

5 Regulatory Analysis

This section outlines the current regulatory framework which applies to the proposal and assesses the compliance with the identified policies/legislation.

DGRs Requirements

General Requirements

- (3) *Consideration of the following with any variations to be justified:*
- (a) *all relevant State Environmental Planning Policies;*
 - (b) *Wollongong Local Environmental Plan 1990;*
 - (c) *Draft West Dapto Local Environmental Plan 2007; and*
 - (d) *The Illawarra Regional Strategy*

5.1 State Planning

5.1.1 Environmental Planning & Assessment Act 1979

The EP&A Act 1979 (as amended) institutes a system of planning control and environmental assessment whereby applications for development consent can be assessed under a multitude of social, economic, engineering and environmental 'heads of consideration'.

In 2005, a new Part 3A was introduced in the EP&A Act. Part 3A (and the accompanying Regulations, Guidelines and SEPP) contains a new assessment and determination framework for assessment of *Major Projects*. These are projects that in the opinion of the Minister are of State or regional environmental planning significance. Accordingly, the Minister is required to express her opinion that the proposed development is a major project under Clause 6 of the EP&A Act.

5.1.2 Approvals under Other Acts

Part 3A negates the needs for approvals of several other Acts listed under Section 75U of the EP&A Act. Further approvals under the following Acts will still be required for the proposed development (S. 75V of the EP&A Act) and these approvals can be obtained once the application is approved under the EP&A Act:

- Bed licence under the Private Hospital and Day Procedure Centres Act 1988 (**Appendix E**)
- Consent under section 138 of the Roads Act 1993 may be required. However as this application does not involve works on the main road, a consent is not required.
- An environment protection licence under Chapter 3 of the *Protection of the Environment Operations Act 1997* (for any of the health purposes referred to in section 43 of that Act), if threatened species listed under the POEO Act are found on the site. Based on the ecological assessment carried out as part of this project, there is no need to obtain a licence under this Act.

5.1.3 State Environmental Planning Policy (Major Projects) 2005

Section 1.4 of this report has identified the criteria of hospital classification under the Major Project SEPP. As stated earlier, the proposed development will have a capital investment value in excess of \$250m. It is therefore considered that the proposed development falls within the definition of major projects.

5.1.4 State Environmental Planning Policy (Infrastructure) 2007

SEPP (Infrastructure) 2007 has consolidated and updated the planning processes for new infrastructure projects. The SEPP recognises the importance of infrastructure development within the State and impose an approval framework for these proposals. It also overrides part of the LEPs in prohibiting infrastructure in certain zones by listing the specific zones where different types of infrastructure development are permissible with consent. Small scale infrastructure projects are exempted from development consent.

Under the Infrastructure SEPP 2007, a hospital is defined as a type of health services facility. Under Part 2 Division 10 (Clauses 56 – 58) of the SEPP, health services facilities are permissible in a range of prescribed zone, including:

- RU4 Rural Small Holdings,
- RU5 Village,
- RU6 Transition

Wollongong City Council is yet to complete its comprehensive LEP under the Standard LEP Instrument. The existing 1 Non Urban Zone under the current Wollongong LEP 1990 is intended to act as a reservoir for future urban development to cater for planned growth. The equivalent zone for the rural zone is likely to be RU5 or RU6 and on this basis, hospitals are permissible on the site with consent under the Infrastructure SEPP.

Clause 104 of the SEPP requires certain proposals to be referred to the traffic authority.

104 Traffic-generating development

- (1) *This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:*
- (a) *new premises of the relevant size or capacity, or*
 - (b) *an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.*

Under Schedule 3 of the SEPP, hospital development with 200 beds or more are required to refer to the RTA. The proposed private hospital has 352 beds, and has direct access to road connecting an arterial road. A referral to the RTA is required in the assessment stage.

5.1.5 SEPP (Housing for Seniors or People with a Disability) 2004

The SEPP (Housing for Seniors or People with a Disability) (Seniors SEPP) was gazetted in January 2008 and replaces the previous SEPP (Seniors Living) 2004. This policy brings together the similar requirements of the elderly or disabled in terms of access and mobility. This SEPP ensures new developments are designed or located to cater for these, needs where relevant.

