



This is a special supplement prepared by the Killcare Wagstaffe Trust ([www.killcarewagstaffetrust.org.au](http://www.killcarewagstaffetrust.org.au)) and the Wagstaffe to Killcare Community Association ([www.wagstaffetokillcare.org.au](http://www.wagstaffetokillcare.org.au)). It has also been supported by the Killcare Heights E4 Residents Group ([www.savekillcare.com](http://www.savekillcare.com)).

It summarises two important planning issues - one current (Review) and one hanging over our heads (Bells Living & Bells Green). Both need community involvement.

Recent moves to create residential development in the environmentally zoned 'Triangle' at Killcare Heights and by Council to re-examine some of the zonings in the new LEP have required concerned Committees to read more planning documents than is perhaps good for their health.

Although planning regulations can be enough to cause the eyes of most of us to glaze over they are a vital part of the protection available for the environment that has attracted all of us here in the first place. This supplement is devoted to an explanation of the recently adopted E zones and their involvement in those two important local issues.

## **Issue 1 - Review of Environmental Zones and Urban Edge Study**

Back in 2009 the State Government required all Councils in NSW to adopt a Local Environment Plan (LEP) consistent with a Standard Instrument (SI), which provides for a single system of zoning across the State. This system has four environment protection zones (E1-E4) specifically for land where the primary focus is the conservation and/or management of environmental and scenic values.

After lengthy consultation with the community and NSW Department of Planning and Environment, Council adopted the new LEP and, with some matters deferred (including a request for a special environmental zone (E5) to accommodate Coastal Open Space System lands, it became law as Gosford LEP 2014.

### ***The Environmental Zones:-***

#### **E1 - National Parks and Nature Reserves**

This zone is for existing national parks, nature reserves, conservation areas and new areas proposed for reservation that have been identified and agreed by the NSW Government.

#### **E2 - Environmental Conservation**

This zone is for areas with high ecological, scientific, cultural or aesthetic values outside national parks and nature reserves. It aims to protect and conserve these lands and prevent development that could damage these values. Land with this zoning typically cannot be subdivided down to less than 40 hectares/lot.

#### **E3 Environmental Management**

This zone is for land where there are special ecological, scientific, cultural or aesthetic attributes or environmental hazards/processes that require careful consideration/management and for uses compatible with these values. Land with this zoning typically cannot be subdivided down to less than 2 hectares/lot.

#### **E4 Environmental Living**

This zone is for land with special environmental or scenic values, and accommodates low impact residential development. As with the E3 zone, any development is to be well located and designed so that it does not have an adverse effect on the environmental qualities of the land. Land with this zoning typically cannot be subdivided down to less than 4 hectares/lot.

## **Council is now preparing to finalise the zoning on lands subject to a deferred decision**

**i) COSS (Coastal Open Space System) lands** - Some lands have been identified during the last 30 years as having particular scenic and environmental values, worthy of them being brought into public ownership, including many escarpments, ridgelines and side-slopes within the City. When development is proposed on these lands it is common for

part of that land to be dedicated to COSS or money be donated (e.g. via Gosford Environmental Foundation). As a consequence COSS has grown strongly with little cost to Council, except an increasing maintenance bill.

Because the COSS lands are unique to the Gosford LGA (Local Government Area) there was no suitable zoning available in the draft LEP. A proposal to zone the lands RE1 (Public Recreation) was vigorously opposed by many community groups including the Trust and WTKCA. The Council decided to retain existing zonings and lobby the State government to create a new zone: **E5 – Public Conservation**.

***The Minister of Planning and the Environment has indicated a willingness to do this and we endorse this approach as providing some protection for the COSS lands.***

***ii) Other land subject to a deferred decision*** - On the whole, Council staff have made appropriate recommendations to transfer the zonings to the new system.

**HOWEVER**, the State Government has asked Council to review all land with an environmental zoning to identify land that could be re-zoned to Residential. This review is of all lands east of the freeway that have environmental zonings and are not COSS, Crown or Council land.

