

ITEM 2

PUBLIC EXHIBITION - DRAFT PLANNING PROPOSAL REQUEST - 20 LAWRENCE HARGRAVE DRIVE STANWELL TOPS - PROPOSED ADDITIONAL USE - RECREATION FACILITY (OUTDOOR) - MINIATURE RAILWAY

A draft Planning Proposal request has been submitted for 20 Lawrence Hargrave Drive, Stanwell Tops which originally sought to enable a Recreation Facility (Outdoor) and Function Centre on the property. The additional activities were proposed to be made permissible through an amendment to Wollongong Local Environmental Plan 2009, Schedule 1: Additional Permitted Uses.

The proposal was reviewed by Council officers and the Wollongong Local Planning Panel, which recommended the proposal not progress as originally presented. The Panel did see merit in a proposal that was limited to only seeking the additional use of a Recreation Facility (Outdoor) – Miniature Railway to enable that use on site.

This report presents the preliminary assessment of the draft Planning Proposal request and recommends that Council resolve that a draft Planning Proposal be prepared to only permit the additional use of Recreation Facility (Outdoor) – Miniature Railway on part of site. If supported by Council, the draft Planning Proposal will be updated and then submitted to the NSW Department of Planning and Environment seeking a Gateway Determination to enable public exhibition.

RECOMMENDATION

- 1 A draft Planning Proposal be prepared to amend Wollongong Local Plan for 20 Lawrence Hargrave Drive, Stanwell Tops (Lot 20 DP 260258 and Lot 24 DP 260258) to enable the following –
 - a Amend Schedule 1 Additional Permitted Uses of the Wollongong Local Environmental Plan 2009 to permit a Recreation Facility (Outdoor) – Miniature Railway on mapped areas of the site.
 - b Amend Wollongong Local Environmental Plan 2009, Additional Permitted Use mapping to show the proposed location of the Miniature Railway use.
- 2 The submitted draft Planning Proposal and supporting studies be updated by the applicant within a 3 month period, addressing -
 - a Detailed Site Investigation be submitted to identify any site contamination associated with historic agricultural uses.
 - b Revised concept plan focused on the miniature railway use be provided that identifies the impacts on native vegetation and biodiversity values. Additionally, all aspects associated with any proposed car park are to consider all impacts on adjoining land uses including C1 National Parks and Nature Reserve lands.
 - c Aboriginal cultural heritage assessment report required to fulfil the Ministerial Direction 2.3
 - d An updated Bush Fire Assessment
 - e An updated draft Planning Proposal request be submitted which addresses relevant objectives in the Illawarra Shoalhaven Regional Plan 2041
 - f Updated traffic counts including from at least one Sunday and/or holiday
 - g An updated traffic impact assessment with intersection modelling needs to be completed to support the proposed treatments.
- 3 Following the submission of all requested additional information, the draft Planning Proposal request be referred to the NSW Department of Planning and Environment for a Gateway Determination.
- 4 The draft Planning Proposal be exhibited for 28 days following a Gateway Approval
- 5 The NSW Department of Planning and Environment be requested to issue authority to the General Manager to exercise plan making delegation in accordance with Council's resolution of 26 November 2012.

REPORT AUTHORISATIONS

Report of: Chris Stewart, Manager City Strategy

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

ATTACHMENTS

- 1 Location Map
- 2 Originally Proposed Concept Plan
- 3 Location of Proposed Additional Permitted Use
- 4 Natural Resource Sensitivity Biodiversity Map
- 5 Wollongong Local Planning Panel Minutes
- 6 Proposed Map Amendment

BACKGROUND

20 Lawrence Hargrave Drive, Stanwell Tops consists of two allotments being Lot 24 DP 260258 and Lot 20 DP 260258 (Attachment 1). The site has a total area of 11.07 ha. Lot 24 is zoned SP2 Infrastructure (Road) and is 10m wide and has an area of 3152 m². Lot 20 has a site area of 10.75 hectares and zoned C3 Environmental Management. The site is bound by the Garrawarra State Conservation Area to the north, which contains Kelly Falls and the headwaters of the Hacking River.

The site is mapped as containing biodiversity natural resource sensitivity (high conservation value) and is within the identified corridor in the Illawarra Biodiversity Strategy 2011 and Illawarra Shoalhaven Regional Plan 2041.

Within Lot 20, there are several structures including a dwelling house, Nissen styled hut, other temporary outbuildings and pool. Additionally, mobile dwellings and semi-permanent structures were viewed upon the site.

Across the extent of the site are a number of native vegetation communities in addition to weeds and exotic species. Bordering the site is the endangered ecological community (EEC) MU28 – Southern Sydney Sheltered Forest and a record of the threatened fauna species Grey-headed Flying-fox. Across the site is habitat modelled for the Eastern Pigmy possum, Broadheaded snake, Red Ground toadlet, Giant Burrowing frog and Rosenberg's Goanna.

In August 2021, a Planning Proposal request was submitted by Plannex Environmental Planning on behalf of the owner.

A site inspection was carried out on 11 November 2021 by Council staff and a further site inspection prior to the meeting of the Wollongong Local Planning Panel. During the initial site inspection, a temporary miniature rail track was observed on managed lands within the site and three mobile houses were also located on site. The existing pool, septic system, Nissen hut and dwelling house were observed on site. Natural and managed vegetation was also noted during the site inspection.

The Wollongong Local Planning Panel inspected the site on 31 October 2022. Upon inspecting the site, it was evident the temporary miniature railway had been dismantled and removed.

PROPOSAL

Included in the draft Planning Proposal request was an indicative site plan for the proposed Recreation Facility Outdoor and Function Centre. The plan details a large extent of the site to be utilised for different outdoor activities and included market stalls, retail shops, amusement rides, community centre, splash park and a 250-car space at grade carpark. Additionally, it was proposed the existing dwelling house and Nissen hut be repurposed as a café/function centre venue and an administration office / café / amenities building respectively (Attachment 2).

The proposal was reviewed by Council officers and the Wollongong Local Planning Panel, which recommended the proposal not progress as originally presented.

The applicant and owner considered the Panel and Council's feedback and a revised scaled back proposal was received on 17 January 2023. The amended draft Planning Proposal request now seeks to amend Schedule 1: Additional Permitted Uses of Wollongong Local Environmental Plan 2009 to only include Recreation Facility (Outdoor) – Miniature Railway as a permissible use on the site. Whilst the revised request does not seek a Function Centre upon the site, it is understood that a small café which is ancillary to the miniature railway operations is likely to form part of any future Development Application. Such a facility would need to be of a scale consistent with the needs of the miniature railway use and would not operate independently of the miniature railway.

Under the original proposal, access to the site is proposed through an upgraded driveway entrance and intersection to Lawrence Hargrave Drive and recommended upgrade to a commercial wastewater treatment system.

Discussions of key considerations:

Environmental

Bordering the site is the endangered ecological community (EEC) MU28 – Southern Sydney Sheltered Forest and a record of the threatened fauna species Grey-headed Flying-fox. Across the site is habitat modelled for the Eastern Pigmy possum, Broadheaded snake, Red Ground toadlet, Giant Burrowing frog and Rosenberg's Goanna.