Clause 2 of the Seniors SEPP provides the following policy aims:

2. Aims of Policy

- (1) *This Policy aims to encourage the provision of housing (including residential care facilities) that will:*
- (a) *increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
 - (b) *make efficient use of existing infrastructure and services, and*
 - (c) *be of good design.*
- (2) *These aims will be achieved by:*
- (a) *setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and*
 - (b) *setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and*
 - (c) *ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban purposes.*

This SEPP states that seniors housing does not include a hospital but does include residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of:

- A residential care facility
- A hostel
- A group of self-contained dwellings
- A combination of these.

The proposed IHPP development consists of the following aged care components:

- **Aged and Disability Centre** – which is phased as Stage 8A, and consists of 280 high/low care beds. It will only be constructed when the need arises. The construction of the centre is dependent on the Federal Government's bed rounds. The Centre is designed as four separate wings, which provides the flexibility to construct the Centre in a stage by stage basis.
- **Independent Seniors Accommodation** – consists of 46 independent living units and will be constructed after the opening of the aged care centre. These units will be occupied by people requiring minimal care. Nurses will be living on site to provide emergency support.

The site is currently zoned 1 (Non Urban) and under Part 1A of the SEPP, a Site Compatibility Certificate is required for seniors housing development on land that adjoins existing urban lands. However, given the staging and timing of the seniors' housing development, it is considered that a Site Compatibility Certificate is not required at this stage until the individual project applications of these two centres are proposed. At that stage, it is expected that the land would have been rezoned to some form of urban land, hence avoiding the need for the Site Compatibility Certificate.

Part 2 of the Senior SEPP identifies the following three site related requirements for all senior housing developments:

- Location and access to facilities (Clause 26)
- Bush fire prone land (Clause 27)
- Water & sewer (Clause 28)

An assessment of the development against Clause 26 is provided in Table 5.1.

Table 5.1 – Assessment Against Clause 26 of Senior SEPP

SEPP Seniors Living 2004	Compliance of the Subject Site	Compliance
Clause 24 - This policy aims to encourage the provision of housing (including residential care facilities) that will:	housing (including residential care facilities) that will:	
1(a) Increase the supply and diversity of residence that meet the needs of seniors or people with a disability	The proposed seniors living development will increase the supply of dwellings for seniors and people with a disability in the area. At present, Dapto is characterised by low to medium density housing stock. The proposed senior housing will increase the diversity of the housing types available to people aged over 55 or people with a disability.	✓
1(b) Make efficient use of existing infrastructure and services	The subject site is located in proximity to a range of existing infrastructure and services, including railway line, public transport, schools, existing aged and general services and facilities, open space and recreational facilities, health services and retail and social services. An infrastructure staging plan is provided in Section 3.3.4 detailing the proposed infrastructure upgrades.	✓
1(c) Be of good design	The final architectural design of the proposed development has not been finalised. La Vie is committed to ensure quality design of the future buildings.	✓
Clause 25 - Location and access to facilities		
(1) Residents of the proposed development will have access that complies with subclause (2) to: (a) shops, banks and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner.	The aged care facilities will only be developed upon the completion of the hospital proper and the other specialist units. The IHP will provide adequate facilities for the users on site. In addition to on-site facilities, the subject site is located less than 3km from the major existing town centre at Dapto where a range of commercial, banking and community facilities are available.	
2(a) The facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development and the overall average gradient along the distance is no more than 1:14, although the following gradients along the distance are also acceptable: (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time, (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time, (iv) a gradient of no more than 1:8 for short distances of no more than 1.5 metres at a time.	The proposed retail facilities on site are located less than 100m from the proposed senior housing facility. The natural gradient between the senior housing and the commercial area is less than 1:10. Future regrading of the site will further improve accessibility within the site for elderly people.	✓
2(b) Not applicable	Not Applicable	✓

SEPP Section 5.10.4	Compliance of the Subject Site	Compliance
2(c) there is a transport service available to the residents who will occupy the proposed development: (i) that is located at a distance of not more than 400 metres from the site of the proposed development, and (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the relevant facilities or services, and (iii) that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive).	Existing public transport services, including rail and bus services are located in close proximity of the site. Railway- Existing railway station at Dapto is located approximately 2.8km from the subject site and the proposed Huntley Railway Station is located approximately 800m from the site. The railway line runs to Sydney via Wollongong in the north and Bombardier in the south. Bus - Existing bus services run in front of the site along Avondale Road and Goolagong Street, linking the site with Wollongong and Dapto CBDs and railway stations. A review of the timetable of the bus and railway line shows that the frequency of the services comply with the SEPP requirements. Details of the timetable are provided in the TMAP.	✓
Clause 27 Water and Sewer		
(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.	The Infrastructure Staging Plan in Section 3.3.2 of this report provides details on the proposed infrastructure upgrade that are required for the different stages of the development. As shown in Table 3.7, water and sewer upgrades will be undertaken in the initial stages of the development, and subsequently improve to provide reticulated services to the various stages.	✓

