

ITEM 7 POST EXHIBITION - CLEVELAND ROAD PLANNING PROPOSAL PHASE 2B

On 19 July 2021, Council resolved to commence the preparation of a Planning Proposal for a large portion of Stage 3 of the West Dapto Urban Release Area, centred on Cleveland Road. The Planning Proposal has been progressed in multiple phases.

Phase 1 of the land rezoning was notified on 15 March 2024 as Wollongong Local Environmental Plan 2009 (Amendment No.55). It rezoned RU2 Rural Landscapes to urban, recreation and conservation zones to facilitate delivery of an estimated at 2,275 dwellings. Phase 2 of the land rezoning was finalised by Council on 6 May 2024 and referred to the Department of Planning, Housing and Infrastructure to further amend the Wollongong Local Environmental Plan 2009.

As part of the 6 May 2024 Council resolution, the rezoning of certain land was deferred to allow further consideration of flood impacts.

Phase 2b of the Planning Proposal relates to part of the deferred lands (Lot 401 DP 1254873). This report considers the results of the updated flood study information for Lot 401 DP 1254873 and recommends that Phase 2b of the Planning Proposal be progressed as outlined in this report.

RECOMMENDATION

The Planning Proposal for Phase 2b of the Cleveland Road precinct, Cleveland for Lot 401 DP 1254873 (Attachment 2) be progressed to finalisation and referred to the NSW Department of Planning, Housing and Infrastructure for review and the preparation of an amendment to the Wollongong Local Environmental Plan (LEP) 2009.

REPORT AUTHORISATIONS

Report of: Chris Stewart, Manager City Strategy

Authorised by: Linda Davis, Director Planning + Environment - Future City + Neighbourhoods

ATTACHMENTS

- 1 Location and Current Zoning
- 2 Adopted Zoning May 2024
- 3 Proposed Revised Zoning

BACKGROUND

West Dapto Release Area

The West Dapto Urban Release Area (WDURA) covers an area of approximately 4,700 hectares and is currently proposed to house a population of 56,500 people in an additional 19,500 dwellings. To support jobs in the region an additional 175 hectares of employment lands will be created when fully developed.

West Dapto is the last remaining area for large scale urban development in the Wollongong Local Government Area. The NSW Department of Planning, Housing and Infrastructure (DPHI) has identified West Dapto as a priority urban release area to provide housing supply for the expected population growth. The WDURA is identified in the Illawarra Shoalhaven Regional Plan 2041 as being within the West Lake Illawarra Growth Area.

Stages 1 and 2 of the WDURA were rezoned in 2010. The first two stages (estimated 6,346 lots) are now significantly progressed with 11 Neighbourhood Plans approved (4,557 lots), and another draft Neighbourhood Plans under assessment (1,564 lots). Development Consents for a total of 2,382 lots have been granted for land subdivision within the first two stages.

Subsequently, Stage 5 (Yallah / Marshall Mount) and parts of Stages 3 (Stockland Stage 3 and Cleveland Road phase 1) and Stage 4 (Huntley) have been rezoned to permit urban development. There is a development capacity of approximately 14,255 lots, of which some 8,000 lots can be serviced and some 5,200 lots have had Neighbourhood Plans approved. Since 2010, approximately 2,400 lots have been developed and released for housing.

Cleveland Road Planning Proposal

In October 2020 a Planning Proposal request was lodged for the Cleveland Road precinct. The Planning Proposal request sought to rezone the land from RU2 Rural Landscapes to residential, retail, employment, recreation and conservation zones.

On 19 July 2021, Council considered a report on the preliminary assessment of the Planning Proposal request. Council resolved to commence the preparation of a Planning Proposal subject to several recommendations for additional information.

The Planning Proposal was exhibited from 14 September to 28 October 2022.

On 27 November 2023, Council considered the post exhibition report, submissions received and resolved to adopt Phase 1 of the Planning Proposal for the Cleveland Road precinct, Cleveland for finalisation. Council resolved to progress the main portion of the Planning Proposal (Phase 1) to the NSW Department of Planning and Environment for review and the preparation of an amendment to the Wollongong Local Environmental Plan (LEP) 2009, while deferring progression of lands near Mullet Creek and its tributaries due to unresolved flood implications.