The site is mapped as containing Natural Resource Sensitivity – Biodiversity, EEC MU28 – Southern Sydney Sheltered Forest and threatened species Grey-headed Flying-fox. The mapping indicated approximately 50% of the site as being constrained by Natural Resource Sensitivity – Biodiversity.

Should Council resolve to progress the Planning Proposal request, the applicant will be asked to submit a revised development concept site plan. It is anticipated areas mapped as Natural Resource – Biodiversity or other areas mapped a containing terrestrial biodiversity can be avoided and include appropriate areas for any required Asset Protection Zone (APZ) (Attachments 3 and 4).

Contaminated Land

The site is not mapped as being impacted by contamination. However, it is noted the site has historically been used for agricultural purposes. It is recommended that a Detailed Site Investigation be prepared prior to any endorsed draft Planning Proposal being forwarded to the Department of Planning and Environment seeking a Gateway Determination.

On-site Wastewater Management

The supporting report submitted by Harris Environmental Consulting (2018) indicates on site wastewater and disposal can be suitably managed. It is noted the existing system, approved by Council, is suitable for the existing domestic use arrangements. Should the Planning Proposal progress, an upgraded system would be required at the Development Application stage and would need to be of appropriate size and location, which avoids biodiversity values upon the site.

Flooding

The site is located on a ridge at the headwaters of the Hacking River and is unlikely to have flood hazard constraints. A Hacking River Flood Study has not been prepared by Council. Any future development application would need to comply with all applicable planning legislation and documents.

Bush Fire Prone Land

The entirety of the site is mapped as Bush Fire Prone: Vegetation Category 1. The Bush Fire Hazard Assessment by Harris Environmental (ref:2785BF dated 12/10/2020) report provided in support of the proposal demonstrated significant Asset Protection Zone (APZ) vegetation clearing would likely be required to facilitate development of the site.

The NSW RFS advised that it did not object to the proposal subject to any future Development Application being able to fulfil the requirements of Planning for Bush Fire Protection 2019.

Should Council resolve to progress the revised draft Planning Proposal request, additional information will be sought from the applicant regarding an indicative plan of proposed development and an updated Bush Fire Hazard Assessment.

CONSULTATION AND COMMUNICATION

Preliminary consultation in relation to the draft Planning Proposal request in its original form incorporating a Function Centre and tourism activities (i.e. tree climbing area, maze, giant slide, jumping castle, baby animal barn, rides, carousel, market stalls, community respite centre etc) was carried out between 8 October – 5 November 2021.

The preliminary notification consisted of a letter being sent to property owners within 500m of the site, Neighbourhood Forum 1 and applicable Stage agencies. Due to COVID-19 restrictions in place at the time of the preliminary exhibition, the documents were only made available for viewing on Wollongong City Council's Our Wollongong engagement web page. In addition to notifying members of the public, referrals were sent to relevant internal Council stakeholders for comment.

Council received 5 State Agency responses, 1 submission from a Neighbourhood Forum and 10 community submissions raising multiple issues. A response to the issues raised in submissions is provided in the following tables, noting that some matters are no longer relevant to the revised proposal -

State Authority comments -

Issue Raised	Council Officer Response
<p>NSW State Emergency Service</p> <p>No objection</p> <p>The Planning Proposal is to be consistent with the Ministerial Directions, in particular Direction 9.1 and 4.3.</p> <p>The draft Planning Proposal request is to be consistent with the NSW Flood Prone Land Policy, set within the NSW Floodplain Development Manual 2005.</p> <p>The proposal should not result in an intolerable increase in risk to life, health or property resulting from flooding.</p> <p>Risk assessment should consider the full range of flooding, including events up to the Probable Maximum Flood (PMF).</p> <p>Risk assessment should have regard to flood warning and evacuation demand on existing and localised future access/egress routes.</p> <p>Self-evacuation of the community should be achievable in a manner which is consistent with the NSW SES's principles for evacuation.</p> <p>Development must not conflict with the NSW SES's flood response and evacuation strategy and Evacuation must not require people to drive or walk through flood water.</p> <p>Deliberate isolation or sheltering in buildings surrounded by flood water are not equivalent, in risk management terms, to evacuation and Strategies relying on an assumption that mass rescue may be possible where evacuation either fails or is not implemented are not acceptable.</p> <p>NSW SES is opposed to the imposition of development consent conditions requiring private flood evacuation plans rather than the application of sound land use planning and flood risk management.</p>	<p>It appears the revised planning proposal for a Recreation Facility (Outdoor) – Miniature Railway can be consistent with the Ministerial Directions.</p> <p>It is expected any future Development Application will be required to address all planning legislation and documents and sufficiently address site flooding and bush fire emergency egress.</p>

Issue Raised	Council Officer Response
<p>Department of Planning and Environment – Environment and Heritage Group (Formerly Environment, Energy and Science) and NSW National Park and Wildlife Service</p> <p>No objection</p> <p>Further information needs to be provided on the size, scale and construction of the carparking areas and the wastewater treatment.</p> <p>The draft Planning Proposal request need to address relevant objectives in the Illawarra Shoalhaven Regional Plan 2041 (Regional Plan).</p> <p>Any proposal to clear land mapped as Terrestrial Biodiversity will need to address the environmental objectives/ actions of the Regional Plan.</p> <p>Updated Concept Plan to be provided demonstrating locations of all proposed development and identify and impacts on native vegetation and biodiversity values. Additionally, all aspects associated with any proposed car park are to consider all impacts on adjoining land uses including C1 National Parks and Nature Reserve lands.</p> <p>Proposed water-based activities and sewerage are not to impact adjacent C1 National Parks and Nature Reserve zoned land.</p> <p>The disposal of wastewater needs further consideration before an amendment to WLEP 2009 occurs.</p> <p>Ecological Assessments for Planning Proposals should address the key requirements of how the proposal will “avoid and minimise impacts on biodiversity”. As such, the Planning Proposal for the proposed recreation facility and function centre should be updated to demonstrate how any impacts to biodiversity have been avoided and/or minimised, this would include adequately demonstrating how the proposal can be accommodated onsite, as well as potential clearing of vegetation for asset protection zones to limit bush fire risk.</p> <p>Greater details regarding the indirect impacts from the operation of the proposed development (i.e., people accessing the remaining vegetation onsite or adjoining lands) are required given the proximity of the proposed recreation use to native vegetation and potential habitat</p> <p>A Biodiversity Stewardship Agreement, Conservation Agreement or Vegetation Management Plan could be considered for protection of this retained vegetation.</p>	<p>The car parking requirements will likely be less than originally described. The applicant has requested the application be revised to only seek Recreation Facility (Outdoor) – Miniature Railway as a permissible use upon the site.</p> <p>It is expected any future Development Application will determine the size and scale of any required car parking. It is anticipated any carparking would be required not to impact upon areas mapped as Terrestrial Biodiversity or similar.</p> <p>Despite the draft Planning Proposal for additional permissible uses resulting in a level of inconsistency with Strategies 11.1 and 11.2 of the Regional Plan this is considered to be of minor significance and the retention of the existing C3 zoning and areas of WLEP 2009 Clause 7.2 Natural resource sensitivity—biodiversity local provision will continue to provide adequate certainty the vision, land use strategy, goals, directions or actions of the Regional Plan can be achieved</p> <p>It is expected any future Development Application would be required not to impact upon areas mapped as Terrestrial Biodiversity or similar. A future detailed assessment will consider the extent to which proposed development has genuinely attempted to avoid and minimise impacts to biodiversity values on the subject and Council will determine any requirement of the need for offsetting under the NSW Biodiversity Offsets Scheme (BOS) for a future development approval.</p> <p>The management and disposal of wastewater would be included in any future Development Application.</p>