5.2 Regional Planning

5.2.1 Illawarra Regional Strategy

The State Government has embarked on a campaign of regional and subregional planning as part of broader metropolitan planning and recent reforms to planning in NSW. The plan for the Illawarra was formulated in the Illawarra Regional Strategy, released in final form in February 2007.

The aim of the Strategy is as follows:

"The regional strategy represents an agreed NSW Government position on the future of the Illawarra. It will be the pre-eminent strategic policy document for the Illawarra Region and will complement and inform other relevant state and local strategies and planning instruments. Implementation of the regional strategy is underpinned on a whole of government basis through the Actions Plans outlined in the NSW State Plan: A New Direction for NSW. The Illawarra Regional Strategy applies to the period 2006-31 and will be reviewed every five years".

The Strategy is heavily reliant on West Dapto to accommodate the expected 47,600 additional persons expected in the region by 2031. This focus on West Dapto permeates the Strategy in terms of infrastructure provision, employment generation and environmental management. Other release areas within the MDP (as at 2003) are mentioned in the Strategy and have a supporting role to West Dapto.

The WDRA is expected to generate 11,000 dwellings by 2031 and 19,350 dwellings by 2046 at a delivery rate of 500 lots per annum. The deficit of housing will be provided by existing release areas, infill housing, particularly surrounding the Dapto Town Centre and potentially other new release areas such as Calderwood Valley and urban fringe areas presently under consideration by Shellharbour City Council

The proposed development will address the shortage of medical services in the region and NSW. It will provide an essential social infrastructure to service the current and future population of the Illawarra, and is compliance with the objectives of the Regional Strategy. A full assessment of the Strategy will be provided in the EA stage.

5.2.2 Illawarra Regional Environmental Plan No. 1 (IREP)

The *Illawarra Regional Environmental Plan No. 1 (IREP)* was gazetted on 11 April 1986 and provides a broad framework for coordinated action between various state government authorities in respect to the development of the Illawarra region including Shellharbour LGA. The objectives of IREP No.1 amongst other things are:

- *To place certain requirements on developments.*
- *To provide guidance to local councils in preparing local environmental plans and detailing development applications.*
- *To define the extent of interest of PlanningNSW.*
- *To identify PlanningNSW's attitude and position on a wide range of environmental, social and environmental issues.*

Under the provisions of IREP No.1, the subject site has not been identified as containing land:

- Within a service corridor
- Which is committed industrial land
- Which contains extractive materials.

However, the subject area has been identified as containing land:

- With prime crop and pasture potential
- With landscape or environmental attributes.

The proposal is generally consistent with the objectives and requirements of IREP1.

5.3 Local Planning

5.3.1 Wollongong Local Environmental Plan 1989

Wollongong Local Environmental Plan 1990 (as amended) is the principal planning instrument affecting the site. The site is currently Zoned 1 (Non Urban Zone). A copy of Wollongong LEP 1990 for the site is included as Figure 16.

The objectives of the Non Urban Zone are:

- (a) *To provide a rural atmosphere on the outskirts of the city of Wollongong and to act as reservoir which lands suitable for:-*
 - (i) *Urban development to cater for planned natural urban growth or*
 - (ii) *Environmental protection,**can be drawn, and*
- (b) *To allow agricultural and peri-urban pursuits which are not likely to:-*
 - (i) *Inhibit or prejudice the present environmental quality for future development potential of the land*
 - (ii) *Lead to a demand for future public services will render that more difficult or expensive to provide once the development takes place.*