Wollongong Local Environmental Plan (LEP) 2009 (Amendment No. 55) was notified on 15 March 2024 and will enable some 2,275 lots to be developed.

Council officers continued to work with the applicant group to resolve the outstanding flooding outcomes within the deferred lands. Phase 2 rezoning was reported to Council for determination on 6 May 2024. Council resolved to progress the majority of phase 2 to finalisation. The Planning Proposal package is with the NSW Department of Planning, Housing and Infrastructure for review and the preparation of an LEP amendment.

The broader Cleveland Road Planning Proposal was supported by a catchment-wide flood study which demonstrated at a catchment scale what land could be developed and what land was required to manage flood impacts.

At the meeting, Council resolved to defer three sites which required more detail work on flooding and demonstration that they could be developed in isolation, rather than relying on upstream / catchment flood mitigation works. One of the sites was Lot 401 DP 1254873 (Attachment 1), which is located on the northeastern side of Fairwater Drive, and to the west of Fowlers Road. It has a site area of 13.86 hectares and is currently zoned a mixture of E3 Productivity Support, C2 Environmental Conservation and RU2 Rural Landscapes.

This report addresses Lot 401 DP 1254873. The issues associated with the broader rezoning of the Cleveland Road precinct have been addressed in the previous reports.

PROPOSAL

The zonings and planning controls of the deferred Lot 401 DP 1254873 have been revisited as part of the Phase 2b progression of the Planning Proposal. Additional flood assessment information has been submitted on behalf of the property owners.

On 21 and 26 June 2024, Council received additional flood information for Lot 401 DP 1254873. The additional information has been reviewed by Council officers. The information has demonstrated that the land can be developed in isolation, while achieving the necessary cut and fill balance to address flooding. There are some limitations, as any development done in isolation from other properties' flood mitigation, would need to meet stay-in-place evacuation criteria. Some buildings may need to be built on piers to avoid further filling within the floodplain. Also, some land uses normally permissible within the E3 Productivity Support zone would not be able to be approved through development application processes.

Existing clause 5.22 of Wollongong Local Environmental Plan 2009 includes provision relating to special flood considerations that will apply to sensitive and hazardous development on this property. Sensitive and hazardous development includes, amongst other uses, early education and care facilities, group homes, hazardous industries and storage facilities, hospitals, seniors housing and respite day care centres. Development consent will not be able to be granted to these uses on the property unless Council has considered safe occupation and evacuation, risk to life during a flood event and any adverse environment impact in the event of a flood.

In general, the findings of the additional report are supported and enable the clarification of the boundary between urban lands (E3 zone) and flood prone lands / riparian areas (C3 zone). The concept layout includes landform modification that will raise flood prone lands above the design flood event (DFE) and probable maximum flood (PMF) levels. The revised proposed zoning for the site will need to avoid the floodway portion in northwest corner of the proposed development area. There will need to be further work, either in neighbourhood planning or master planning of the site to ensure buildings can be constructed without further loss of flood storage and to ensure that the interface/design issues are satisfactory.

CONSULTATION AND COMMUNICATION

The Cleveland Road Planning Proposal was exhibited from 14 September to 28 October 2022. Consultation on the additional Aboriginal heritage work occurred from 2 June to 3 July 2023.

The exhibition page on Council’s website received 255 views and 483 documents were downloaded. There were no submissions made through Council’s engagement webpage.

Nineteen submissions were received and reported to the Council meeting on 27 November 2023.

No further exhibition has been undertaken given the deferred area related to resolution of technical issues raised in the formal exhibition period.

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2032 Goal 1. It specifically delivers on the following –

Community Strategic Plan 2032		Delivery Program 2022-2026
Strategy		Service
1.5	Maintain the unique character of the Wollongong Local Government Area, whilst balancing development, population growth and housing needs.	Land Use Planning

The draft Planning Proposal is broadly consistent with –

- Council’s West Dapto Vision (2018). The site is part of the West Dapto urban release area and is recognised as a major regional urban release area. The Vision estimates that the urban release area would potentially provide 19,500 dwellings (and a population of over 56,000 people). The Vision seeks to concentrate higher densities around centres and public transport nodes and co-locate compatible land uses to reduce reliance on private vehicles. The Vision indicates that the precinct is intended to have a village centre, 2-5ha neighbourhood park and is located next to an identified district park. The Vision also recognises that community facilities, schools and childcare are an important component of a strong, healthy and well-connected community.
- Ministerial Direction 4.1 Flood Prone Land – This Ministerial Direction applies to the Planning Proposal.