Issue Raised	Council Officer Response
	<p>It is anticipated any future Development Application will seek a development outcome to avoid and minimise the impacts on biodiversity and would also assess the impacts upon the site by visitors and patrons.</p> <p>Due to the high bushfire hazard of the subject site and surrounds, and the probable ongoing APZ maintenance requirements for future tourist facilities, it's unlikely that there will be any opportunity for biodiversity impact mitigation measures such as implementation of a Vegetation Management Plan that achieves improve biodiversity outcomes on the subject site.</p>
<p>Transport for New South Wales</p> <p>No objection</p> <p>Updated items for Planning Proposal</p> <p>Given that the proposed outdoor recreation facility will operate on weekends and holidays, updated traffic counts should be required from at least one Sunday and/or holiday for any future DA.</p> <p>The traffic report incorrectly assigns a Level of Service (LoS) of 'B' or 'C' to Lawrence Hargrave Drive based on the vehicle volumes from the traffic survey. As outlined in Table 4.1 of the Guide to Traffic Generating Developments, analysis of specific measures of effectiveness is the only way to determine the LoS of an intersection.</p> <p>An updated traffic impact assessment with intersection modelling needs to be completed to support the proposed treatments and provided with the formal planning proposal application. It is unclear at this stage if the proposed auxiliary left short (AUL(S)) and short channelised right turn (CHR(S)) treatments are appropriate for the proposed additional uses of the subject property.</p> <p>The following items to be provided as part of any future development application.</p> <ul style="list-style-type: none"> • Issues related to drainage <ul style="list-style-type: none"> - Location of pits and pipes required. - Carpark runoff rates and OSD. - Design of concrete channel or open tabletop drain to limit water onto LHD. - Some locations of minor cut will result in undesirable erosion. 	<p>A revised draft Planning Proposal request, which includes updated transport counts and Traffic Impact Assessment, is to be submitted, should Council resolve to progress the proposal.</p> <p>It is anticipated any future Development Application would be required to address the matters identified by Transport for NSW at that stage.</p>

Issue Raised	Council Officer Response
<ul style="list-style-type: none"> • Issues relating to LHD <ul style="list-style-type: none"> - Design dimensions and assumptions for any proposed treatments should be shown on a strategic design in accordance with AGTRD Part 4: Intersections and Crossings – General (Figure A29) and AGTRD Part 4A: Unsignalised and Signalised Intersections (Figure 8.3). - Any extended pipe headwall and channel relocation should be located outside the clear zone and power poles should also be relocated outside the clear zone. - The longitudinal section of any proposed access should be shown in relation to the cross section of Lawrence Hargrave Drive. - It is recommended that the lane widths be widened to a minimum of 3m. - The minimum shoulder width should be maintained as the current asphalted width. • Property access <ul style="list-style-type: none"> - Safe Intersection Sight Distance (SISD) diagram is required for the intersection. TfNSW recommend an assumed speed of 90km/h (design speed: 80km/h +10km/h) should be used. The same can be assumed for Approach Sight Distance (ASD). - A swept path analysis (in accordance with Austroads turning templates) is required to demonstrate that the largest vehicle likely to utilise the access can exit in a forward direction. The documentation provided must justify why this size of vehicle has been used. - Any DA should include details of what is proposed for the access point at the bridge crossing (30pprox.. Ch. 70.000). TfNSW notes that accesses to the same property should be amalgamated where possible. 	
<p>Heritage NSW</p> <p>No objection</p> <p>Proponent should undertake their own investigation into any relics on site.</p> <p>Assessment under the 2010 Due Diligence Code of Practice for the Protection of Aboriginal Objects on NSW is not considered an archaeological assessment or substitute for a comprehensive Aboriginal cultural heritage assessment report required to fulfil the Ministerial Direction 2.3.</p> <p>HNSW recommend an ACHA report be submitted in support of the Planning Proposal.</p> <p>Consultation with the Aboriginal community should occur early in the process.</p> <p>Prior to finalisation of the proposal, Council should be satisfied that all necessary heritage assessments have been undertaken and that any impacts have been sufficiently addressed. Which include a search of the State Heritage Inventory and the AHIMS.</p>	<p>It is recommended that an Aboriginal Cultural Heritage Assessment be provided prior to referring the draft Planning Proposal to the Department seeking a Gateway Determination should Council resolve to progress the proposal.</p>

Issue Raised	Council Officer Response
NSW Rural Fire Service No objection The NSW RFS raised no objections to the proposal subject to a requirement that the future development of the land complies with Planning for Bush Fire Protection 2019	Noted

Neighbourhood Forum and community submissions:

Concern	Council Officer Response
One submission was considered to generally supported the proposal	Noted
One submission was considered to show support for the proposal based upon the location of the site and its links to Wollongong and other tourist locations.	<p>The draft Planning Proposal is generally consistent with the Illawarra Shoalhaven Plan 2041 Objective 5, Strategy 5.1 – Create an environment for a diverse visitor economy.</p> <p>The site is located in proximity to existing visitor attractions, including Symbio Wildlife Park, the Sri Venkateswara Temple, Bald Hill, The Tops Conference Centre and Otford Farm in addition to links with the Grand Pacific Drive via Lady Wakehurst Drive.</p> <p>It is expected a draft Planning Proposal request seeking to permit the use of a Recreation Facility (Outdoor) – Miniature Railway within a specific area of the site may contribute to local visitation rates while at a scale that is considerate of the environment and natural hazards present.</p>
Two submissions were considered supportive of the proposal based on the size and setting of the site	Noted. See the above comments.
The proposal is not in interest of the community and likely to result in negative social and economic impacts (raised in 4 submissions)	<p>The original proposal may have resulted in up to 500 visitors attending the site across day and night-time trading hours. The Wollongong Local Planning Panel recommended a scaled back proposal be submitted and the additional use of a Function Centre be removed to limit the impact upon the environment, community, and services.</p> <p>The applicant and landowner have agreed to lodge a revised draft Planning Proposal request, seeking only the use of a Recreation Facility (Outdoor) – Miniature Railway be permissible upon the site. Whilst the revised request does not seek a Function Centre upon the site, it is understood that a small café which is ancillary to the miniature railway operations is likely to form part of any future Development Application.</p>
The ecological impacts resulting from the proposal (raised in 1 submission)	<p>The Wollongong Local Planning Panel recommended an amended proposal be submitted seeking only the permissible use of a Recreation Facility (Outdoor) – Miniature Railway to facilitate the development of a miniature railway on the site to limit the impacts upon site ecology.</p> <p>Under the revised draft Planning Proposal, development will be limited to certain areas of the allotment not mapped as Natural Resource Sensitivity – Biodiversity, Endangered Ecological Communities or recoded locations of threatened Flora and Fauna. This will be through a mapping amendment to the Wollongong LEP 2009, Additional Permitted Uses mapping.</p>