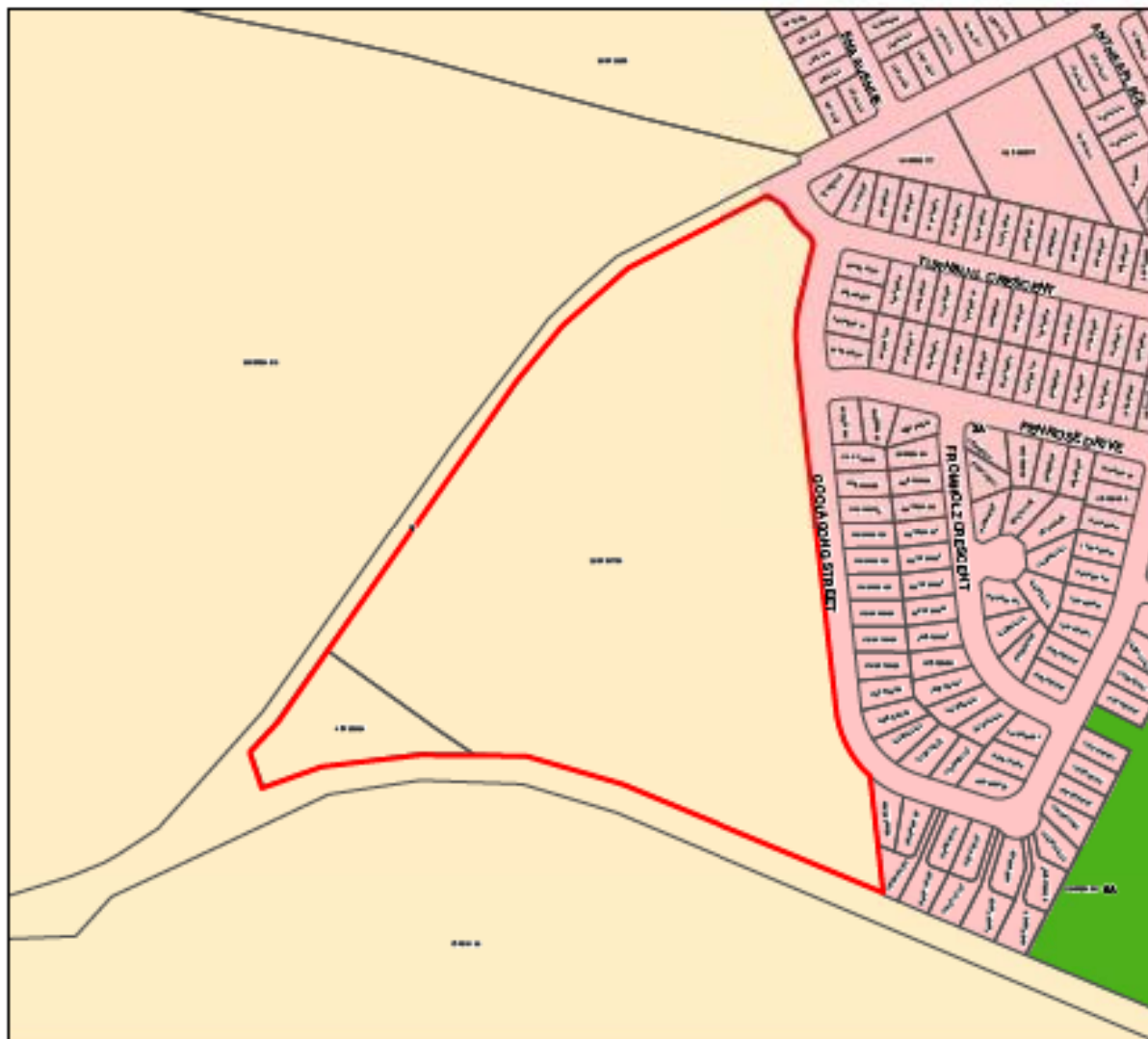
The current zoning permits the following developments with consent:

"advertisements; bed and breakfast accommodation; child care centres; community facilities; cottage industries; dwelling-houses; ecotourism facilities; educational establishments; extractive industries; forestry; granny flats; home employment; hospitals; institutions; intensive agriculture; leisure areas; licensed premises; mines; places of worship; recreation areas; recreation facilities; service stations; transport terminals; truck or heavy machinery sale yards; utility installations."

The following developments are permitted with consent after advertising and satisfying Clause 11 of the LEP:

"boarding-houses; camp or caravan sites; health consulting rooms; helicopter landing sites; industries; motels; registered clubs; restaurants; waste management facilities or works."

Hospital is permissible under the current LEP.



