgrade to the M1 for 3 lanes between Yallah and Figtree. Currently the road network is experiencing traffic pressures on the adjacent lower order and local roads and intersections that are used in lieu of the motorway. The current Fowlers Road on ramp is substandard, with significant congestion in peak hours so it is essential to fix this as part of any M1 upgrades to facilitate further growth in West Dapto.

This issue of congestion affects the majority of the existing areas of Dapto and East Dapto as well as the expanding new development area at West Dapto and has become a source of considerable community concern and political interest. This project also forms part of the Illawarra-Shoalhaven Special Infrastructure Contribution (SIC) plan and the State Government Illawarra Shoalhaven Regional Transport Plan, however there is no indication regarding the likely timeframe for delivery. Council Officers understand the list of infrastructure items in the SIC are required to be considered by the Minister for Planning and Public Places when determining expenditure priorities of the 2023 introduced Housing and Productivity Contribution.

The M1 is currently at a Level of Service (**LoS**) **E/F** during the AM and PM peak, which shows as a break down in flow, resulting in queuing and delays. There are particular capacity limitations around the Mullet Creek section of the M1 from Kanahooka Road extending to Northcliffe Drive, which has the highest traffic demand in the Dapto area.

Council's strategic transport model includes the configuration current of the M1 and the M1 expanded to three lanes. With the forecasted growth in WDURA, parts of the M1 continued to operate at **LoS F**. Council's draft Integrated Transport Strategy has indicated that by 2036 there will be 13% more drivers to Wollongong's CBD in the AM peak with a number of those trips originating from WDURA without a modal shift. The forecast population growth will result in an additional 3,300 car trips from West Dapto in the AM peak which will benefit from the delivery of south facing ramps. These forecasts highlight the need for a holistic approach to planning for the integrated transport network and modes, including public transport service improvements.

It is important that TfNSW's current consideration of potential south-facing ramps at Emerson Road, Fowlers Road or Kanahooka Road does not detract from progressing the delivery of Stage 3 of the Albion Park Rail Bypass, which includes a southbound M1 on ramp at Tallawarra. This planning work is needed to support the growth in the regionally significant Tallawarra Lands, where significant employment and residential development is proposed. Council has therefore assumed that the Tallawarra southbound ramp will continue to be progressed by TfNSW as the Tallawarra Lands has received NSW Government Concept Approval, the draft Development Control Plan was exhibited in 2023 and a Planning Agreement is expected to be exhibited soon.

3 Location specific considerations

Council Officers have assessed each of the potential south facing ramp locations listed by Transport for NSW as part of the community consultation below.

3.1 Kanahooka Road

1. Available space to construct ramps and associated acceleration and deceleration area and is the least challenging location to design/construct ramps.
2. Originally this was not a preferred location for south ramps as Darkes Road was proposed to be closed at the level crossing. There was an internal release area link road between Darkes Road and Bong Bong Road, so ramps would have no significant benefit for the release area and would only provide limited benefit for Kanahooka and Dapto.
3. The West Dapto Structure Plan has evolved, and the internal north/south connection (Bong Bong to Darkes) was removed due to this area being a significant floodplain location, and consequently the plan seeks to retain the Darkes Road connection to Princes Highway. Consequently, both north and south facing ramps at Kanahooka Road would be attractive for WDURA residents. This would mean much higher traffic demand



along Darkes Road/Kanahooka Road, meaning potentially higher risk at the railway level crossing. Currently the level crossing is proposed to be the only one in Dapto retained under the ultimate network arrangement. Darkes Road is a flood-affected road and there are no plans to make Darkes Road flood reliable due to the significant impacts on flood behaviour and the cost.

The combination of both north and south facing ramps at Kanahooka Road would mean significant demand on Darkes Road by West Dapto traffic – the combination of a heavy traffic demand and exposure to regular flood impacts (even after the upgrade to urban standard) would likely frustrate the community and they would be expecting an important road like this that connects to 2 sets of M1 ramps to be flood reliable, as well as potentially grade separated at the level crossing.

4. This location identified concerns with potential weave issues for M1 traffic between the current Fowlers Road north facing ramps and new south facing ramps proposed at Kanahooka Road. This location would need detailed micro-simulation modelling and design investigation. Weaving will be caused from the closeness of the Kanahooka Road and Fowlers Road (a similar situation occurs to Masters Road for traffic heading north). Merging safety with ramps at this location will need to be considered.
5. The concept for Darkes Road under the current West Dapto structure plan would be to constrain demand by only upgrading to a 2-travel lane road and retaining the existing level crossing. This is also important for the management of the traffic flow on the M1 at Mullet Creek which is identified as the busiest location through Dapto (currently evident in the AM and PM peak). Encouraging significant traffic via the Kanahooka Road north facing ramps impacts the already at capacity M1 in the AM and PM peak.
6. It is also important to maintain utilisation of the Northcliffe Drive Extension (including the required costly overpass over railway line and Princes Highway) for access to/from the northern stages of the release area. We note that the Northcliffe Drive Extension (part of the Western Ring Road) already has Housing & Productivity Contribution (previously SIC – State Infrastructure Contribution) funding allocated, and a joint TfNSW/Wollongong City Council (WCC) business case has also been developed for the delivery of the Northcliffe Drive Extension.
7. Ramp metering has been suggested previously by Council as a potential means of demand moderation at the Kanahooka Road north facing ramps and minimising the impact on the M1 between Northcliffe Drive and Kanahooka Road. The use of signals at the ramps accessing the M1 will assist with inappropriate merging. There is a comparatively under-utilised section of Princes Hwy in the section as an alternative north-south route. This could be used as part of broader long term ‘Smart Motorway’ measures as well as a potential shorter term solution delivered to address current capacity issues on the M1.
8. The Princes Highway is currently the main route for northern West Dapto traffic to head to/from the south given the lack of M1 ramps. The provision of south ramps at Kanahooka Road could also have potential benefits for Dapto Town Centre (eg pedestrianisation & place-making objectives), bus operations and access/amenity along Princes Highway, as it would redistribute this through traffic demand to the M1.

3.2 *Fowlers Road*

1. Fowlers Road/M1 is the location of the central major access into/out of West Dapto (Fowlers Road Extension).
2. The Fowlers Road Extension (Karrara Bridge) and traffic signals at Princes Hwy/Fowlers Road were designed in the context of north-facing ramps only at the M1. Some historic modelling was undertaken with south facing ramps at this location, which showed very large demand on Fowlers Road, to the extent that grade separation would be a consideration for the Princes Highway intersection. It is noted that under the current expected future network, the strategic model indicates in circa 37,000 vehicles per day on Fowlers Road, with north facing ramps only.
3. Apart from the above concerns regarding putting ‘all eggs in one basket’, it was also noted that to physically construct south-facing ramps here, a large number of residential properties would need to be acquired, adding substantial cost to this option in comparison to the other two options. Any design outcome for this location should reduce residential property impact as much as possible.
4. Notwithstanding the above, the advantages of this option are that it is a central and legible location for access into Dapto and the WDURA, linking directly into the Fowlers Road extension.

3.3 Emerson Road

1. Following the Growth Centre Commission's (GCC) review of the West Dapto Structure Plan, which included closure of Darkes Road at the level crossing, further modelling was undertaken by WCC and it was determined that Emerson Road south facing ramps were preferred as an alternative location to Fowlers Road. The concept of ramps at this location was also included as a suggestion by TfNSW (RMS at the time) as part of feedback on the West Dapto TMAP Extension Study (Connell Wagner, 2008, Appendix G). Under the current West Dapto Structure Plan, Darkes Road is remaining open, however Emerson Road ramps have been retained as the preferred location. Emerson Road ramps were included in the subsequent West Dapto Integrated Transport Plan (2010), informed the development of the West Dapto Vision & Structure Plan (2018) and are also specifically included in the previous Draft West Lake Illawarra SIC (see snip below). Given the lack of direction given by TfNSW in relation to preferred M1 ramp locations through Dapto, the ramps have been retained in Council's strategic modelling since approximately 2010, which has been used to inform road network planning and the now built roads within the West Dapto Urban Release Area (WDURA).