The objectives of Direction 4.1 are -

- to ensure that development of flood prone land is consistent with the NSW Government’s Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005,*
- to ensure that the provisions of an LEP on flood prone land is commensurate with the flood hazard and includes consideration of the potential flood impacts both on and off the subject land.*

Ministerial Direction requirement	Comment
<p>A planning proposal must not rezone land within the flood planning area from recreation, rural, special purpose or conservation zones to a residential, employment, mixed use, W4 working waterfront or special purpose zones.</p> <p>A planning proposal must not contain provisions that apply to the flood planning area which -</p> <ul style="list-style-type: none"> (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit development for the purposes of residential accommodation in high hazard areas, (d) permit a significant increase in the development and/or dwelling density of that land, (e) permit development for the purpose of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate, (f) permit development to be carried out without development consent except for the purposes of exempt development or agriculture. Dams, drainage canals, levees, still require development consent (g) are likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response measures, which can include but are not limited to the provision of road infrastructure, flood mitigation infrastructure and utilities, or (h) permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event. 	<p>Comment – Proposal will rezone rural land to E3 Productivity Support which is considered Employment</p> <ul style="list-style-type: none"> (a) No areas are floodway. See recommendation to exclude small section of land defined as floodway (b) Proposal does not result in significant impacts elsewhere (c) Not proposed (d) Will result in a significant increase in employment development density on the land. (e) Some of these uses are permissible within the proposed E3 zone. However, existing clause 5.22 of the Wollongong Local Environmental Plan 2009 will prevent consent being granted for such a use on this property unless safe occupation and evacuation, risk to life and environmental effects are considered. (f) Not proposed (g) This is difficult to quantify. Under Wollongong DCP 2009 Chapter E13, development in the low flood risk precinct is possible subject to appropriate design and controls (noting the comment above about critical facilities). The precinct adjoins Fairwater Drive and Fowlers Road which are flood accessible roads. (h) Given the land zoning change proposed will involve productivity support uses, this may include uses that store hazardous goods or materials. However, existing clause 5.22 of the Wollongong Local Environmental Plan 2009 will prevent consent being granted for such a use on this property unless safe occupation and evacuation, risk to life and environmental effects are considered.

Ministerial Direction requirement	Comment
<p>A planning proposal must not contain provisions that apply to areas between the flood planning area and probable maximum flood to which Special Flood Considerations apply which -</p> <ul style="list-style-type: none"> (a) Permit development in floodway areas. (b) Permit development that will result in significant flood impacts to other properties. (c) Permit a significant increase in the dwelling density of that land. (d) Permit the development of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate. (e) Are likely to affect the safe occupation of and efficient evacuation of the lot. (f) Are likely to result in a significantly increased requirement for government spending on emergency management services, and flood mitigation and emergency response measures, which can include but not limited to road infrastructure, flood mitigation infrastructure and utilities. <p>For the purposes of preparing a planning proposal, the flood planning area must be consistent with the principles of the floodplain development manual 2005 or as otherwise determined by a floodplain risk management study or plan adopted by the relevant council.</p>	<ul style="list-style-type: none"> (a) No areas are floodway. See recommendation to exclude small section of land defined as floodway (b) Proposal will not result in significant impact on others (c) Residential dwellings not permissible in proposed E3 zone (d) Proposal will permit Critical Facilities that cannot effectively evacuate. However, existing clause 5.22 of the Wollongong Local Environmental Plan 2009 will prevent consent being granted for such uses on this property unless safe occupation and evacuation, risk to life and environmental effects are considered. (e) Redevelopment of the land could provide safe occupation, but as isolated in the PMF evacuation not possible (f) This is difficult to quantify. Under Wollongong DCP 2009 Chapter E13, development in the low flood risk precinct is possible subject to appropriate design and controls (noting the comment above about critical facilities). The precinct adjoins Fairwater Drive and Fowlers Road which are flood accessible roads. <p>Indications are that redevelopment of the land (excluding critical facilities), could be undertaken and be consistent with the recommended controls in the Wollongong City Council Mullet Creek Flood Plain Management Study and Plan 2023, however the Mullet Creek Study doesn't identify Lot 401 for redevelopment and modifications within the floodplain. In lieu of FRMSP, the landowners have provided site specific studies that identify key areas in the floodplain that would be modified.</p>
<p>Consistency</p> <p>A planning proposal may be inconsistent with this direction only if the planning proposal authority can satisfy the Planning Secretary (or their nominee) that –</p> <ul style="list-style-type: none"> (a) The planning proposal is in accordance with a floodplain risk management study or plan adopted by the relevant council in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or; 	<ul style="list-style-type: none"> (a) Indications are that redevelopment of the land (excluding critical facilities), could be undertaken and be consistent with the recommended controls in the Wollongong City Council Mullet Creek Flood Plain Management Study and Plan 2023, however the Mullet Creek Study doesn't identify Lot 401 for redevelopment and modifications within the floodplain. The landowners have provided site specific studies that identify key areas in the floodplain that would be modified.