Wollongong LEP 1990

PENROSE

Legend

- Subject Area
- Catchment (LPI)
- Wollongong LEP (RCC)
- 1 - Non-Urban
- 2(a) - Residential - Low Density
- 8(a) - Public Recreation



FIGURE 16

Scale: 1:2,000 (A3)



Map Preparation: Cardno Forbes Rigby
Date: 10 May 1990
Drawing: 10 May 1990
Scale: 1:2,000
Sheet: 10 of 10

5.4 West Dapto Release Area

5.4.1 Background

Since 1981, Council has completed a range of investigations for the WDRA. These were summarised in the *West Dapto Planning Project – Baseline Studies*. In 2002, Council prepared a Status Report on the current state of play for West Dapto. The Report provides a good account of investigations to date but notes that only \$2.23M for construction of the main access to West Dapto (Fowlers Road) had been collected and explored other funding options (including developer agreement and loans) to complete the project. None of these was considered a real option.

The Report also reviewed the outcomes of an earlier Ministerial Task Force into West Dapto (1996) which found that West Dapto was needed as early as 2002 and that there were no fundamental environmental reasons why West Dapto should not proceed. Moreover, the Report estimated total infrastructure costs of West Dapto are \$870M of which Council is responsible for \$380M. Council will need financial assistance towards establishing infrastructure and public transport before receiving s.94 funds.

In 2000, Council endorsed the view that until there was financial support for West Dapto from State Government then Council would not be the sole funder of strategic investigations. The Report describes a workshop held in 2001, which through consultants APP Corporation Pty Ltd found that the solution to West Dapto funding dilemma might be found in dealing with individual precincts rather than providing a solution to the entire release area. Preliminary investigations continued along these lines but were inconclusive. Council set the scene to establish an Interagency Strategic Operational Group to drive and coordinate planning for West Dapto.

5.4.2 Current Investigations

In 2004, Council in partnership with DoP, recommenced investigations in the WDRA for future residential development. The two parties entered into a Memorandum of Agreement to fast track development of the release area. DoP issued the Director-General's requirements for the LES, following discussions with other statutory authorities and prepared a set of objectives for the release area. Council engaged APP Corporation as project manager responsible preparation of the Draft Master Plan, Draft Local Environmental Study (DLES) and Draft LEP. A number of specialist consultant studies were also prepared addressing:

- Land capability
- Bushfire Management
- Ecological (flora and fauna)
- Employment
- Energy and Communications
- Heritage
- Infrastructure, Financial and Economics
- Social, cultural and recreational needs
- Transport management and accessibility
- Visual and landscape
- Water cycle management
- Water Quality and
- Master Planning report.

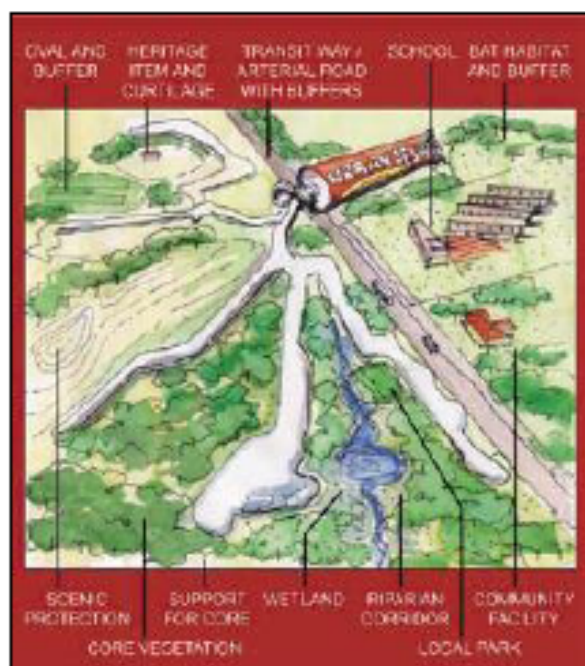
One of the most relevant background studies is the Economic and Employment Study (SGS Economics, 2005), which has the following comments:

- *Consultation highlighted the high level of demand for employment land, particularly from the manufacturing sector. Light industrial land is in particular demand with lot sizes in the range of 2,000m² – 1ha. Other sectors demanding space include call centres, the hospitality industry, and local service industry. Lack of suitably priced and serviced land was seen to be the major constraint. Most enquiries originate from within the local area.*
- *About half of the employment of the proposed population can be provided on site with the dominant sectors being retail and commercial, and then home based business.*
- *West Dapto's Unique Selling Points are seen to be:*
 - *A large and growing labour force with low and intermediate skills;*
 - *The potential for linkages to the University of Wollongong;*
 - *Available sites and premises;*
 - *Direct access to the region's road and rail infrastructure, and deep water port;*
 - *To be located in close proximity to existing 'clusters' of activity;*
 - *Availability of relatively affordable housing; and*
 - *Quality of life based on leisure and recreation, education, health and retail.*
- *West Dapto is less appropriate to those companies seeking:*
 - *A high skill base;*
 - *A certain type of image; and*
 - *The existence of similar companies in fields such as high-technology.*

The development 'blueprint' for West Dapto or Masterplan is based on constraint sieve mapping principles. Lands that are subject to environmental constraints are excluded from future developments. Once constrained lands are removed, master planning of the rest of West Dapto is based on the principles of walkable centres and villages.

A hierarchy of centres is proposed along major transport routes to maximise efficiency in transport and service utilisation. Land uses within these centres are characterised by a diversity of medium to high-density commercial and residential activities in the centre area, supported by lower density residential uses at the outer areas. These centres (typically has a size of 400m radius) are serviced by a range of community and public transport services to ensure accessibility for residents. This can also encourage alternative the use of public transport and minimise vehicular trips

The following diagrams from the Masterplan Report (Annand Alcock Urban Design, 2006) best illustrate these principles and Figure 17 shows the Draft Structure Plan.



