

Greater Sydney, Place and Infrastructure

Gateway determination report

LGA	Wollondilly
PPA	Wollondilly Shire Council
NAME	Review of Wollondilly LEP 2011 to align with Local Strategic Planning Statement
NUMBER	PP_2020_WOLLY_001_00
LEP TO BE AMENDED	Wollondilly LEP 2011
ADDRESS	LGA Wide
DESCRIPTION	Stage 1 review of existing LEP provisions to align with local strategic planning statement
RECEIVED	6 January 2020 (additional information received 2 March 2020)
FILE NO.	IRF20/978
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal (**Attachment A**) is part of broader LEP reform intended to align the Wollondilly Local Environmental Plan (LEP) 2011 with the Western City District Plan and draft Wollondilly Local Strategic Planning Statement (LSPS) (**Attachment E**). This planning proposal is the first stage of these broader reforms.

The planning proposal seeks to amend the Wollondilly LEP 2011 as follows:

- Item 1: Introduce aims for Strategic Planning
- Item 2: Introduce aims and objectives for health considerations
- Item 3: Introduce Rural Function Centres and Tourist Parks
- Item 4: Introduce exempt development provisions for Outdoor Dining, Events and Sponsorship Advertising at Sporting Facilities
- Item 5: Introduce new Metropolitan Rural Area local provision and map
- Item 6: Introduce new Western Sydney International Airport local provision and maps
- Item 7: Amend the land zoning and land acquisition map for Maldon Dombarton Rail Link
- Item 8: Amend land zoning map to identify Sydney Water Land as SP2 Infrastructure zone

- Item 9: Introduce new Koala Corridor local provision and map
- Item 10: Amend Natural Resources – Biodiversity Map
- Item 11: Amend clause 4.1B Original Holdings provision to clarify land to which provision applies
- Item 12: Standard Instrument Land Use Table updates
- Item 13: Digital Plan Making

1.2 Site description and surrounding area

The planning proposal applies to the whole Wollondilly Local Government Area (LGA) identified on the Land Application Map (Figure 1 below), except for the Wilton Growth Area which is covered by the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth Centres SEPP).