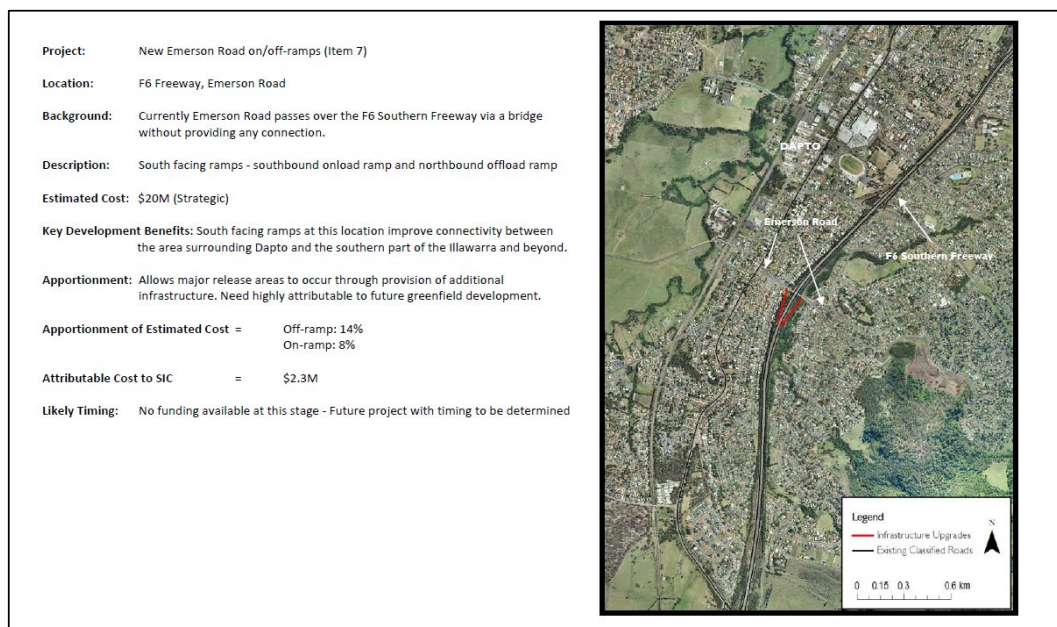


Figure 1: Draft West Lake Illawarra SIC showing the new Emerson Road on / off ramps

2. Emerson Road has more vertical geometry issues than either Fowlers Road or Kanahooka Road bridges, with the bridge rising centrally over the M1, meaning that intersections either side of the bridge for ramp terminals would need careful consideration in terms of queuing and sight distance issues.
5. The M1 corridor at Emerson Road is wider than immediately south of Fowlers Road, where proximity of residential properties would make provision of ramps more challenging. Any design outcome for this location should reduce residential property impact as much as possible.
3. The Princes Highway has road widening reservation between Fowlers Road and Emerson Road that could be potentially used for road widening here to increase capacity if required, given that traffic from West Dapto would be more likely to use this section of the Princes Highway, compared with other options. However, under the current full development model of West Dapto, there are no significant Level of Service (congestion) issues identified in this section of the Princes Highway.



4 Local road network considerations

Regardless of the final location/s of south facing ramps for the M1 through Dapto, consideration should be given to the impact of the resulting significant additional traffic on side road access west of the M1 (particularly right turn requirements).

There are substantial residential catchments in roads such as Coolabah Road, Prince Edward Drive, Yalunga Street off Kanahooka Road, Kent Road off Fowlers Road and Laver Road/Brook Street, Sunlea Street/Burke Road off Emerson Road that would be likely impacted by increased traffic which may require right turn bans. This is an important consideration for Council as these are local roads and any redistributed traffic has the potential to cause issues on the local road network.

Micro-simulation modelling will be required for the local road network to determine any additional impacts to the local network, road safety, and the cost of future infrastructure on local roads.

In lieu of understanding the final vehicle movements, including public transport, Council is unable to guide developers on the locations of public transport service routes. An example of significant costs to be borne by Council in the absence of a service plan for West Dapto is providing Disability Standards for Accessible Public Transport (DSAPT) compliant stops which require TGS markers, signage and shelter modification.

5 Public Transport considerations

In any option selection, consideration needs to be given to benefits and opportunities for bus servicing, including the potential use of the M1 for rapid bus transit &/or impacts and opportunities for bus access on other routes, for example the Princes Highway. This would be in the context of the current TfNSW work in developing an Integrated Service Plan for the region which includes funding and delivering these planned services.

The Australian Bureau of Statistics (ABS) census data for West Dapto is currently showing an ownership of between 3.1 to 4.5 vehicles per household. This exceeds the ownership for all other parts of the LGA highlighting the limited public transport options available to the urban release area.

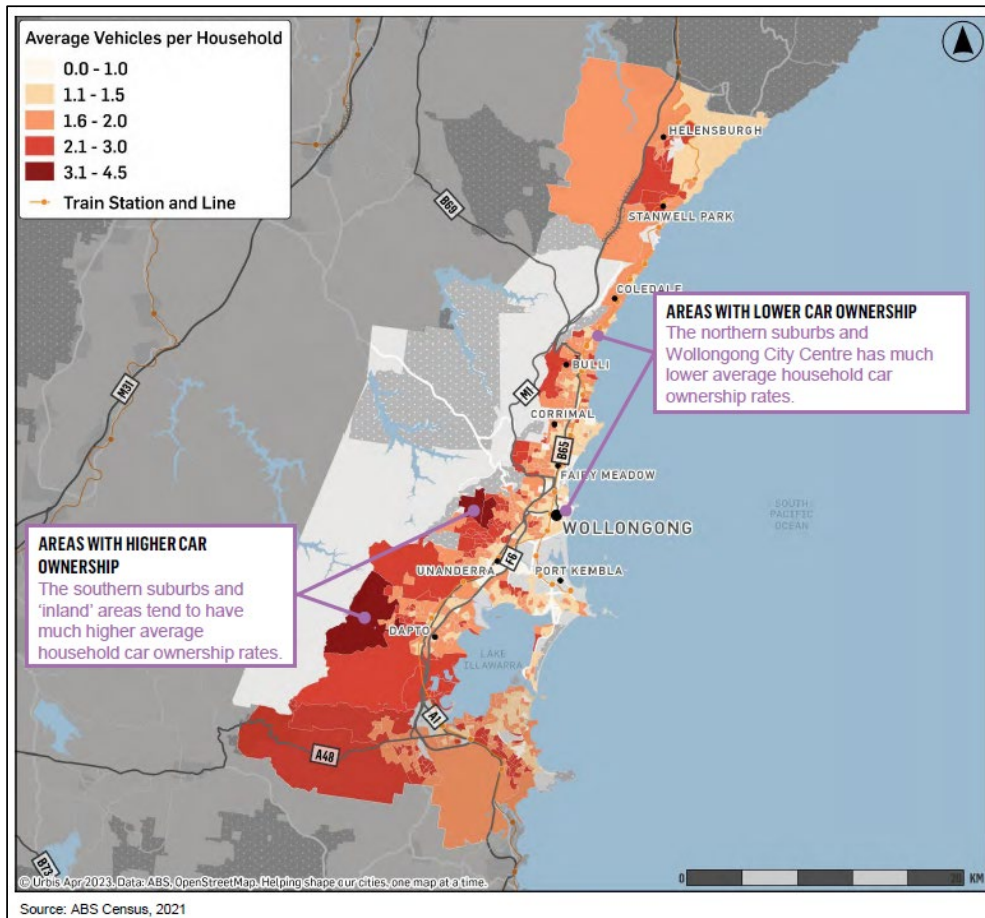


Figure 2: shows ABS car ownership data for Wollongong Local Government Area, including West Dapto.