Constraint Sieve Mapping Approach to Master Planning

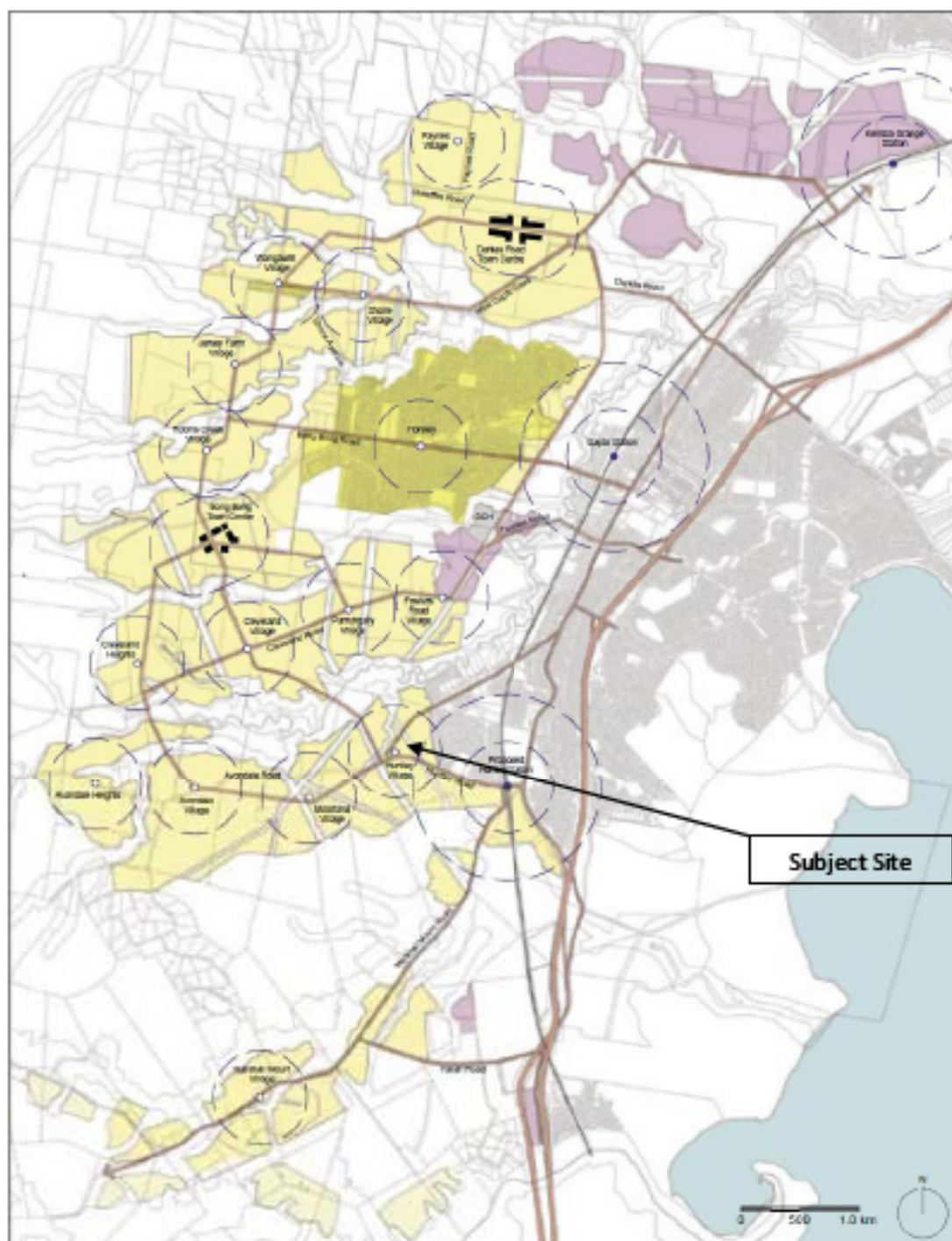


Creating Walkable Villages

Within this context, most of the subject site is identified as having development potential, and part of the site has been identified for the proposed Huntley Village to accommodate a range of small-scale retail and commercial activities.

Under the density plan, the subject site will have the capacity to accommodate up to 188 dwellings, based on a density of 15 dwellings per ha in R2 zone, 30 dwellings per ha in R3 zone and 35 dwellings per ha in B1 zone. These dwellings will mainly consist of residential flat buildings, with a maximum ridge height of 13m.

Figure 17 – West Dapto Structure Plan



West Dapto Structure Plan - scale : 1 : 50 000 @ A3



(Source: Annand Alcock Master Plan)

The subject site is located in close proximity to the proposed Penrose Railway Station. Density within the Railway precinct is relatively high to maximise public transport usage.

5.4.3 Draft West Dapto LEP

Wollongong Council has completed a Draft Wollongong (West Dapto) LEP 2007. The LEP and the associated documents were on exhibition until 31 May 2008. The zoning scheme proposed for the subject site under the Draft West Dapto LEP is presented in Figure 18. The zones that apply to the site under the Draft West Dapto LEP are listed in Table 5.2 below:

Table 5.2 – Proposed Zones (WLEP 2007)

Zone	Objectives	Area	Minimum lot size / FSR
R2 Low Density Residential	<i>To provide for the housing needs of the community within a low-density residential environment. To enable other land uses that provides facilities or services to meet the day-to-day needs of residents.</i>	7.20 ha	450m ² / 0.5:1
R3 Medium Density Residential	<i>To provide for the housing needs of the community within a medium density residential environment. To provide a variety of housing types within a medium density residential environment. To enable other land uses that provides facilities or services to meet the day-to-day needs of residents.</i>	1.49 ha	500m ² / 0.5:1
B1 Neighbourhood Centre	<i>To provide a range of small-scale retail, business and community uses which serve the needs of people who live and work in the surrounding neighbourhood. To allow some diversity of activities of densities, scale and height comparable with those of the locality, and with little increase in traffic generation that will not prejudice the objective referred to above from being achieved or significantly detract from the character of the locality or the amenity of any existing or proposed development nearby.</i>	1.01 ha	N/A / 0.75:1
SP2 Infrastructure	<i>To provide for required infrastructure and related uses. To prevent development that is not compatible with or that may detract from the provision of infrastructure. To set aside land for the future provision of key infrastructure required to service development.</i>	0.73 ha	N/A
Total		10.43 ha	

The draft LEP prohibits hospital developments. However, the Infrastructure SEPP 2007 allows private hospital to be developed in a range of zones, including the existing rural zones under the WLEP 1990 and the proposed residential zones under the draft WDLEP. La Vie has lodged a written submission on the West Dapto Program presenting the project vision and seeking opportunity to introduce new zoning controls and development standards on the site that reflect the proposed development.