Because this review provides an opportunity for inappropriate re-zonings and the removal of protection for environmentally sensitive lands it is a matter requiring vigilance and, if necessary some community action.

### **Conclusion**

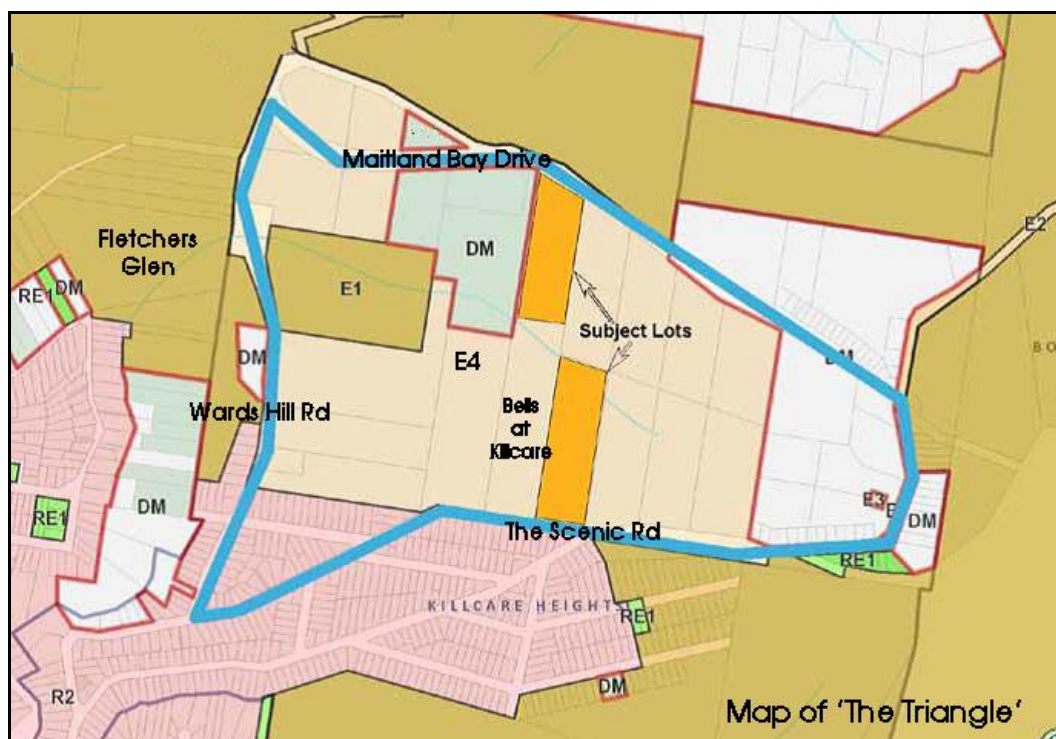
***Of particular concern: Council have recently identified three Bouddi Peninsula areas zoned E1 (owned by National Parks) for review. 'Review' does not necessarily mean change, however the opportunity this provides for removing protection from environmentally valuable land makes it a significant issue here and worth watching for the whole coast.***

## **Issue 2 - The Triangle – ‘Bells Living’ and ‘Bells Green’ Proposal**

The Triangle is the local name for a well-defined region of the Bouddi Peninsula. It is the area contained by the Scenic Rd, Wards Hill Rd and Maitland Bay Drive – see map below. Apart from a small southerly section of residential land it is essentially a semi-rural enclave containing 16 properties with a total area of just under 60Ha zoned E4, 15 of which are single residences, while the 16th is the Bells at Killcare hotel/restaurant.

This zone is for land with special environmental or scenic values, and accommodates low impact residential development. Any development is required to be well located and designed so that it does not have an adverse effect on the environmental and scenic qualities of the land.