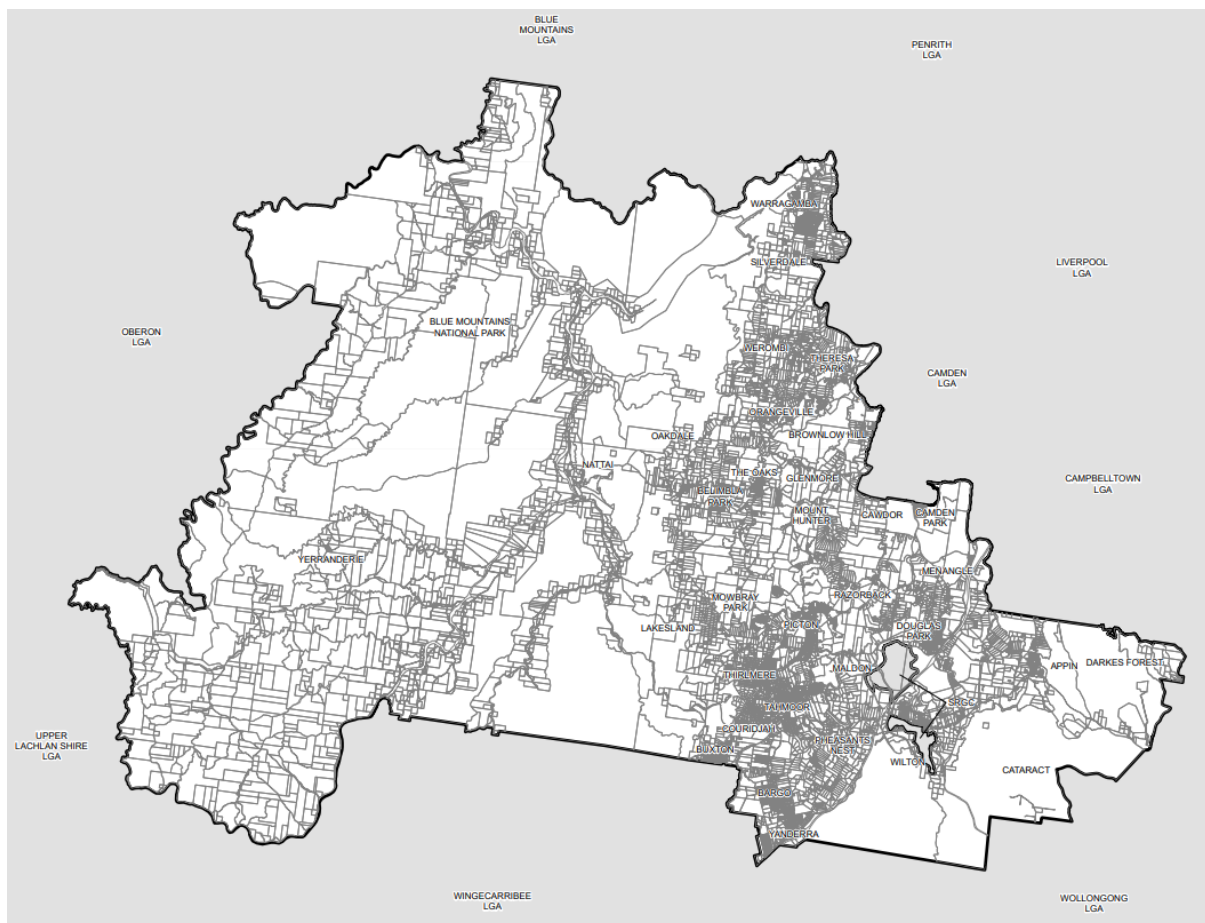


Figure 1 – Wollondilly LGA (Land Application Map LEP 2011)

1.3 Existing planning controls

The existing Wollondilly LEP 2011 has been in force since 2011. The LEP has been reviewed and updated through various planning proposals.

1.4 Summary of recommendation

It is recommended that the planning proposal proceed with a Gateway determination subject to conditions as the proposed amendments have strategic and site-specific merit, are generally consistent with the Western City District Plan and forms the first stage of amendments to align the Wollondilly LEP 2011 with the draft Wollondilly Local Strategic Planning Statement (LSPS).

2. PROPOSAL

2.1 Objectives or intended outcomes

The planning proposal includes the following objectives or intended outcomes summarised below:

- Give effect to the Western City District Plan;
- Enhance the health and wellbeing of communities;
- Attract investment and grow local jobs;
- Ensure potential impacts to koala corridors are minimised; and
- Housekeeping amendments to ensure the local environmental plan reflects changes on the ground or updates to legislation.

2.2 Explanation of provisions

The planning proposal seeks to amend the Wollondilly LEP 2011 as follows:

Item 1: Introduce aims for Strategic Planning

The proposal intends to amend Clause 1.2 Aims of Plan to include the implementation of strategic planning for the area by giving effect to any applicable local strategic planning statement prepared under section 3.9 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The Wollondilly LEP will be the main tool to deliver the LSPS. The inclusion of an aim within the LEP will provide a clear link for this relationship.

Department comment:

The Department notes that Clause 3.33 of the EP&A Act requires that justification is provided for how a planning proposal gives effect to a LSPS. The LSPS is a separate document that informs changes to the development standards and strategic controls of the LEP.

Although Council's LSPS has received assurance, the GSC also advises that Council may need to update the LSPS as key supporting strategies, including the Local Housing Strategy are finalised. Due to the changing nature of the LSPS, it is recommended that the LSPS aim is removed from the planning proposal.