Concern	Council Officer Response
<p>The proposal is inconsistent with Department of Planning and Environment's Strategic Planning Framework by not protecting environmental values (raised in 1 submission).</p>	<p>Council has referred the draft Planning Proposal request to relevant Stage Agencies.</p> <p>The Department of Planning and Environment – Biodiversity, Conservation Division and NSW National Parks and Wildlife Services have requested an updated Concept Plan demonstrating locations of all proposed development and identify and impacts on native vegetation and biodiversity values.</p> <p>The development proposals consistent with the Department's environmental values within the framework will be further assessed.</p>
<p>The proposal be amended to rezone the site to either RE2 Private Recreation or SP2 Tourism rather than seeking additional uses (raised in 2 submissions).</p>	<p>The land zonings recommended within the submissions include Recreation Facility (Outdoor) as development permitted with consent. However, the suggested land zones also contain several additional permitted uses that are considered inappropriate for the site and could have a greater impact upon neighbouring allotments, including those within the Garrawarra State Conservation Area.</p> <p>It is anticipated an amendment to Schedule 1: Additional Permitted Uses of Wollongong LEP 2009 to include Recreation Facility (Outdoor) – Miniature Railway and the Additional Permitted Use mapping, will limit any proposed recreation development to certain managed areas of the allotment.</p> <p>Additionally, by retaining the C3 Environmental Management land zone, future proposed development will need to fulfil the objectives of the zone and be limited to permitted uses.</p>
<p>The proposal is inconsistent with the Illawarra Shoalhaven Regional Plan 2041 and the use of land (raised in 2 submissions)</p>	<p>The proposal is considered to be generally consistent with Objective 5: Create a diverse visitor economy with the Illawarra Shoalhaven Regional Plan 2041. It is recommended that the proposal be limited to areas that are not mapped as Natural Resource Sensitivity – Biodiversity through an amendment to the Additional Permitted Use mapping.</p>
<p>The proposal to be inconsistent with Council Planning Proposal Policy (raised in 1 submission).</p>	<p>The draft Planning Proposal request has been considered against Council's Planning Proposal Policy, adopted 23 May 2022.</p> <p>As a spot rezoning request, the proposal is not entirely consistent with our Planning Proposal Policy as it is not the result of an adopted strategy or plan. The Wollongong Local Planning Panel considers that a revised proposal has sufficient strategic merit to be progressed to gateway determination and exhibition.</p>
<p>The bush fire risk to patrons, firefighting potential and required APZs (raised in 9 submissions)</p>	<p>The applicant provided a Bush Fire Assessment report prepared by Harris Environmental (ref:2785BF dated 12/10/2020). The report considered the requirements of Planning for Bush Fire Protection 2019.</p> <p>The NSW RFS raised no objections to the proposal subject to a requirement that the future development of the land complies with Planning for Bush Fire Protection 2019.</p> <p>Should Council resolve to progress the draft Planning Proposal request, additional information will be sought from the applicant regarding an indicative plan of proposed development and an updated Bush Fire Hazard Assessment</p>

Concern	Council Officer Response
The impact of the Function centre, hours of operation and noise pollution (raised in 6 submissions)	<p>The applicant advised Council the application will be amended to remove Function Centre as an additional use being sought upon the site. Whilst the revised request does not seek a Function Centre upon the site, it is understood that a small café which is ancillary to the miniature railway operations is likely to form part of any future Development Application.</p> <p>It is expected hours of operation and noise generation will be addressed through a future Development Application should Council resolve to progress the Planning Proposal.</p>
The traffic implications for Lawrence Hargrave Drive including driveway location, proposed intersection upgrades increased traffic, impacts on cyclist, nearby Stonehaven Road (location of increased vehicle incidents) SEPP Infrastructure multiple entrances (raised in 6 submissions)	<p>Transport for NSW have raised no objections to the proposal; yet identified the need for further information.</p> <p>It is expected Transport for NSW concerns will be address though the additional information that has been requested.</p>
The impact of the proposal on civil infrastructure (raised in 1 submission).	<p>The site is currently connected to reticulated water and electricity and serviced by a sealed road with no kerb and guttering.</p> <p>Council's Traffic Team, NSW RFS and Transport for NSW have raised no objection to the proposal but have identified the need for further information and / or compliance with relevant development standards.</p> <p>The supporting report submitted by Harris Environmental Consulting (2018) indicates that subject to further environmental investigation and system design, wastewater treatment and disposal can be suitably managed on-site.</p>
The proposed additional use is inconsistent with C3 Environmental Management zoning (raised in 7 submissions).	<p>The applicant advised Council the application will be amended to remove Function Centre as an additional use being sought upon the site.</p> <p>It is considered by limiting the proposed additional permitted use of a Recreation Facility (Outdoor) – Miniature Railway to areas already managed upon the site, those areas with significant terrestrial biodiversity within the C3 Environmental management land can be avoided. It is noted all APZs are to be contained with the mapped Additional Permitted Use area.</p>
Impacts on National Park land, wildlife corridors and surround natural areas	<p>The Department of Planning and Environment Biodiversity, Conservation Division (formerly Environment, Energy and Science) and NSW National Parks and Wildlife Service did not object to the proposal subject to a revised concept plan focused on the miniature railway be provided that identifies the impacts on native vegetation and biodiversity values. Additionally, all aspects associated with any proposed car park are to consider all impacts on adjoining land uses including C1 National Parks and Nature Reserve lands.</p>
The impacts on wildlife, hollow bearing trees, ecosystems and the introduction of pests (raised in 4 submissions)	<p>See the comments above regarding the advice from the Department of Planning and Environment Biodiversity, Conservation Division (formerly Environment, Energy and Science) and NSW National Parks and Wildlife Service.</p>