6 M1 capacity improvements

1. As part of the refinement of options for the M1 south facing ramp locations, consideration needs to be given to capacity issues and requirements for upgrades to cater for future traffic volumes, especially post-West Dapto/Calderwood/Tallawarra development. The ramps together with capacity improvements such as additional lanes need to be part of a holistic package of measures that work together to deliver an optimal future transport outcome.
2. As an example of the above, the current Fowlers Road northbound on ramp is sub-standard in terms of merge length, leading to poor efficiency and safety outcomes for the M1 traffic operations. The upgrade and lengthening of this ramp would need to form part of an overall ramp/lane capacity upgrade strategy for the M1 through Dapto.
3. Further consideration and clarity are needed on the State's proposed role for the West Lake Illawarra Major Road Spine in the context of the M1 south facing ramps and M1 capacity considerations. Based upon the information provided by TfNSW, Council officers planning for the Western Ring Road have assumed a release area function only. Any desire for a function beyond that of the release area role should be clarified as a matter of urgency as roads are being designed and construction is complete along some sections. The decision to uplift the function of the Western Ring Road will have place making impacts to currently planned and zoned village centres.
4. Origin and Destination data from Council's draft Integrated Transport Strategy shared below highlights the importance of this project to cater for the high proportional travel movements still to the south of Wollongong.

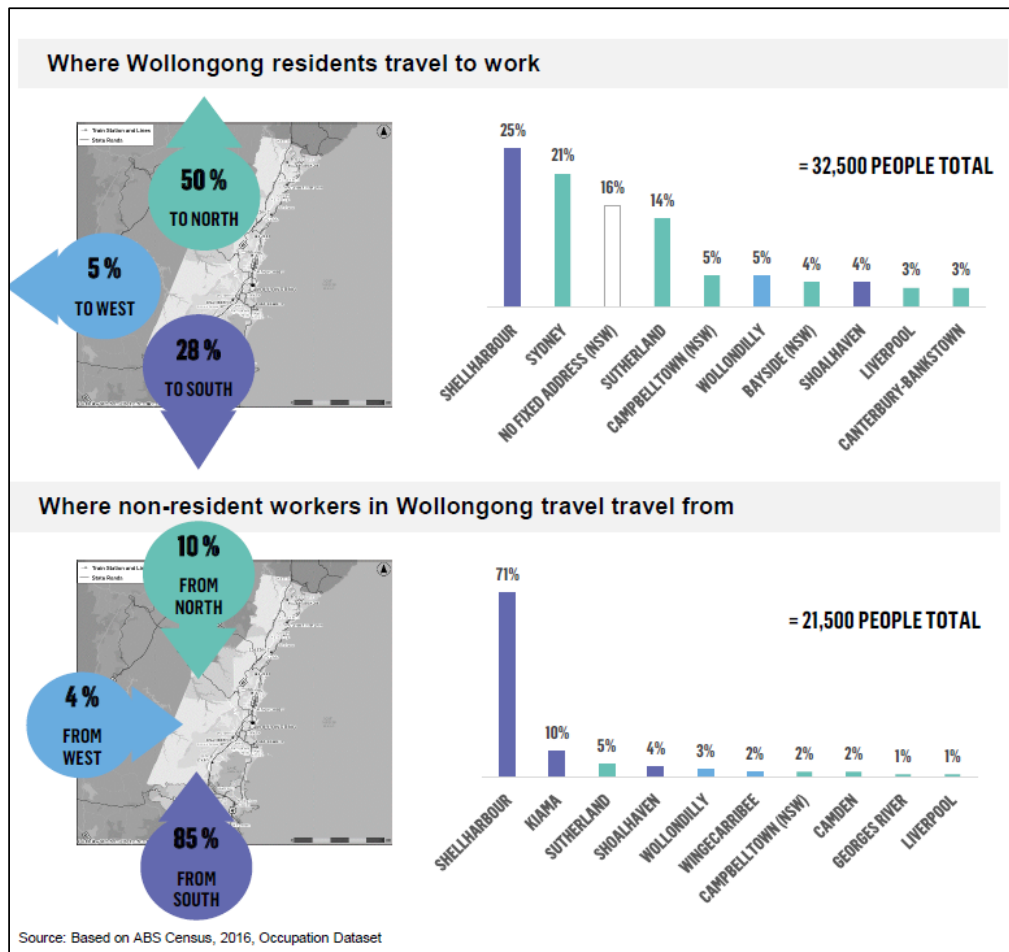


Figure 3: Origin and Destination data from Council's draft Integrated Transport Strategy

7 Conclusion and Recommendations

1. TfNSW's work on developing plans for south facing ramps through Dapto is acknowledged and appreciated. Given the integral relationship between the M1 access arrangements and transport planning/implications for the WDURA, Council would appreciate the opportunity for further consultation and involvement in development of the M1 ramps strategy.
2. The project must include the State Government committed road capacity improvements of additional lanes both north and southbound.
3. The TfNSW public transport service plan must be completed, and funding allocated to the delivery of the adopted routes and services to provide alternative and sustainable transport options to the private vehicle. In addition, this work will provide clear direction to development to provide accessible and inviting public transport associated infrastructure at stops.
4. Ramp metering should be explored as part of a suite of Smart Motorway technologies to assist with managing M1 traffic demand and improve safety. This could also be explored for shorter term improvements at Kanahooka Road to assist with current M1 capacity issues at Mullet Creek. .
5. Kanahooka Road is not a preferred option due to the significant flooding concerns of the connecting network and proximity of the level crossing to the Princes Highway. For this option to be pursued, the project must include consideration of grade separation at the level crossing adjacent to the Princes Highway and connecting roads made flood reliable with the delivery of the ramps.



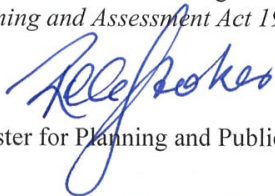
6. Emerson Road to be the preferred option to be investigated. Should any other options be considered further, either individually or as a combination of sites, there must be micro-simulation modelling undertaken to determine impacts to the local road network, safety, and additional costs to the local road network to support the delivery of the ramps.
7. Any desire for the function of the spine road to expand beyond the release area, should be clarified as a matter of urgency. The sections of road currently delivered and the road design controls within Council's Adopted Development Control Plan identifies the road as a high functioning public transport corridor, for the West Dapto Urban Release Area only.
8. The consideration of south facing M1 ramps at the 3 locations identified should not detract from TfNSW progressing planning and delivery of the Albion Park Rail Bypass Stage 3 works, which are particularly important in the context of the adjacent regionally significant development at Tallawarra Lands.
9. This project will provide significant benefits for all residents of the region who use this important road. It will improve congestion, support the enhancement of public transport, reduce time spent in the car and provide significant productivity benefits for workers and employers.

Environmental Planning and Assessment (Special Infrastructure Contribution – Illawarra Shoalhaven) Determination 2021

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning and Public Spaces, in pursuance of section 7.23 of the *Environmental Planning and Assessment Act 1979*, make the following Determination.



Minister for Planning and Public Spaces

Dated: 14th May, 2021.

1 Name of Determination

This Determination is the *Environmental Planning and Assessment (Special Infrastructure Contribution – Illawarra Shoalhaven) Determination 2021*.

2 Commencement

This Determination takes effect on the date of its publication in the Gazette.

3 Land to which Determination applies

This Determination applies to the Illawarra Shoalhaven Special Contributions Area.

4 Objective of Determination

The objective of this Determination is to provide for special infrastructure contributions to be made to the provision of infrastructure in connection with the intensification of urban residential development in the Illawarra Shoalhaven Special Contributions Area.