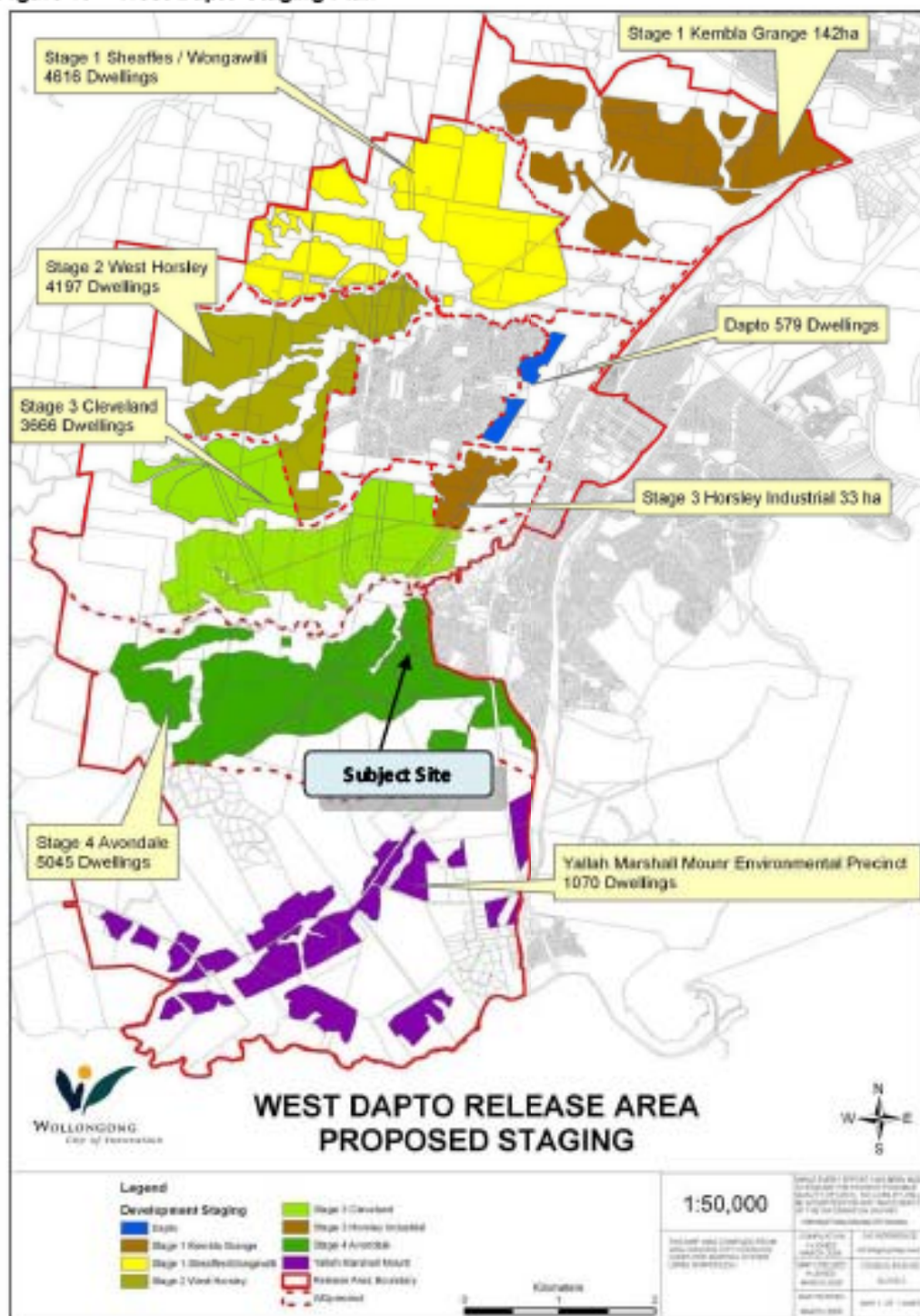
The submission considers that the *SP1 Hospitals and Medical Research and Development* is an appropriate zoning for the site and is consistent with the existing zoning for the Wollongong Hospital. The key recommendations of the submission are as follows:

- Rezone the site and its immediate locality from the zone to a SP1 zone to facilitate the nature of the proposed development and to encourage future growth of medical related research and development activities within this area.
- Amend the lot size, height and FSR plans in the LEP in accordance with the proposed scale of the development and the future Part 3A concept approval.

5.4.4 Draft West Dapto Staging Plan

The subject site is located within Stage 4 of the release program (refer Figure 19). This proposal seeks to undertake the works now as a stand-alone development to address the current demand in the locality. The development of the subject site can trigger infrastructure delivery in the locality and attract future developments into West Dapto, bringing direct benefits to the local businesses and residents. The timing of this proposed development is appropriate.

Figure 19 – West Dapto Staging Plan



(Source: Wollongong City Council)