Concern	Council Officer Response
Previous development on site including suspected unapproved development – mobile homes and train tracks and the implications on wastewater (raised in 5 submissions)	<p>Council officers observed on 31 October 2022 that the train tracks had been removed from the site.</p> <p>Council's Regulation and Enforcement section carried out further inquiries regarding the development compliance of the two tiny home and the bus with decking. This is matter being handled separately to the draft Planning Proposal assessment process and is not an impediment to the proposal moving forward.</p>
Vegetation clearing (raised in 2 submission).	<p>A Tree Permit Application was previously lodged and approved to remove trees from the site.</p> <p>Large scale clearing was not observed during the site visits undertaken as part of the Planning Proposal.</p>
The potential for over development of the site and ancillary uses to proposal (raised in 4 submissions).	<p>The proposal is to enable development of a Recreation Facility (Outdoor) - Miniature Railway upon the site, which is not a permitted use upon the site.</p> <p>The applicant advised Council the application will be amended to remove Function Centre as an additional use being sought upon the site.</p> <p>It is considered by limiting the proposed additional permitted use of a Recreation Facility (Outdoor) – Miniature Railway to areas already managed upon the site, areas with significant terrestrial biodiversity can be avoided. It is noted all APZs are to be contained with the mapped Additional Permitted Use area.</p> <p>The constrained nature of the site and limited development permitted with consent under the C3 Environmental Management zone will restrict over development of the site.</p>
Wastewater management and impacts on Kelly Falls and Hacking River (raised in 9 submissions).	<p>The site is currently connected to reticulated water and electricity.</p> <p>The supporting report submitted by Harris Environmental Consulting (2018) indicates on site wastewater and disposal can be suitably managed. It is noted the existing system, approved by Council, is suitable for the existing domestic use arrangements. Should the Planning Proposal progress, an upgraded system would be required at the Development Application stage and would need to be of an appropriate size and location, which avoids biodiversity values upon the site.</p> <p>The proposal is to enable development of a Recreation Facility (Outdoor) - Miniature Railway upon the site. The applicant has advised Council that the application will be amended to remove Function Centre as an additional use being sought upon the site.</p>
Rubbish management (raised in 4 submissions)	<p>The site is currently serviced by Council waste services.</p> <p>Should Council resolve to progress the draft Planning Proposal request to finalisation, waste servicing will form part of the assessment for any future Development Application.</p>
The owner of the site owned an existing site in Helensburgh (raised in 1 submission).	<p>Noted. The subject site in Helensburgh does not form part of this planning proposal.</p>

Concern	Council Officer Response
Inaccuracies in relation to existing and proposed zoning and the submitted in Environmental Planning documentation in support of the proposal (raised in 1 submission).	<p>Noted. The proposal has been reviewed by Council officers and referred to applicable State agencies for comment.</p> <p>It appears the zoning information was a typographical error in the submitted mapping and would not have a significant impact on the proposal.</p> <p>The State agencies have reviewed the application and requested additional information considered necessary.</p>

Wollongong Local Planning Panel Considerations

On 31 October 2022 the draft Planning Proposal request was considered by the Wollongong Local Planning Panel. The Panel supported the staff view that the originally submitted draft Planning Proposal request should not be progressed. The Panel noted the proposed intensity and commercial nature of the desired end uses identified were considered unacceptable given the environmental constraints which included bushfire, ecology, traffic, sewerage and infrastructure (Attachment 5).

The Panel considered a more modest use, specifically related to the miniature railway proposal, on a reduced footprint, removed from environmental sensitive areas and boundaries of the site, may be accommodated through an amendment to Schedule 1 Additional Permitted Uses of the Wollongong LEP 2009.

It was noted by the Panel that Council could consider a satisfactorily revised draft Planning Proposal request should amended documentation be submitted, which may include a concurrent DA to provide certainty to the end user. It was suggested prior to any Planning Proposal, a Scoping Report, consistent with the NSW Department of Planning and Environment's Planning Proposal Guidelines should be provided. The Scoping Report should investigate whether the site has any cultural or European heritage significance.

Council officers concur with the Panel's recommendation that a more modest draft Planning Proposal request, seeking only to amend Wollongong LEP 2009, Schedule 1: Additional Permitted Uses to include Recreation Facility (Outdoor) – Miniature Railway to enable a miniature railway upon the site. A concurrent Development Application would provide some level of understanding of the extent of development proposed upon the site; however, legislation allows for subsequent applications to be submitted seeking additional development. Furthermore, a concurrent Development Application may impact upon assessment timeframes based upon the time required for a Planning Proposal. Council officers are not supportive of a concurrent Development Application for these reasons.

Council officers recommend limiting the potential impacts upon the environment, infrastructure and nearby residents that an amendment to the Additional Permitted Use mapping occur which provide certainty on the location within the site any future development for Recreation Facility (Outdoor) – Miniature Railway can occur. It is recommended an amended draft Planning Proposal request be submitted with a request Wollongong LEP 2009 Additional Permitted Use mapping (Attachment 6).

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2032 Goal **1 We value and protect our environment**. It specifically delivers on the following -

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

Illawarra Shoalhaven Regional Plan 2041

In June 2021 the Illawarra Shoalhaven Regional Plan 2041 was released by the State. The updated Regional Plan will guide strategic planning and land use decisions in the region for the next 20 years. The Plan contains 30 objectives, supported by a mix of actions, strategies and collaboration activities. The proposal is aligned with objective 5: Create a diverse visitor economy.

The Planning Proposal has inconsistencies with the following planning legislation and documents:

Section 9.1(2) Local Planning Directions of the Environmental Planning and Assessment Act (1979)

Ministerial Direction 3.1 (Conservation zones)

The proposal is for amendment to Schedule 1: Additional Permitted Uses of the Wollongong Local Environmental Plan 2009. The proposed additional use of Recreation Facility (Outdoor) – Miniature Railway has the potential to result in impacts on the environmental protection controls within an environmentally sensitive location with a current Land Use zoning of C3 Environmental Management. The original, proposal which included the additional use of a Function Centre, would likely result in greater and unacceptable impacts upon the conservation zoning. It was generally considered the original draft Planning Proposal request was inconsistent with the Ministerial Direction.

The indicative site plan provided in support of the application. The site plan indicates a large variety of activities and uses across the site, including a 250-space car park for visitors. It is expected to enable the outdoor recreation facility uses upon the site, a large amount of vegetation clearing will be required. Clearing will likely be needed to locate the additional uses and for bushfire protection. It was determined insufficient justification was given for amending the Wollongong LEP 2009 and the potential impacts on conservation zones. Furthermore, the proposal did not seek to include additional protection or restoration of vegetation within the site that was not impacted by the proposal.

Following the Wollongong Local Environmental Panel's consideration and recommendations, the applicant requested the application be revised to limit the additional uses sought to the Recreation Facility (Outdoor) – Miniature Railway.

Council officers recommend that the draft Planning Proposal request be amended to only seeking a Recreation Facility (Outdoor) – Miniature Railway. and for an amendment to Wollongong LEP 2009 Additional Permitted Use mapping, restricting the additional permitted use to areas of the site that are not mapped as impacted by Natural Resource Sensitivity – Biodiversity.

Should Council resolve to progress the draft Planning Proposal request, Council officers will seek the additional information from the applicant before submitting the draft Planning Proposal to the Department of Planning and Environment for a Gateway Determination and prior to any public exhibition.

Ministerial Direction 4.3 (Planning for Bushfire Protection)

The entirety of the site is mapped as Bush Fire Prone: Vegetation Category 1. The Bush Fire Hazard Assessment by Harris Environmental (ref:2785BF dated 12/10/2020) report provided in support of the proposal demonstrated significant APZ vegetation clearing would likely be required to facilitate development should the Council progress the originally submitted draft Planning Proposal.

The NSW RFS provided feedback it did not object to the proposal subject to any future Development Application fulfil the requirements of Planning for Bush Fire Protection 2019.