Ministerial Direction requirement	Comment
<p>(b) Where there is no council adopted floodplain risk management study or plan, the planning proposal is consistent with the flood study adopted by the council prepared in accordance with the principles of the Floodplain Development Manual 2005, or</p> <p>(c) The planning proposal is supported by a flood and risk impact assessment accepted by the relevant planning authority and is prepared in accordance with the principles of the Floodplain Development Manual 2005 and consistent with the relevant planning authorities' requirements, or</p> <p>(d) The provisions of the planning proposal that are inconsistent are of minor significance as determined by the relevant planning authority.</p>	<p>(b) Council has adopted the Mullet Creek Flood Plain Management Study and Plan 2023</p> <p>(c) The application is based on a study accepted by the planning authority being the Mullet Creek Flood Plain Management Study and Plan 2023 model.</p> <p>(d) There are some areas of significance. While it is considered that redevelopment of the land could be undertaken and comply with the controls in Wollongong DCP 2009 Chapter E13 (such as buildings on piers in some areas if required for additional storage) as there is isolation risk, it is recommended that any rezoning excludes critical facilities such as; Centre-based child care facilities; Community facilities; education facilities; Respite day care centres;</p>

If the application to rezone the land is supported, it must -

- Exclude the floodway to the northwest of the site.
- Must be subject to further neighbourhood planning / master planning as there is some uncertainty regarding how the built form of future buildings can be undertaken without considering requirements for further loss of flood storage and or appropriate interface / design outcomes.