5 Definitions

(1) In this Determination:

biodiversity certified land has the same meaning as it has in the *Biodiversity Conservation Act 2016* and includes land that is taken to be biodiversity certified land under the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*.

Calderwood Tallawarra Sub-Growth Area means the area identified as Calderwood Tallawarra Sub-Growth Area on the map marked “Illawarra Shoalhaven Special Contributions Area”.

contribution rate – see clauses 11 and 12.

CPI number means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics.

developer means the person having the benefit of a development consent for the time being.

development consent includes a complying development certificate.

greenfield residential land means any of the following kinds of land:

- (a) land within a residential zone,
- (b) land (other than land described in paragraph (a)):
 - (i) that adjoins land in a residential zone, and
 - (ii) on which development for a purpose permitted within the adjoining residential zone is authorised to be carried out under a development consent that is granted pursuant to a provision of an environmental planning instrument that is in the same terms, or substantially the same terms, as clause 5.3 (Development near zone boundaries) of the Standard Instrument.

Growth Area means Nowra Bomaderry Growth Area and West Lake Illawarra Growth Area.

Illawarra Shoalhaven Special Contributions Area means the special contributions area of that name, as described in Schedule 4 to the Act.

infrastructure has the same meaning as it has in Subdivision 4 of Division 7.1 of the Act.

map marked “Illawarra Shoalhaven Special Contributions Area” means the map marked “Illawarra Shoalhaven Special Contributions Area” referred to in Schedule 4 to the Act.

Note. A copy of the map is reproduced in Schedule 1 for information only. The map is able to be viewed on the NSW legislation website:
<https://www.legislation.nsw.gov.au/#!/view/act/1979/203/sch4>.

Nowra Bomaderry Growth Area means the areas identified as Nowra Bomaderry Growth Area on the map marked “Illawarra Shoalhaven Special Contributions Area”.

planning agreement means a voluntary agreement referred to in section 7.4 of the Act with the Minister (whether or not another planning authority is also a party to the agreement).

public housing has the same meaning as it has in the *Housing Act 2001*.

residential zone means any of the following land use zones:

- (a) Zone R1 General Residential,
- (b) Zone R2 Low Density Residential,
- (c) Zone R3 Medium Density Residential,
- (d) Zone R4 High Density Residential,
- (e) Zone R5 Large Lot Residential,
- (f) Zone E4 Environmental Living.

SIC development means development for which a special infrastructure contribution must be made under this Determination.

social housing provider means any of the following:

- (a) the New South Wales Land and Housing Corporation constituted by the *Housing Act 2001*,
- (b) a registered community housing provider within the meaning of the Community Housing Providers National Law (NSW),
- (c) the Aboriginal Housing Office constituted by the *Aboriginal Housing Act 1998*,
- (d) a registered Aboriginal housing organisation within the meaning of the *Aboriginal Housing Act 1998*,
- (e) a provider of specialist disability accommodation under the *National Disability Insurance Scheme Act 2013* of the Commonwealth,
- (f) a local government authority that provides affordable housing,
- (g) a not-for-profit organisation that is a direct provider of rental housing to tenants.

special infrastructure contribution works-in-kind agreement – see clause 24.

Standard Instrument means the standard instrument for a principal local environmental plan prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

Sub-Growth Area means Calderwood Tallawarra Sub-Growth Area and West Dapto Sub-Growth Area.

the Act means the *Environmental Planning and Assessment Act 1979*.

West Dapto Sub-Growth Area means the area identified as West Dapto Sub-Growth Area on the map marked “Illawarra Shoalhaven Special Contributions Area”.

West Lake Illawarra Growth Area means the areas identified as Calderwood Tallawarra Sub-Growth Area or West Dapto Sub-Growth Area on the map marked “Illawarra Shoalhaven Special Contributions Area”.

- (2) Words or expressions used in this Determination have the same meanings as they have in the Act, unless otherwise defined.

Note. See section 1.4 of the *Environmental Planning and Assessment Act 1979* for definitions generally and section 6.2 of the Act for the meaning of subdivision of land.

Standard instrument terms

- (3) The following words or expressions have the same meanings as they have in the Standard Instrument:

- (a) dwelling,
- (b) emergency services facility,
- (c) health services facility,
- (d) passenger transport facility,
- (e) place of public worship,
- (f) public utility undertaking,
- (g) recreation area,
- (h) school,
- (i) seniors housing.

Biodiversity certified land

- (4) A reference to biodiversity certified land in this Determination is a reference only to land that has been biodiversity certified pursuant to an application in relation to West Dapto Urban Release Area made by Wollongong City Council under Part 7AA of the *Threatened Species Conservation Act 1995* or under Part 8 of the *Biodiversity Conservation Act 2016*.

Consumer Price Index

- (5) If the Consumer Price Index (All Groups Index) for Sydney ceases to be published or issued by the Australian Bureau of Statistics, a reference in this Determination to the index is taken to be a reference instead to an index designated by the Minister for the purposes of this Determination.

SIC WIK agreements

- (6) A reference in this Determination to the Minister in relation to a special infrastructure contribution works-in-kind agreement includes a reference to the Planning Secretary, or other officer of the Department of Planning, Industry and Environment, acting for and on behalf of the Crown in right of the State of New South Wales.
- (7) To avoid doubt, in this Determination *construction certificate* does not include a subdivision works certificate.

6 Development for which SIC must be made

- (1) Except as provided by this Determination, a special infrastructure contribution must be made for development on land that, when development consent for the development is granted, is greenfield residential land within the Illawarra Shoalhaven Special Contributions Area.

Note. A special infrastructure contribution may be imposed only as a condition of development consent, including a complying development certificate. See the direction given by the Minister

under section 7.24 of the *Environmental Planning and Assessment Act 1979* to consent authorities and registered certifiers to impose a condition to require a special infrastructure contribution in accordance with this Determination on a grant of consent given on or after the date on which this Determination takes effect.

Exemptions for certain kinds of development

- (2) A special infrastructure contribution is not required to be made for development for the purpose of any of the following:
 - (a) school,
 - (b) TAFE establishment,
 - (c) emergency services facility,
 - (d) health services facility owned or operated by a public authority,
 - (e) passenger transport facility,
 - (f) place of public worship,
 - (g) public open space, including a public reserve within the meaning of the *Local Government Act 1993*,
 - (h) drainage reserve within the meaning of the *Local Government Act 1993*,
 - (i) public utility undertaking,
 - (j) bus depot,
 - (k) recreation area,
 - (l) cemetery within the meaning of the *Cemeteries and Crematoria Act 2013*,
 - (m) public amenities or public services, for which development contributions have been imposed under section 7.11 or section 7.12 of the Act, or may be imposed in accordance with a contributions plan that is in force (when consent is granted for the development),
 - (n) infrastructure for which a contribution may be required to be made under this Determination,
 - (o) public housing,
 - (p) seniors housing or affordable housing, if carried out by or on behalf of a social housing provider.
- (3) A special infrastructure contribution is not required to be made for development comprising only development of one or more of the following kinds:
 - (a) an alteration (whether internal or external) or an addition to an existing building, including a repair of the building,
 - (b) ancillary development (within the meaning of the Codes SEPP, for the purposes of Part 3A of that policy),
 - (c) attached development, within the meaning of the Codes SEPP,
 - (d) detached development, within the meaning of the Codes SEPP,
 - (e) strata subdivision of an existing building,
 - (f) the demolition of a building or work,
 - (g) the carrying out of a work,
 - (h) a subdivision for the purpose only of rectifying an encroachment on any existing lot.

In this subclause, a reference to the Codes SEPP is a reference to *State Environmental Planning Policy (Exempt and Complying Codes) 2008*.