Due to the likely vegetation clearing that would result from any required APZ it is recommended the Additional Permitted Use mapping be amended to limit the extent of development for Recreation Facility (Outdoor) – Miniature Railway and any required APZ.

The applicant has requested the draft Planning Proposal be revised to limit the additional uses being sought to Recreation Facility (Outdoor) – Miniature Railway to allow for that use on site. It is anticipated the amended planning proposal request will result in fewer people attending the site. Should Council resolve to progress the draft Planning Proposal request, additional information will be sought from the applicant regarding an indicative plan of proposed development and an updated Bush Fire Hazard Assessment.

Wollongong Local Environmental Plan 2009

Clause 7.2 Natural resource sensitivity – biodiversity

The site is mapped as Natural resource sensitivity – biodiversity containing MU30 Exposed Sandstone Scribble Gum Woodland – State Class: Sydney Coastal Dry Sclerophyll Forest. The eastern most portion of the site is mapped as containing MU28 Southern Sydney Sheltered Forest. It is also mapped a location of the threatened fauna – sooty owl.

The site is mapped as containing biodiversity natural resource sensitivity (high conservation value) and is within the identified corridor in the Illawarra Biodiversity Strategy 2011 and Illawarra Shoalhaven Regional Plan 2041.

It is considered the original proposal was inconsistent with the objectives of the clause 7.2 and may result in a negative impact upon the areas mapped as natural resource sensitivity – biodiversity through clearing of vegetation for development and for any required Asset Protection Zones.

Council officers recommend that the draft Planning Proposal request be amended to only seeking a Recreation Facility (Outdoor) – Miniature Railway and for an amendment to Wollongong LEP 2009 Additional Permitted Use mapping, restricting the additional permitted use to areas of the site that are not mapped as impacted by Natural Resource Sensitivity – Biodiversity. Whilst the revised request does not seek a Function Centre upon the site, it is understood that a small café which is ancillary to the miniature railway operations is likely to form part of any future Development Application. The appropriate scale of any ancillary use will be a consideration at Development Application stage.

It is noted Council officers will seek the additional information from the applicant should Council resolve to progress the draft Planning Proposal Request and before submitting the application to the Department of Planning and Environment for a Gateway Determination and prior to any public exhibition.

Council's Planning Proposal Policy (2018)

The Planning Proposal is not the result of an adopted strategy or plan. However, it is considered a revised proposal, which is limited to seeking an amendment to Schedule 1 Additional Permitted Uses of Wollongong LEP 2009 to include Recreation Facility (Outdoor) – Miniature Railway would allow for reasonable use and development of the land. It is considered the applicant has provided sufficient justification for proposing a Recreation Facility (Outdoor) – Miniature Railway upon the site.

It is recommended the proposal be limited to defined areas through an amendment to the Wollongong LEP 2009 Additional Permitted Uses Mapping to manage the extent of potential development and to areas not mapped as Natural Resource Sensitivity – Biodiversity or containing threatened species or endangered ecological communities.

SUSTAINABILITY IMPLICATIONS

A revised draft Planning Proposal request seeking only to include Recreation Facility (Outdoor) – Miniature Railway upon a defined location of the allotment through an amendment to the Additional Permitted Use mapping will likely enable a Development Application for a miniature railway. It is likely the reduce location for development will limit any impacts from development. Should Council resolve to progress the draft Planning Proposal request, additional information from the applicant will be sought regarding any future development of the site and the impacts on the environment.

It is envisaged a revised draft Planning Proposal request can be consistent with the environmental Planning objectives set within the Illawarra Shoalhaven Regional Plan 2041 and Ministerial Directions.

RISK MANAGEMENT

There is minimal risk to Council should the draft Planning Proposal not progress. The proposal is not the result of a regional plan or strategy. It would, however, allow for additional land uses that would otherwise not be permissible on land zoned C3 Environmental Management.

There is a risk that the proposal sets a precedent for other similar proposals within other nearby allotments zone C3 Environmental Management.

FINANCIAL IMPLICATIONS

It is not expected there will be any financial implications that will result from the draft Planning Proposal request. The progression and exhibition of draft Planning Proposals is core business within the Land Use Planning team service.

CONCLUSION

The draft Planning Proposal is considered a site-specific rezoning. The revised proposal is to amend Schedule 1, Additional Permitted Uses of the Wollongong Local Environmental Plan 2009 to include Recreational Facility (Outdoor) – Miniature Railway upon the site.

The strategic merit of the proposal is partially consistent with the Regional Plan, Ministerial Directions and Council's strategic planning documents, as a result additional information is required to address the concerns of Council officers and those comments made by government agencies at the preliminary exhibition stage.

Prior to submitting the draft Planning Proposal request to the NSW Department of Planning and Environment seeking a Gateway Determination, it is recommended the applicant submit a revised draft Planning Proposal request and relevant additional information, including studies and indicative site plans for the Recreation Facility (Outdoor) – Miniature Railway.

It is recommended that Council resolve to progress the draft Planning Proposal request by requesting the submission of additional updated supporting information. Following the submission of all additional information and it be submitted to the NSW Department of Planning and Environment seeking a Gateway Determination and subsequent public exhibition.