The Triangle is surrounded by Bouddi National Park (map colour - tan) except where it abuts the residential land zoned R2 (map - pink). It contains a small section of National Park on its Western edge and an area of Council reserve which is part of the Coastal Open Space System (COSS) whose zoning status in the new LEP has been deferred (see above). It also contains an area at the eastern end with zoning deferred (map – white or lt. blue, ‘DM’ Deferred Matter on Council maps)



It contains the upper part of the catchment for Mudflat Creek, the largest creek on the Bouddi peninsula that runs through the environmentally important and ecologically sensitive Fletchers Glen (National Park) rain forest area and discharges into the north-eastern corner of Hardys Bay. Council has recently spent well over a million dollars in a study, management plan and remediation works at the mouth of this creek. This study did NOT take into account the increased run-off and sedimentation that this proposal would incur.

The soils of the Triangle are predominantly a laterite loam. This soil type does not exist anywhere else on the peninsula. Laterite loam is a concretion of iron and aluminium oxide, tends to a reddish colour and is very deficient in nitrogen and phosphorus. Despite this, much of the Triangle was cleared in early development and the red, lateritic loam was used for vegetable growing, which required requiring heavy manuring from the concurrently operating poultry farming. Those properties are now predominately semi-rural residences.

There has been a recent application by Coast and Country Pty. Ltd. to use a Schedule 1 process to allow a substantial variation in the permitted use on two blocks in the Triangle, both adjacent to Bells at Killcare. The application was for 50 residences spread over the two blocks. **Current E4 zoning limits block size to 4 ha containing one residence.**

### ***Land Use and Character***

The land in question is zoned E4 and has a semi-rural character. This implies large blocks and low density development. The current statutory minimum block size is 4 hectares. The lots in question are already below this minimum (3.2 and 2.8).

This proposal would involve a dramatic change to the character of the land with blocks ranging from 600 m<sup>2</sup> to 2100 m<sup>2</sup>. This would be in direct contradiction to the objectives of the E4 zoning and the Council's biodiversity strategy which states ***"Environmental zoned lands need to be retained with current minimum lot area standards to enable the lot sizes to allow sufficient space for land uses to occur without the loss of biodiversity."***

The existing sewerage system was designed to service urban areas only NOT semi-rural properties such as these. This proposal seeks to override that design and capacity consideration by simply paying some money which is unlikely to be used directly to increase the capacity of the whole system to cater for an additional 50 households.

There is absolutely no community pressure for increased residential density in the Triangle nor for a change in the semi-rural nature of the land in the Triangle.

### ***Roads and traffic***

The impact that increased residential density in the Triangle would have on local traffic is, on its own, sufficient reason to reject it.

There are two substantial issues:

#### **1. Impact on parking in the Killcare/Hardys Bay/Wagstaffe precinct**

The Triangle is effectively beyond walking distance to any major amenity. All trips to local shops, cafes, churches, community halls and restaurants will be done by car. There is already a serious shortage of parking to cope with weekend and holiday traffic.

There is no easy solution to this problem. More parking will seriously impact the village feel of Wagstaffe and Killcare shops and any proposals to do this are likely to meet with substantial community opposition.

#### **2. Proximity to dangerous intersection**

The intersection between Maitland Bay Drive and Wards Hill Rd is one of the most dangerous on the Central Coast. From Maitland Bay Drive, the visibility of Wards Hill Rd is extremely limited in either direction particularly of traffic coming up the hill towards Killcare. Traffic turning into Wards Hill Rd from Maitland Bay Dr. must essentially take a chance on there being no oncoming traffic. Every resident of the peninsula who drives has had a close shave with someone taking this chance as they drive up Wards Hill Rd and approach this intersection. It is only the comparatively low volume of traffic making this turn that prevents this being a scene of tragedy requiring major intervention.

Increased residential density in the Triangle will inevitably lead to increased traffic at this intersection.