Item 2: Introduce aims and objectives for health considerations

The proposal intends to:

- a) amend Clause 1.2 Aims of the Plan to include health considerations in land use planning by encouraging development that supports the health and wellbeing of local residents, workers and visitors; and
- b) embed health considerations in land use planning in the zone objectives in the Land Use Table.

Council is committed to pursuing actions and strategies which will contribute to the health and wellbeing of the community. This proposed amendment will incorporate social and health considerations as an integral part of the planning processes for new and existing communities.

The amendment builds on Council's established commitment to embedding health in land use planning and complements a number of existing health planning projects.

Department comment:

This proposed amendment is supported as it will provide greater focus on health and wellbeing in the Wollondilly LGA. The inclusion of health considerations in the zone objectives to ensure healthy active lifestyles are catered for in new and existing communities (Planning Priority W4 of the Western City District Plan).

Item 3: Introduce Rural Function Centres and Tourist Parks

The proposal intends to amend the Land Use Table to:

- a) include 'Rural Function Centres' (proposed new definition or use 'Function Centre') as permitted with consent in the following zones: RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots, E3 Environmental Management, and E4 Environmental Living to enable destination weddings, functions and business conferencing in rural locations; and

Council has been collaborating with Destination Sydney Surrounds South (DSSS) to understand the potential value destination weddings and business conferencing bring to local economies and the challenges presented by the strategic planning framework that limit these benefits from being realised. DSSS engaged a consultant to develop a Strategic Review (**Attachment D4**) to provide clear direction which made this recommended:

- b) include 'Tourist Park' (proposed new definition or use 'Caravan Park') as permitted with consent in the following zones: RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots, RE1 Public Recreation, and RE2 Private Recreation to enable more diverse tourist accommodation; and
- c) include a new clause to ensure these developments are of an appropriate scale and do not adversely impact on the agricultural production, scenic or environmental values of the land.

The Wollondilly Destination Management Plan (WDMP) was adopted by Council in October 2018. It is a five-year plan for guiding sustainable growth and to help ensure the viability and resilience of the tourism industry in the Shire. The WDMP identifies a need for a destination holiday park with a focus on visitors. The proposed amendment seeks to ensure the local planning framework for Wollondilly is ready to enable Wollondilly to benefit from the growing domestic caravan, motorhome and camping industry.

However, care needs to be taken to avoid potential unintended outcomes that could arise from permitting caravan parks in rural zones. The main concern is that the definition of "caravan park" includes "manufactured home estates" which is a contemporary form of medium density development that provides an alternative to traditional housing arrangements.

Department comment:

It is noted that Rural Function Centres / Function Centres and Tourist Park/ Caravan Park are land uses which are inconsistent with the objectives of the rural and environment zones.

If there is insufficient justification that the existing definitions are inadequate to address Council's intended outcome, the definition may be added in a future amendment to the Standard Instrument. However, the proposal does not discuss or demonstrate current restrictions with the existing definitions. As such it is unclear

how the existing standard definitions for caravan park is insufficient to achieve the intended outcome and should be removed from the proposal.

While it may be acceptable for one or two developments in a particular given area to proceed, there is concern that permitting caravan parks in rural zones could create cumulative impacts across surrounding areas. If this were to occur, the amenity of the surrounding locality in these areas could be compromised. In addition, Council has not adequately addressed the impacts of introducing these development types on existing agricultural activities such as land use conflict. Therefore, it is recommended that the planning proposal be updated to address how Council intends to manage the cumulative impacts of caravan parks and potential land use conflict of function centres and caravan parks on agricultural activities.

Item 4: Introduce exempt development provisions for Outdoor Dining, Events and Sponsorship Advertising at Sporting Facilities

The proposal intends to amend Schedule 2 Exempt Development to include development provisions that enable the following land uses to be carried out as exempt development (i.e. without the need for development consent) provided it meets the outlined development standards:

- footpaths - outdoor dining;
- events; and
- sponsorship advertising at sporting facilities.