**WOLLONGONG LOCAL
ENVIRONMENTAL
PLAN 2009**

Planning Proposal
20 Lawrence Hargrave Dr
Stanwell Tops
Airphoto 2022

Subject_Site

Cadastral
 Cadastral 24-01-23 © Wollongong City Council

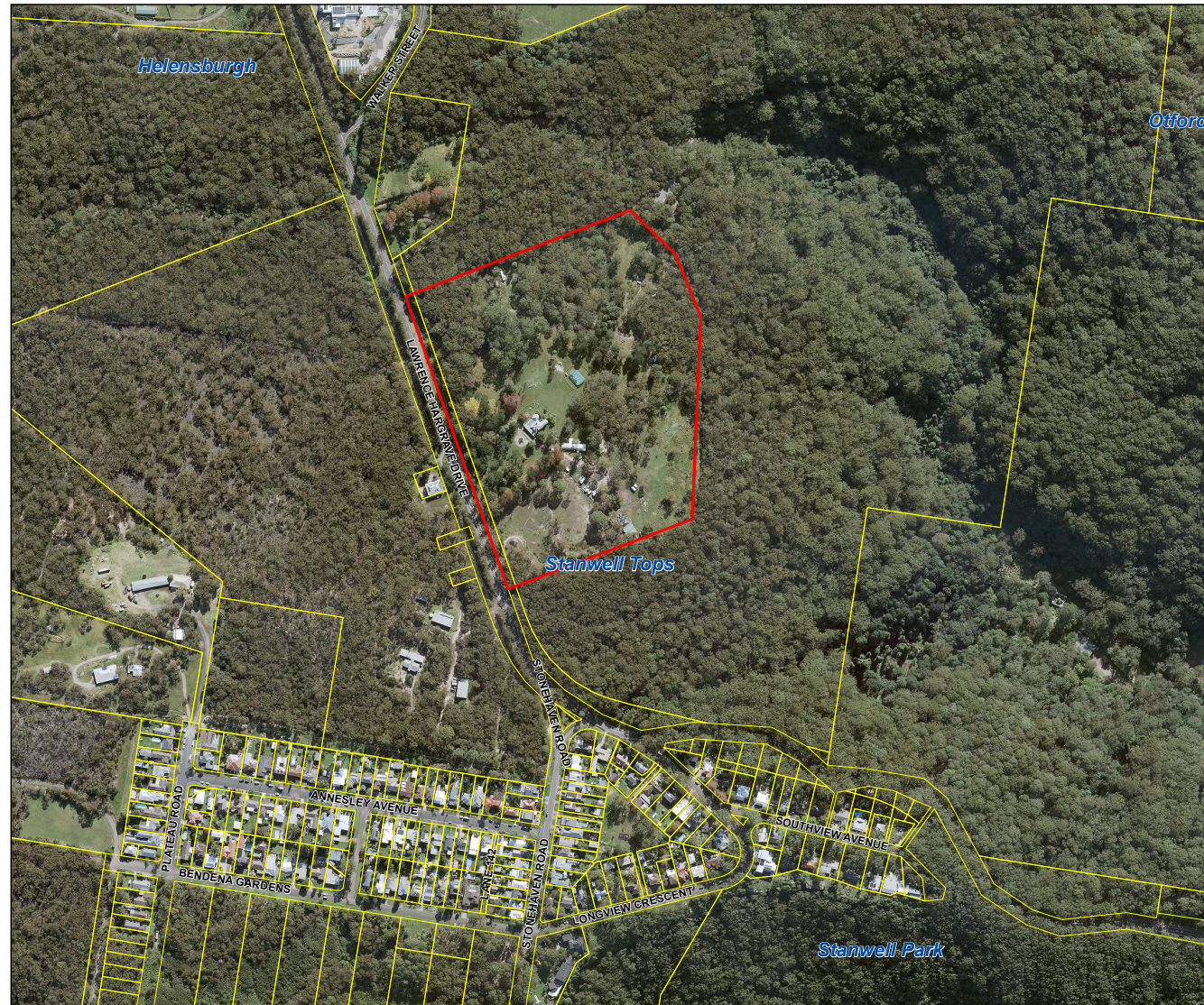


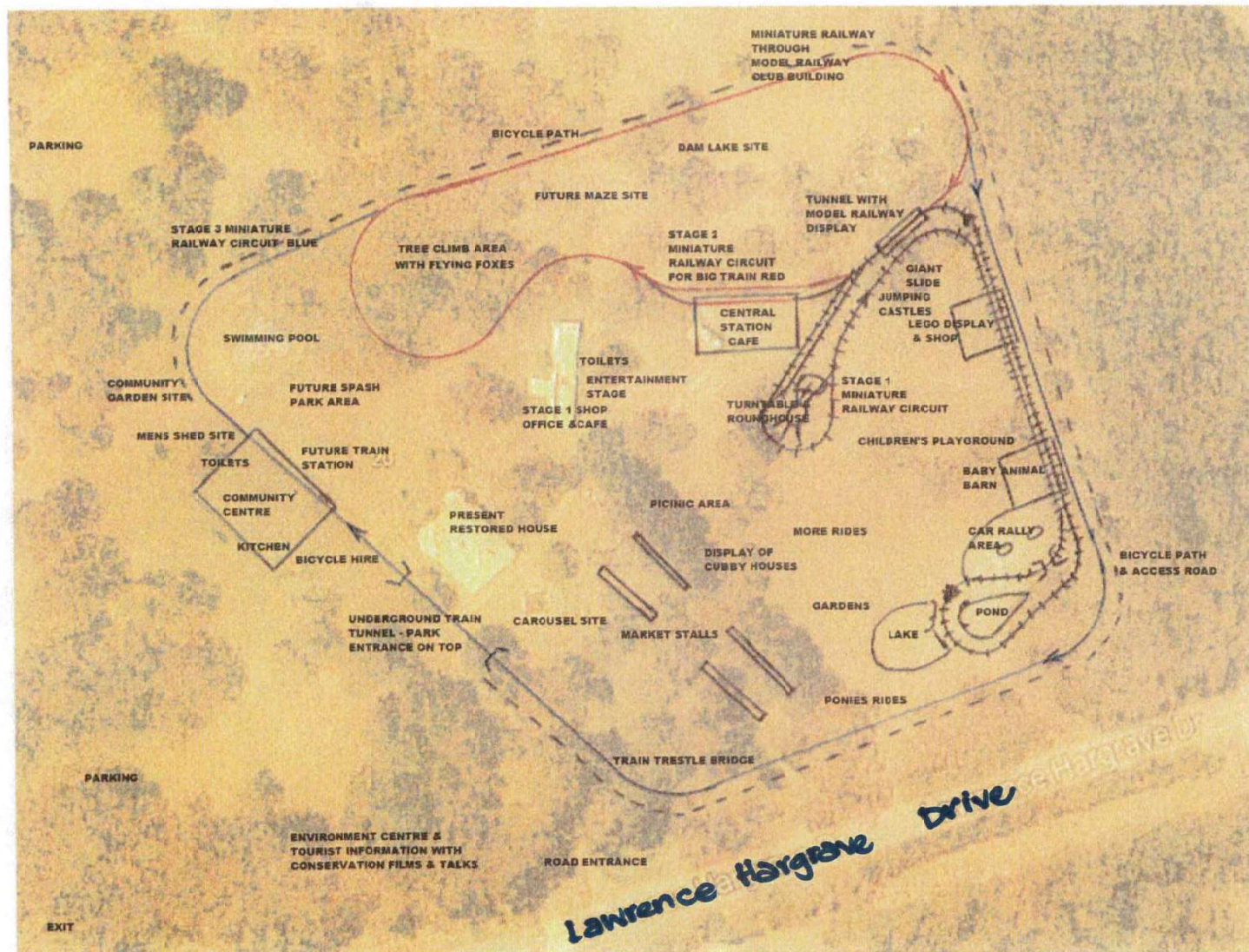
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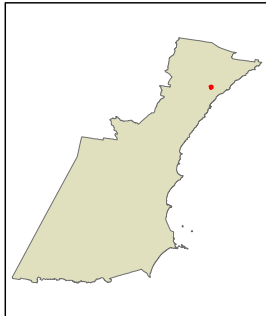


**WOLLONGONG LOCAL
ENVIRONMENTAL
PLAN 2009**

Planning Proposal
20 Lawrence Hargrave Dr
Stanwell Tops
Airphoto 2022

- Subject_Site
- Additional Permitted Use

Cadastral
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Projection: GDA 1994
MGA Zone 56

Scale 1:1500 @ A3

Map Identification number:
20 Lawrence Hargrave Dr APU.mxd



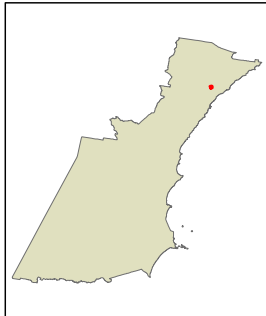


**WOLLONGONG LOCAL
ENVIRONMENTAL
PLAN 2009**

Planning Proposal
Natural Resource Sensitivity -
Biodiversity
20 Lawrence Hargrave Dr
Stanwell Tops.