No further contribution required

- (4) If a special infrastructure contribution has been made for development on land in accordance with this Determination, a further special infrastructure contribution is not required to be made for other development on that land, irrespective of whether development consent for the development for which a contribution has already been made was granted before or after the granting of development consent for the other development on that land.
- (5) If a contribution has been made (whether before or after this Determination takes effect) under a planning agreement for the development to which the agreement applies, a special infrastructure contribution is not required under this Determination for other development on the land to which the planning agreement applies, even though that other development is not development to which the planning agreement applies and the application of section 7.24 of the Act is not excluded for that development.

Note. A special infrastructure contribution cannot be imposed as a condition of consent to the carrying out of development if a planning agreement made in accordance with section 7.4 of the *Environmental Planning and Assessment Act 1979* excludes the application of section 7.24 to the development. The effect of the above subclause (5) is that a special infrastructure contribution also cannot be required for future development, not covered by the agreement, on the land to which the planning agreement applies.

Further development not exempt if on land previously excluded from NDA

- (6) To avoid doubt, if a particular area of land (for example, land that is within a public transport corridor) has been previously excluded from the calculation of the net developable area under this Determination for a SIC development, any further development proposed for that area is not exempt from the requirement to make a special infrastructure contribution (under subclause (4)) merely because a special infrastructure contribution has been previously made under a development consent that applies to land that includes that area.

Accordingly, if the basis for excluding the area from the calculation of the net developable area no longer applies, a contribution may be payable for development on that area.

- (7) An exclusion from the requirement to make a special infrastructure contribution provided by a subclause of this clause is not limited by the terms of an exclusion provided by any other subclause of this clause.

7 Special provision for complying development

Where a complying development certificate to carry out development on greenfield residential land is issued, a special infrastructure contribution is required to be made in respect of the development only if it involves either or both of the following:

- (a) the erection of a new building, such as the erection of a dwelling house as referred to in the Greenfield Housing Code, Housing Code and Rural Housing Code set out in the Codes SEPP,
- (b) subdivision of land.

8 Development that is SIC development in part only

A special infrastructure contribution is required to be made for SIC development under this Determination even if the development consent for the SIC development:

- (a) also authorises development on land outside a Growth Area (including on land outside the Illawarra Shoalhaven Special Contributions Area) or on land that is not greenfield residential land, or
- (b) also authorises development that is not SIC development.

Note. A special infrastructure contribution is required to be made for development only to the extent that the development is on greenfield residential land within a Growth Area and is SIC development. See clause 13 (6) about the calculation of the net developable area for SIC development where it is part of a larger development that extends beyond the boundaries of the relevant Growth Area or greenfield residential land.

9 Nature of contribution

- (1) The special infrastructure contribution for SIC development is to be made as:
 - (a) a monetary contribution, or
 - (b) a contribution of a kind specified in a special infrastructure contribution works-in-kind agreement that is in force in relation to the SIC development (being the carrying out of works for the provision of infrastructure for the relevant Growth Area, or the dedication or other provision of land for the purpose of that infrastructure), or
 - (c) a contribution specified in a planning agreement that applies to the SIC development where:
 - (i) the contribution required to be provided under the agreement is for the carrying out of works in relation to an item (or part of an item) of infrastructure specified in Schedule 2 for the relevant Growth Area or for the dedication or other provision of land for the purpose of that infrastructure, and
 - (ii) the agreement does not exclude the application of section 7.24 of the Act to the SIC development, and
 - (iii) the agreement provides that an obligation to make a special infrastructure contribution imposed by a condition of development consent for the SIC development in accordance with this Determination (or other determination under section 7.23 of the Act that applies to the land on which the SIC development may be carried out) may be met (wholly or partly) by the provision of the contribution under the planning agreement.

Note. A special infrastructure contribution works-in-kind agreement is an agreement that is entered into after a development consent imposing an obligation to make a special infrastructure contribution has been granted. It is an agreement about how that obligation may be satisfied. A planning agreement as described in section 7.4 of the *Environmental Planning and Assessment Act 1979* is generally entered into before development consent is granted.

- (2) The special infrastructure contribution may comprise part of the amount of the monetary contribution otherwise payable and the balance as a contribution provided by a special infrastructure contribution works-in-kind agreement (or a planning agreement of a kind described in subclause (1) (c)).
- (3) Despite subclauses (1) and (2):
 - (a) if SIC development is authorised by a complying development certificate, the special infrastructure contribution for the development is to be made as a monetary contribution, and
 - (b) in the case of SIC development on land within West Dapto Sub-Growth Area (whether or not authorised by a complying development certificate), 25.4% of the amount of the special infrastructure contribution, as calculated in accordance with this Determination, is to be made as a monetary contribution if the land is biodiversity certified land when development consent is granted.

Note. West Dapto Sub-Growth Area is the subject of an application for biodiversity certification by Wollongong City Council. If granted, the special infrastructure contribution for development in that area will contribute to the costs of the conservation measures required to be implemented under the order conferring biodiversity certification. 25.4% of the contribution in West Dapto Sub-Growth Area is the amount payable towards the costs of delivering those conservation measures.

10 Amount of monetary contribution

The amount of the monetary contribution that is payable as a special infrastructure contribution for SIC development is the amount calculated by applying the contribution rate for the development, as at the date of payment, to the net developable area for the development. That is, the monetary contribution is an amount calculated as follows:

$$\$C_P = NDA \times \$C_R$$

where:

- \$C_P** is the monetary contribution payable
- NDA** is the net developable area, in hectares, for the development (determined in accordance with clauses 13, 14 and 15)
- \$C_R** is the amount in dollars of the contribution rate, applicable at the date of payment for the development (as provided by clauses 11 and 12).

11 Contribution rates

- (1) The contribution rates that apply, at any time before 1 July 2021, in the calculation of the monetary contribution for SIC development are as follows:

Growth Area	Contribution rate
Nowra Bomaderry Growth Area	\$71,584 per hectare of net developable area
West Lake Illawarra Growth Area	
West Dapto Sub-Growth Area	\$124,477 per hectare of net developable area
Calderwood Tallawarra Sub-Growth Area	\$98,388 per hectare of net developable area

- (2) The contribution rate that applies at any time during the 12 month period commencing 1 July 2021, and during each subsequent 12 month period, is to be determined by adjusting the contribution amount in accordance with clause 12 (an *adjusted contribution amount*). Accordingly, the contribution rate for any such period is the adjusted contribution amount per hectare of net developable area.

12 Annual adjustment of contribution amounts in contribution rates

- (1) On 1 July 2021 and on 1 July in each subsequent year, each contribution amount is to be adjusted by multiplying it by the following fraction:

$$\frac{\text{latest CPI number}}{\text{base CPI number}}$$

where:

latest CPI number is the CPI number for the March quarter in the year in which the adjustment is made, and

base CPI number is the CPI number for the March quarter in 2020.

(The March quarter is the quarter commencing on and including 1 January and ending on and including 31 March in the same year.)

- (2) However, if the adjustment of the contribution amount under this clause results in a contribution amount that is less than that for the preceding 12 month period, the contribution amount for that preceding 12 month period continues to apply.
- (3) If the adjustment of a contribution amount results in a number that is not a whole number multiple of \$1, the amount is to be rounded up to the nearest whole number multiple of \$1.

13 Net developable area

- (1) The net developable area for SIC development is the area of the land, in hectares, to which the development consent for the development relates, subject to this Determination.