### ***The Process***

The application process has been tainted by possible conflicts of interest. Planning staff's "Executive Summary" of the initial Planning Application occupied no less than 62 pages of the Council agenda when first presented to Council on April 28 2015. This Summary must have involved considerable Council resources **yet reads like a sales document.**

The CEO of Council, Mr. Paul Anderson, is the partner of the CEO of the applicants company, Coast and Country Pty. Ltd. He had to declare a pecuniary interest when the matter came before Council. Two councillors declared a significant non-pecuniary interest as the CEO of Coast and Country was their campaign manager. Two other Councillors declared less than

significant non-pecuniary interest, but stated they would vote on the matter. The Director of Governance and Planning also declared a conflict of interest and left the Chamber during the debate, but was otherwise free to fulfil her job.

This proposal aimed to avoid the need to rezone the land by using a Schedule 1 to gain an exception to the 4 hectare minimum lot size and use 'community title' to divide the land into smaller blocks. Schedule 1 should only be used if it can be demonstrated the proposed land use is appropriate on the particular parcel of land, but not generally within the zoning. This is clearly not the case in this proposal.

Council's own Executive Summary makes numerous statements indicating clearly why this development should not proceed – among these:

- *The wider Killcare peninsula area is characterised by its isolated nature, proximity to extensive National Parks and beaches and estuaries, scenic qualities of state and regional significance and low key, relatively informal residential areas and limited local facilities.*
- *A recent determination in the Land and Environment Court in relation to a two lot subdivision of 179, The Scenic Road, ..... was refused by the Land and Environment Court ..... In the determination of this case ..... the area's sensitive environmental values and its desired future character, were ratified by the Court and the case dismissed.*
- *Dwelling houses and tourist and visitor accommodation units are differently defined uses. The introduction of a "split" between dwelling houses and tourist and visitor accommodation would be difficult to manage and regulate from a practical perspective, and it is not known what proportion would be reasonable to apply, particularly as this would depend on individual owners intentions, need for flexibility (eg rent out for tourists if it is not the primary place of residence as short term rental accommodation), etc.*
- *The mix of remnant native and non-indigenous vegetation on both lots, including mature landscaping features contributes to the environmental, high amenity and scenic values of both lots and the plateau area in general. The plateau area itself contains significant tracts of native vegetation, particularly at the rear of allotments near the drainage line. Some of this remnant vegetation, both on the two lots and adjoining land to the east is identified as regionally significant vegetation. Overall, vegetated links on the plateau area act as a wildlife corridor between areas of National Parks and other reserve areas.*
- *The land is isolated in terms of access to urban services, facilities and effective public transport*
- *Conventional residential development would be inconsistent with the character, amenity and scenic quality of other residentially zoned land on the Killcare Peninsula*
- *The proposal would detract from the state and regional scenic qualities of the wider Bouddi area*
- *It has valuable remnant environmental values, in particular residue regionally significant vegetation*
- *Access to the area is poor, and such an increase in development could not be accommodated on the existing road system, particularly Wards Hill Road*

The application has been withdrawn and some consultation between the owners and community groups, has begun. At this stage it looks likely that it will be resubmitted in some form in the near future. The Trust, WTKCA and Save Killcare will be active participants in the assessment process.

## **Conclusion**

**It seems inconceivable that Council would support increasing residential density, in an area approved for TWO residences, to FIFTY residences.**

**It is also inconceivable that Council would support subdivision of 2 lots into more than 50 lots (fifty residences plus some "community" land that would exclude non-residents), within lots sizes as small as 600 m2 instead of the 40,000 m2 (4 ha) which is required across the State in this zone.**

**This Council, after extensive consultation with the community, created comprehensive rules governing development. Not fifty years ago, not twenty years ago BUT just one year ago!**

**However, here we have a developer propose what is clearly, by any other name, a residential subdivision, the proposed use of which is essentially identical to common usage throughout the suburban areas of Bouddi Peninsula i.e. short term holiday letting, weekend letting, permanent occupancy, etc.**

**Council staff have totally disregarded the commonly agreed rules and the reasons behind them and instead, in the Executive Summary, essentially say 'here is how to get around those rules'.**

**This is wrong and we oppose this proposal. We oppose any increase in residential density in the Triangle.**