FINANCIAL IMPLICATIONS

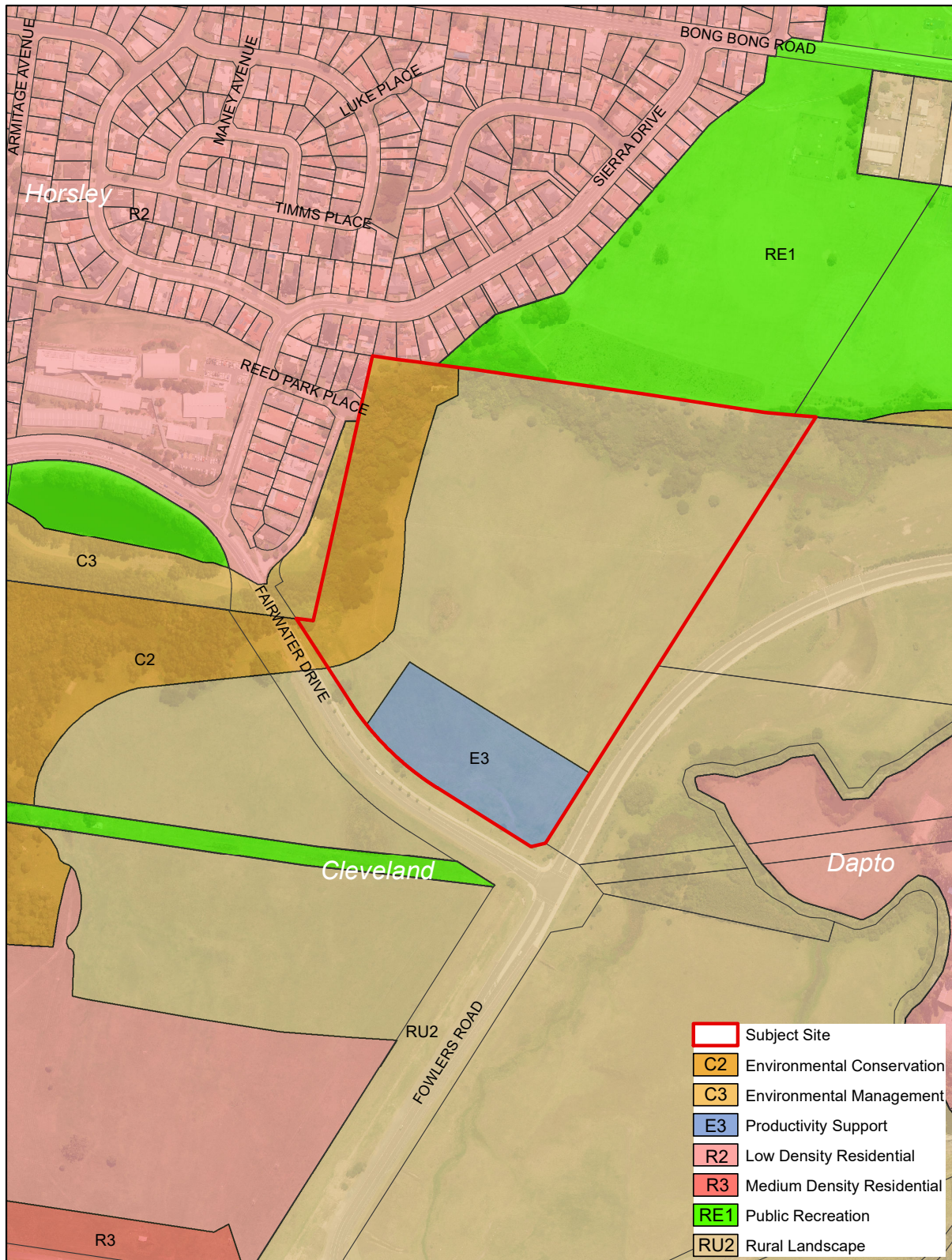
The financial implications of the West Dapto Urban Release Area are significant and are subject to regular monitoring and modelling. Council has adopted the West Dapto Development Contribution Plan 2020 and has exhibited the draft West Dapto Development Contribution Plan 2024. The draft Plan will be reviewed by IPART and the Minister for Planning before it can be adopted. The Contribution Plan funds the provision of local infrastructure including Cleveland Road, bridges on key collector roads, bus shelters, footpaths, cycleways, drainage, parks and recreation area and land for community buildings. The Plan cannot fund community buildings.

In October 2023, the State Housing and Productivity Contribution replaced the West Lake Illawarra Special Infrastructure Contribution which is used to fund State infrastructure, such as major roads, public transport, schools and hospitals.

CONCLUSION

Part of the deferred land (Lot 401 DP 1254873) has strategic and site merit. The additional information provided by the proponent has demonstrated that the majority of the land is suitable for development, subject to an additional clause. Certain development types including Centre-based child-care facilities, Community facilities or Respite Day care centres must demonstrate that the evacuation criteria for flood evacuation can be met prior to the granting of any Development Consent.

It is recommended that the final amended Planning Proposal (Phase 2b) for the Cleveland Road precinct be forwarded to the NSW Department of Planning, Housing and Infrastructure for the rezoning to be made.



	Subject Site
	C2 Environmental Conservation
	C3 Environmental Management
	E3 Productivity Support
	R2 Low Density Residential
	R3 Medium Density Residential
	RE1 Public Recreation
	RU2 Rural Landscape