- (2) The following areas are not to be included in the calculation of the net developable area for the SIC development:
 - (a) the area of any land that the development consent authorises, or requires, to be used as a road or dedicated as a public road,
 - (b) the area of any existing road (or the area by which it is to be widened) in respect of which the development consent authorises, or requires, road work (such as road widening) to be carried out,
 - (c) any area of land that is at or below the level of a 1:100 ARI (average recurrent interval) flood event if the Planning Secretary is satisfied that the area is unsuitable for carrying out the SIC development because it is at or below that level,
 - (d) any area of land within the curtilage of a building listed on the State Heritage Register,
 - (e) any area of land that is within an asset protection zone:
 - (i) that is specified in a bush fire safety authority issued under the *Rural Fires Act 1997*, or
 - (ii) that is required to be established by the development consent for the SIC development,if the Planning Secretary is satisfied that the area is unsuitable for the SIC development because it is in the asset protection zone,
 - (f) any area of land that is the subject of an easement in favour of a public utility undertaking for the purpose of the supply of the utility service to the public as shown on the title to that land or as confirmed in writing by the public utility undertaking, if the Planning Secretary is satisfied that the area is unsuitable for the SIC development because of the easement,
 - (g) any area of land that is within a public transport corridor (other than a road corridor) as shown on a Land Zoning Map for the purposes of an environmental planning instrument or a development control plan made under the Act, if the Planning Secretary is satisfied that the area is unsuitable for the SIC development because it is within the public transport corridor.
- (3) For the purposes of subclause (2) (c), (e), (f) and (g), if the development consists of subdivision of land (other than strata subdivision), the Planning Secretary is to consider whether the land is unsuitable for development for any other purpose permissible under any applicable environmental planning instrument (apart from environmental protection works or minor works), rather than whether it is unsuitable for subdivision.
- (4) To avoid doubt, the net developable area does not include any area of land on which the development consent for the SIC development authorises the carrying out of development for the purpose of any of the following, or that is to be reserved, dedicated or otherwise set aside for such a purpose as part of the development (or is already used for such a purpose):

- (a) school,
 - (b) TAFE establishment,
 - (c) emergency services facility,
 - (d) health services facility owned or operated by a public authority,
 - (e) passenger transport facility,
 - (f) place of public worship,
 - (g) public open space, including a public reserve within the meaning of the *Local Government Act 1993*,
 - (h) drainage reserve within the meaning of the *Local Government Act 1993*,
 - (i) public utility undertaking,
 - (j) bus depot,
 - (k) recreation area,
 - (l) cemetery within the meaning of the *Cemeteries and Crematoria Act 2013*,
 - (m) public amenities or public services, for which development contributions have been imposed under section 7.11 or section 7.12 of the Act, or may be imposed in accordance with a contributions plan that is in force (when consent is granted for the relevant development),
 - (n) infrastructure for which a contribution may be required to be made under this Determination,
 - (o) public housing,
 - (p) seniors housing or affordable housing, if provided by or on behalf of a social housing provider.
- (5) A reasonable estimate of the net developable area may be made for the purpose of calculating the monetary contribution payable as a special infrastructure contribution, if the precise determination of the net developable area is not possible because the land concerned spans the boundary of a residential zone, or a Growth Area (or Sub-Growth Area), that does not follow cadastral boundaries or for any other reason.
- (6) To avoid doubt, the net developable area for SIC development does not include the area of any land to which the relevant development consent applies that is not within a Growth Area or is not greenfield residential land.
- (7) In this clause, *curtilage of a building listed on the State Heritage Register* means the curtilage of that building or the site of the building, as specified or described in the listing of the building on the State Heritage Register kept under Part 3A of the *Heritage Act 1977*.

14 Reduction of net developable area

- (1) This clause applies to SIC development involving subdivision of land (other than strata subdivision) if at least one lot that will result from the subdivision will contain a dwelling that existed immediately before the land was included in a residential zone. Any such lot is a *lot with a dwelling* for the purposes of this clause.

- (2) The net developable area of the SIC development does not include the area of any lot with a dwelling if that area is no more than 0.1 hectare and the relevant development consent does not authorise the erection of any additional dwelling on the lot.
- (3) The area of each lot with a dwelling that is more than 0.1 hectare and that will be created as a result of the SIC development is taken to be reduced by 0.1 hectare for the purpose of calculating the net developable area of the development (but only if the relevant development consent does not authorise the erection of any additional dwelling on the lot).
- (4) An exclusion of an area from the calculation of the net developable area of the SIC development, and the operation of clause 15 (2), are not affected by this clause. However, for the purpose of applying clause 13, the area of any lot with a dwelling that is more than 0.1 hectare is the actual area in hectares of the proposed lot, not 0.1 hectare. Only if the net developable area, as calculated applying clause 13, is more than 0.1 hectare is it taken to be reduced by 0.1 hectare under this clause.

15 Reduction in net developable area where proposed lot within Zone R5 Large Lot Residential or Zone E4 Environmental Living

- (1) This clause applies to SIC development involving subdivision of land (other than strata subdivision), if any of the lots that will result from the subdivision will be wholly within Zone R5 Large Lot Residential or Zone E4 Environmental Living, or both. Any lot that is more than 0.1 hectare is a *large proposed lot* for the purposes of this clause.
- (2) For the purpose of calculating the net developable area of the SIC development, the area of any large proposed lot is taken to be 0.1 hectare, but only if the relevant development consent has not been granted in reliance on a clause in the same terms, or substantially the same terms, as clause 5.3 (Development near zone boundaries) of the Standard Instrument, so as to authorise, not only subdivision, but development on the large proposed lot for a purpose permitted in another residential zone (not being Zone R5 or Zone E4) adjoining the lot.
- (3) An exclusion of an area from the calculation of the net developable area of SIC development is not affected by this clause. However, for the purpose of applying clause 13, the area of the proposed large lot is the actual area in hectares of the proposed lot, not 0.1 hectare. Only if the net developable area, as calculated applying clause 13, is more than 0.1 hectare is it taken to be 0.1 hectare under this clause.

16 Final decision regarding NDA by the Planning Secretary

The Planning Secretary may make any decision required to be made for the purpose of calculating the net developable area for SIC development in accordance with this Determination and, for that purpose, may have regard to any information available at the time, such as construction plans and any measurements of a registered surveyor of the land concerned.

17 Special provision for SIC development in West Dapto Sub-Growth Area

- (1) This clause applies to SIC development on land within West Dapto Sub-Growth Area that is not biodiversity certified land when development consent for the development is granted.
- (2) The amount of the monetary contribution that would otherwise be payable for SIC development to which this clause applies is reduced by 25.4%, being the part of the contribution that is for the costs of approved conservation measures that will be required to be implemented if biodiversity certification is conferred on land within West Dapto Sub-Growth Area.

18 Calculation of contributions if development spans different Sub-Growth Areas

- (1) This clause applies if a single development consent authorises development within both West Dapto Sub-Growth Area and Calderwood Tallawarra Sub-Growth Area.
- (2) The total amount of the monetary contribution for SIC development to which this clause applies is to be calculated by separately determining the contribution amount payable under this Determination for each part of the development on land within each of the Sub-Growth Areas, in so far as it is practicable to do so. The total amount of the monetary contribution payable is the sum of those separately determined contribution amounts.

19 When is monetary contribution to be paid

- (1) If a special infrastructure contribution for SIC development is to be made as a monetary contribution, it must be paid before:
 - (a) any subdivision certificate is issued in relation to a plan of subdivision, where the relevant development consent authorises the subdivision, or
 - (b) any construction certificate is issued in relation to building work the subject of the relevant development consent,

whichever is the earlier.

- (2) Despite subclause (1), if a complying development certificate is issued for SIC development, the special infrastructure contribution must be paid:
 - (a) within 60 days of the date endorsed on the certificate as the date on which it becomes effective and operates and, in the case of a “deferred commencement” certificate (being a certificate subject to a condition of a kind referred to in section 4.28 (9A) of the Act), within 60 days of it operating, or
 - (b) before the commencement of any work authorised by the certificate,

whichever is the earlier.

20 Payment of monetary contribution for SIC development involving only subdivision

(1) This clause:

- (a) applies to a SIC development that involves only the subdivision of land (including subdivision work but not strata subdivision) (a *SIC surface subdivision*), and
- (b) applies even if the development consent for the SIC development also authorises the demolition of existing buildings or the carrying out of a work,

but does not apply where a complying development certificate authorises the SIC development.