- Subject_Site
- Additional Permitted Use
- Natural Resource Sensitivity – Biodiversity

Cadastral
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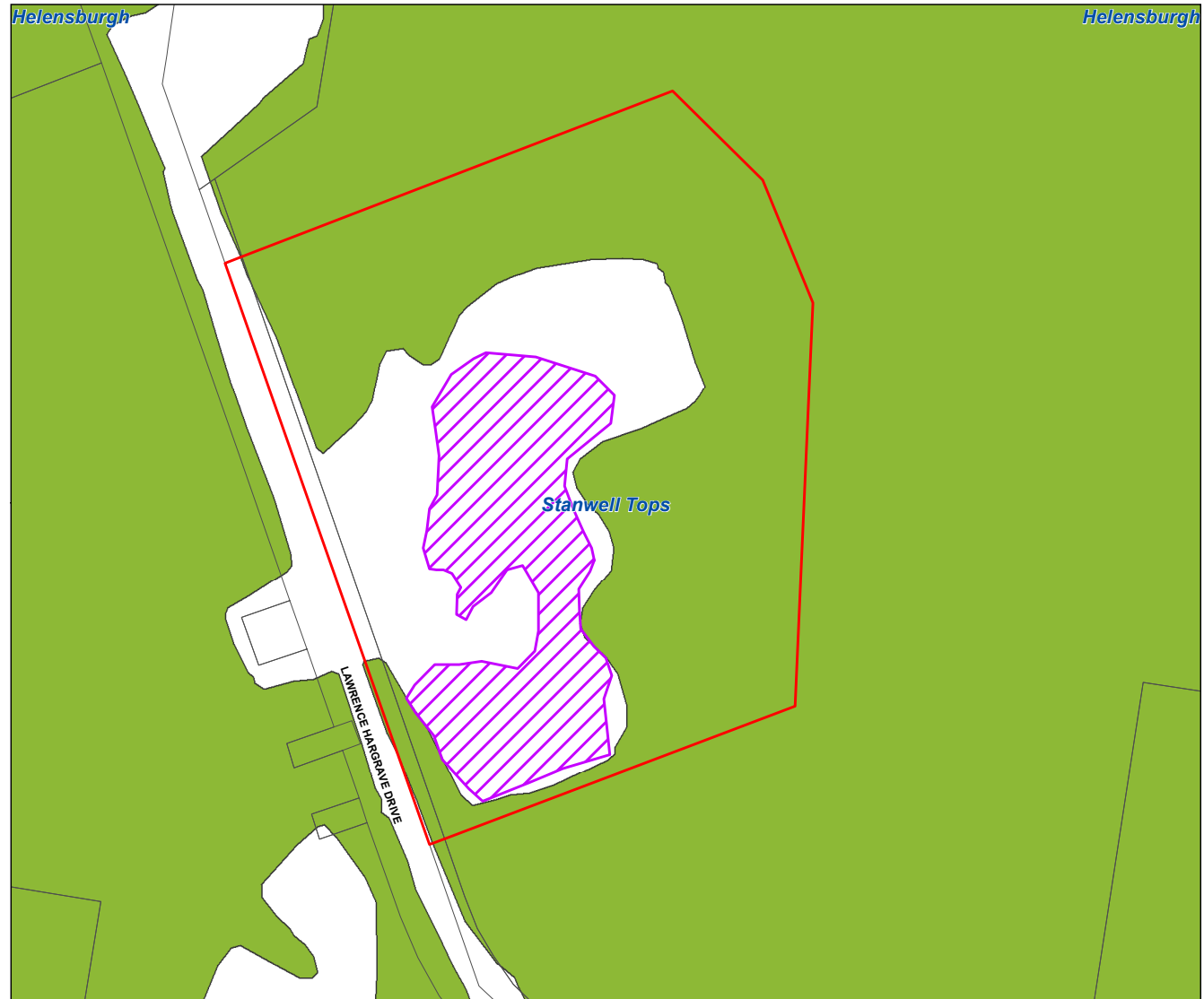


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ADVICE AND STATEMENT OF REASONS

WOLLONGONG CITY COUNCIL – WOLLONGONG LOCAL PLANNING PANEL (WLPP)

DATE OF MEETING	31/10/22
PANEL MEMBERS	Sue Francis (Chair), Scott Lee (Expert Panel Member), Larissa Ozog (Expert Panel Member)

Meeting held at Wollongong City Council, 41 Burelli Street, Wollongong on 31/10/22 opened at 1.15pm and closed at 5:00pm.

MATTER DETERMINED

Item 1 - Planning Proposal PP-2021/2 – 20 Lawrence Hargrave Drive, Stanwell Tops – Outdoor Recreation Facility

PUBLIC SUBMISSIONS

The Panel heard from:

- Bruce Coleman Owner
- Alan Coleman
- Juliet Beasley
- Dianne McKay
- Glen Debnam (Plannex Environmental Planning)

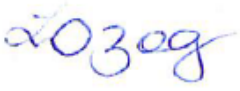
PANEL CONSIDERATION


The Panel considered the Council officer's report, the draft Planning Proposal request and the applicant's studies, and the discussion at the meeting.

PANEL DECISION

1. The Panel considers that the submitted Planning Proposal request under consideration should not be supported, as the proposed intensity and commercial nature of the desired end uses identified in the Planning Proposal are considered unacceptable for the site, given its environmental constraints e.g. bushfire, ecology, traffic, sewerage and infrastructure
2. However, the Panel considers that a more modest use, specifically related to the miniature railway proposal (which itself has historical and cultural aspects to the community), on a reduced footprint, removed from the sensitive boundaries of the site, may be able to be accommodated through a Schedule 1 Additional Permitted Use for an Outdoor Recreation Facility – miniature railway.
3. If Council agrees with this premiss, then the applicant could be requested to provide updated Planning Proposal documentation, which may include a concurrent DA to provide certainty to the end use. Prior to amending any Planning Proposal, a Scoping Report, consistent with the NSW Department of Planning and Environment's Planning Proposal Guidelines should be provided. This Scoping Report should also investigate whether the site has any cultural or European heritage significance.

The decision was unanimous

PANEL MEMBERS	
 Sue Francis	 Larissa Ozog

(Chair)	
 Scott Lee	

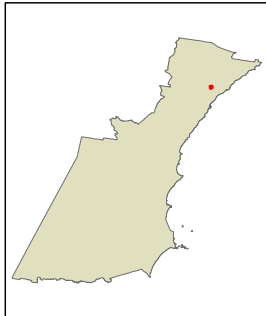


**WOLLONGONG LOCAL
ENVIRONMENTAL
PLAN 2009**

Planning Proposal
Additional Permitted Use
20 Lawrence Hargrave Dr
Stanwell Tops.

- Subject_Site
- Additional Permitted Use

Cadastral
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