(2) Despite clause 19, if a subdivision certificate is sought for a plan of subdivision that would, on registration, create only some of the lots authorised to be created by the development consent for the SIC surface subdivision, the monetary contribution for the subdivision may be paid progressively, with an amount being paid before the issue of each subdivision certificate for a plan of subdivision authorised by that consent (a *subdivision certificate for a staged subdivision*).

(3) The amount that is to be paid before the issue of each subdivision certificate for a staged subdivision is to be calculated:

- (a) as if the subdivision of land to which the subdivision certificate relates comprised the entire subdivision authorised by the development consent, and
- (b) on the basis that the net developable area does not include the area of any transitional lot in the plan of subdivision for which the subdivision certificate is sought.

A *transitional lot* is a lot in a plan of subdivision for which the subdivision certificate is sought that may be further subdivided in accordance with the development consent for the SIC surface subdivision.

21 Payment of monetary contribution for SIC where different kinds of development on different parts of land

(1) This clause applies if a single development consent (not being a complying development certificate) for SIC development authorises:

- (a) the subdivision of land (including subdivision work but not strata subdivision) (a *SIC surface subdivision*), on one parcel or parcels of land, but not development of another type, and
- (b) other development on a different parcel or parcels of land (*SIC building work*), but not the surface subdivision of those parcels.

However, it does not matter, for the purpose of the application of this clause, whether the single development consent also authorises the demolition of a building or work, or the carrying out of a work, on the land subject to the SIC surface subdivision.

- (2) Despite clause 19, the special infrastructure contribution for the SIC development (if made as a monetary contribution) is to be paid:
 - (a) at the earliest time by which payment would, but for this clause, be required to be made for the development, or
 - (b) as provided by subclause (3).
- (3) Separate monetary contributions may be made for the SIC surface subdivision and the SIC building work, respectively, as if separate development consents had been granted for these. Accordingly:
 - (a) the monetary contribution for the SIC surface subdivision may be paid before the issue of a subdivision certificate in relation to the plan of subdivision (or in accordance with clause 20), and
 - (b) the monetary contribution for the SIC building work may be paid before the issue of a construction certificate in relation to that work.

22 Deferral of payment during COVID-19 pandemic period

Application of clause

- (1) This clause applies only to a development consent that is granted during the pandemic period and that authorises the erection of a new building or a change of use of an existing building, and only if Part 6 of the Act will require an occupation certificate for:
 - (a) the commencement of the occupation or use of the whole or part of the new building, or
 - (b) the commencement of a change of building use for the whole or any part of the building.
- (2) However, this clause does not apply in any of the following circumstances:
 - (a) the estimated cost of the development that is the subject of the development consent is less than \$10,000,000, as determined in accordance with the *Environmental Planning and Assessment Regulation 2000* for the purpose of calculating the fee for the development application to carry out the development,
 - (b) the development consent authorises the subdivision of land that will result in the creation of additional lots, as well as authorising the erection of a building or a change of use of an existing building,
 - (c) the development is authorised by a complying development certificate.

SIC not required until occupation certificate stage

- (3) Despite clause 19, the special infrastructure contribution required by a development consent to which this clause applies, if made as a monetary contribution, may be paid at

any time before the issue of the first occupation certificate in respect of any of the buildings to which the development consent relates, and is not required to be paid before the issue of a construction certificate in relation to the building work involved.

- (4) However, if no construction certificate in relation to any such building work has been issued on or before 25 September 2022, the special infrastructure contribution, if outstanding, must be paid before the issue of a construction certificate for the building work.

Interpretation

- (5) In this clause:
 - (a) *pandemic period* means the prescribed period within the meaning of section 10.17 of the Act, and
 - (b) *subdivision of land* does not include the procurement of the registration of a strata plan or strata plan of subdivision, within the meaning of the *Strata Schemes Development Act 2015*.

Note. Under section 10.17 of the *Environmental Planning and Assessment Act 1979*, the prescribed period commenced on 25 March 2020. It ends on 31 March 2022.

23 Reduction of rate for first 2 years

If a special infrastructure contribution is made as a monetary contribution:

- (a) at any time before 1 July 2022 – the amount that would otherwise be payable is reduced by one half, and
- (b) at any time between 1 July 2022 and 30 June 2023 – the amount that would otherwise be payable is reduced by one quarter.

24 Special infrastructure contribution works-in-kind agreement

- (1) For the purposes of this Determination, a special infrastructure contribution works-in-kind agreement is an agreement that meets the requirements set out in this clause.
- (2) A special infrastructure contribution works-in-kind agreement is an agreement between the Minister and the developer for the carrying out of works to provide an item (or part of an item) of infrastructure specified in Schedule 2, or for the dedication or other provision of land for the purpose of any such infrastructure, in lieu (in part or in whole) of the payment of a monetary contribution for the development concerned.
- (3) A special infrastructure contribution works-in-kind agreement, in relation to the carrying out of works, is to:
 - (a) specify or acknowledge the monetary contribution that would otherwise be payable for the SIC development, and

- (b) describe the works that are to be, or may be, carried out by or on behalf of the developer to contribute to the provision of a specified item or items of infrastructure in lieu of a monetary contribution, and
 - (c) specify the attributable cost of the item or items of infrastructure and provide for the adjustment of that cost in a manner that is consistent with the adjustment of the contribution amount under this Determination, and
 - (d) provide that the maximum amount of the liability to make the special infrastructure contribution that may be discharged by the carrying out of the works is not to exceed the attributable cost of the item or items of the infrastructure, and
 - (e) provide for the nature or form of security to be provided by the developer for a failure to meet obligations with respect to the special infrastructure contribution or in circumstances where the works concerned are not completed by the time at which the contribution, if made as a monetary contribution, would have been required to be made under this Determination.
- (4) A special infrastructure contribution works-in-kind agreement, in relation to the dedication or other provision of land, is to:
 - (a) specify or acknowledge the monetary contribution that would otherwise be payable for the SIC development, and
 - (b) specify the time by which the land is to be dedicated or otherwise provided, and
 - (c) specify the value of that land, or the manner in which the value of that land is to be calculated, and
 - (d) provide for the nature or form of security to be provided by the developer for a failure to meet obligations with respect to the special infrastructure contribution or in circumstances where the land concerned is not dedicated or otherwise provided by the time at which the contribution, if made as a monetary contribution, would have been required to be made under this Determination.
- (5) In this clause, **attributable cost**, in relation to an item of infrastructure, means the amount specified in Schedule 2 for that item.

Note. The decision to negotiate or enter into a special infrastructure contribution works-in-kind agreement as proposed by a developer is entirely at the Minister's discretion. The developer is not entitled to enter into any such agreement in lieu of making a monetary contribution. For example, if the NSW Government gives priority to providing one item of infrastructure over another, then the Minister may decide not to agree to the developer providing that other item.

25 Matters for which special infrastructure contribution is made

- (1) For the purpose of section 7.23 (3A) of the Act:
 - (a) 1.5% of a special infrastructure contribution required to be made by this Determination is for matters specified in section 7.22 (1) (d) of the Act, and
 - (b) 25.4% of a special infrastructure required to be made by this Determination for SIC development in West Dapto Sub-Growth Area is for the provision of infrastructure

by Wollongong City Council, but only if the SIC development is on land that is biodiversity certified land when development consent for the development is granted.

Note. The matters specified in section 7.22 (1) (d) of the *Environmental Planning and Assessment Act 1979* are the carrying out of any research or investigation, preparing any report, study or instrument, and doing any other matter or thing in connection with the exercise of any statutory function under the Act, by the Minister, the Planning Ministerial Corporation, the Planning Secretary or the Department of Planning, Industry and Environment.

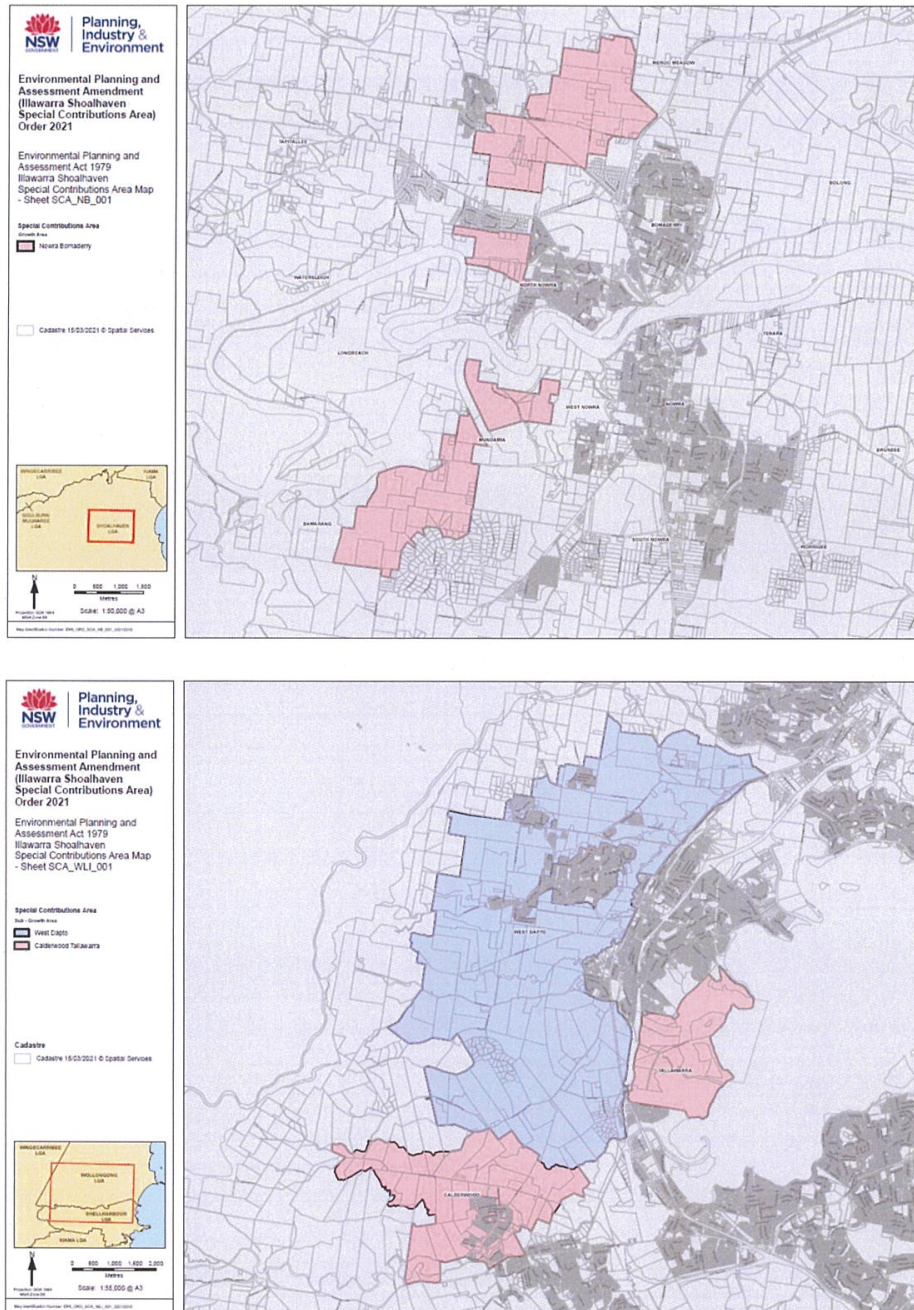
- (2) For the purposes of section 7.32 (6) of the Act, affordable housing is not a class of infrastructure for which special infrastructure contributions are required to be made under this Determination.

26 Reasons for the level and nature of the special infrastructure contribution

For the purpose of section 7.23 (5) of the Act, the reasons for the level and nature of special infrastructure contributions required to be made by this Determination are as follows:

- (a) to assist in providing adequate funding for State and regional public infrastructure (described in Schedule 2) in the Illawarra Shoalhaven Special Contributions Area,
 - (b) to ensure that future development bears a share of the cost of the provision of such infrastructure,
 - (c) to provide for the adjustment of special infrastructure contributions to reflect changes in economic conditions between the time of imposing the contribution and the time at which the contribution is made,
 - (d) to provide flexibility as to the manner in which special infrastructure contributions may be made,
 - (e) to ensure that special infrastructure contributions reflect a reasonable apportionment between the demand for infrastructure generated by existing development and the demand for that infrastructure that is likely to be generated by new development for which contributions must be paid,
 - (f) to ensure that the level of special infrastructure contributions does not adversely affect housing supply.
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SCHEDULE 1 – SPECIAL CONTRIBUTIONS AREA



SCHEDULE 2 – LIST OF INFRASTRUCTURE

Infrastructure item	100% Attributable Cost	Project cost funded through contributions
Road and Intersection Upgrades		
Nowra Bomaderry		
New Moss Vale Road main road intersection	\$3,232,627	\$323,262
Moss Vale Road capacity and intersection upgrades	\$20,838,735	\$2,083,873
Bells Lane Collector Road (Pestells Lane to Moss Vale Road)	\$18,318,223	\$1,831,822
East Nowra sub-arterial road Stage 1 (Princes Highway to North Kalandar Street)	\$33,470,036	\$3,347,003
East Nowra sub-arterial road Stage 2 (Kalandar Street to Princes Highway/Warra Warra Road)	\$26,048,419	\$2,604,841
Princes Highway capacity and intersection upgrades between Bomaderry and South Nowra	\$156,290,516	\$15,629,051
West Lake Illawarra		
Yallah interchange	\$74,186,565	\$7,418,656
Improved access to and connectivity with the M1 Motorway between Tallawarra and Five Island Road	\$87,787,430	\$8,778,743
Improved efficiency/capacity upgrades to the M1 Motorway between Tallawarra and Five Islands Road	\$77,895,891	\$7,789,589
Illawarra Highway upgrade	\$49,457,710	\$4,945,771
Northcliffe Drive extension	\$74,186,565	\$7,418,656
Princes Highway upgrade x 2 intersections	\$17,186,554	\$1,718,655
West Lake Illawarra major road spine	\$260,000,000	\$26,000,000
Upgrade of Tripoli Way extension to State road	\$43,002,952	\$4,300,295
Education		
Nowra Bomaderry		
Provision of primary and secondary school student places	\$4,663,875	\$466,387
West Lake Illawarra		
Provision of primary and secondary school student places	\$15,979,025	\$1,597,902
Active Transport		
Nowra Bomaderry		
New Moss Vale Road North and South shared user path (SUP) and cycleway network (Nowra to Berry)	\$10,409,060	\$1,040,906
Improved active and public transport options including multi modal interchanges and facilities (planning and	\$5,000,000	\$500,000

design)		
Regional Open Space		
Nowra Bomaderry		
Nowra Riverfront and Shoalhaven Community and Recreation Precinct	\$25,000,000	\$2,500,000
Emergency Services		
Nowra Bomaderry		
Nowra Shoalhaven fire station	\$5,799,336	\$579,933
Community Health facilities		
Nowra Bomaderry		
Redevelopment and expansion of Nowra Community Health Centre	\$21,088,495	\$2,108,850
Biodiversity		
West Lake Illawarra		
West Dapto Biodiversity	\$20,000,000	\$20,000,000
Planning and Delivery		
Nowra Bomaderry and West Lake Illawarra		\$1,899,412
TOTAL		\$124,883,607