The drafting of the proposed clauses are located on page 7-10 of the planning proposal (**Attachment A**). Council note that this is the first step to establish a framework for outdoor dining which is considered to promote vibrancy in towns and village centres.

Department comment:

The proposed footpath - outdoor dining provision conflicts with the outdoor dining provision (Subdivision 20A) in the Exempt and Complying Development SEPP which permits the use of a footway or public open space within the meaning of the *Roads Act 1993* as an outdoor dining area associated with lawful food and drink premises (with the exception of small bars and pubs).

As a condition of Gateway determination, it is recommended that Council:

- update Schedule 2 Exempt development to remove the Footpaths - Outdoor Dining provision; and
- update Part 2 Explanation of provisions to clarify to what land the event provisions would apply, address issues relating to minimum site area for events, amenity impacts including noise, access to adequate sanitary facilities, accessibility, traffic impacts, public liability, approval process for events on Council land, cumulative signage at sports grounds and limitations on sign permit validity.
- Consult with RMS about signage at sports grounds that may be within 250 metres of a classified road.

Item 5: Introduce new Metropolitan Rural Area local provision and map

34% of land within the Wollondilly Shire local government boundary is located within the Metropolitan Rural Area (MRA). Of the remaining land, 63% of land is located

within the Protected Natural Area and 3% of land is designated as an “urban area” comprising land located within current and proposed growth centres.

The proposal intends to introduce a new local provision for “Development within the Metropolitan Rural Area”, which would provide objectives to protect and enhance the values in the MRA. The clause would apply to land identified as MRA as shown on Figure 2. The clause would require the consent authority, prior to determining a development application within the MRA, to consider the environmental, social and economic impacts.

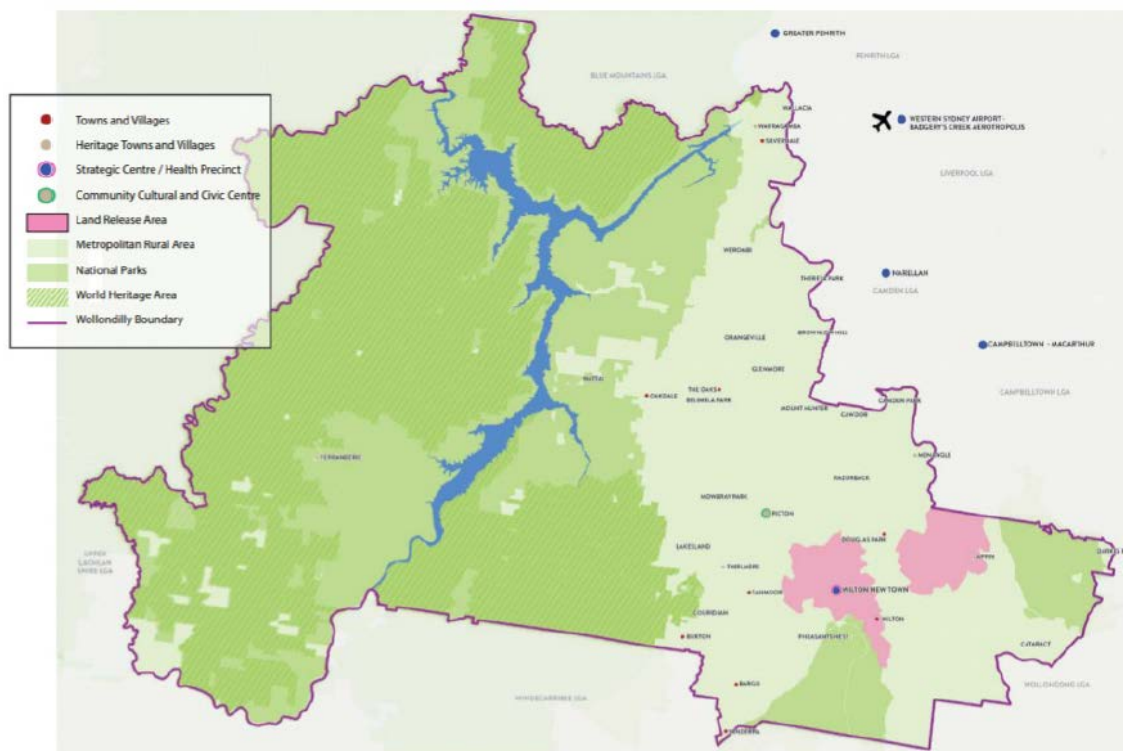


Figure 2: Location of MRA Lands

Department comment:

The Department supports the inclusion of an MRA map however the proposal does not provide an adequate explanation in regard to the intent of the proposed provision. Council will need to provide further information for the requirements for a consent authority to “consider” the environmental, social and economic impacts of development in the MRA before granting consent as it is already an existing requirement under section 4.15 of the EP&A Act.

Prior to public exhibition, Council will need to provide further details of the proposed clause and amend the MRA map to be consistent with the structure plan in the Western City District Plan as it currently does not match. Further the proposed clause must be general and align with Planning Priority W17 Better managing rural areas. Further details can be provided once the Rural Lands Study is completed.

Item 6: Introduce new Western Sydney International Airport local provision and maps

The proposal intends to include a new local provision, “Western Sydney Airport airspace protection”, which intends to ensure that development in the vicinity of the proposed Western Sydney International Airport would:

- have regard to the use of potential future use of the site as an airport;

- not hindering or have any other adverse impacts on the development or operation of the airport;
- minimise aircraft sensitive developments from being located near the airport and its flight paths; and
- ensure that land use and development in the vicinity of the airport do not hinder or have any adverse impacts on the ongoing, safe and efficient operation of the airport.

The clause would apply to the land shown on the:

- Aircraft Flight Path – Aircraft Noise Map shown in Part 4 by Map 9;
- Aircraft Flight Path – Obstacle Limitation Surface Map shown in Part 4 by Map 10; and
- Aircraft Flight Path – Wildlife Strike Map shown in Part 4 by Map 11.

This amendment seeks to protect land necessary to support the operation of the airport. Protecting immediate airspace around the Western Sydney International Airport is essential to ensuring the airport can grow without disruption as demand increases. Protection is also required to ensure and maintain a safe operating environment.

Department comment:

The Department does not support this proposed amendment as it pre-emptes the work being undertaken by the Western Sydney Planning Partnership (WSPP) to plan for the Western Sydney Airport. The provision has the potential to undermine the future controls in the Western Sydney Airport SEPP and the draft maps will be prepared by the WSPP and not Council. The SEPP is considered a Draft EPI and is a matter for consideration in the assessment of development applications. Therefore, it is recommended that Council remove this proposed amendment from the planning proposal.

Item 7: Amend the land zoning and land acquisition map for Maldon Dombarton Rail Link

For the Maldon Dombarton Rail Line, the proposal intends to:

- a) amend Clause 5.1 Relevant acquisition authority and the associated Land Reservation Acquisition Map to reserve the corridor for the southern portion of the line (Figure 3);
- b) rezone land identified for the Maldon Dombarton Rail Line and owned by the NSW Government to SP2 Infrastructure (Figure 4).
- c) remove the following land which has now been acquired by the relevant acquisition authority:
 - Lot 100 in DP1175654, Oak Street, Thirlmere;
 - Lot 1 in DP602401, Menangle Street West, Picton;
 - 123 Menangle Street, Picton (Lot 501 in DP1165723); and
 - 250 Appin Road, Appin (Lot 2 in DP1182729).

The subject land is identified on page 11 of the planning proposal (**Attachment A**) and a map of the corridor is shown in Figure 3.

The line is identified in the Structure Plan for the Western City District as “Freight Rail Investigation”. Action 32 of the Western City District Plan directs the protection of transport corridors.

Department comment:

The Future Transport 2056 Strategy states that the completion of Maldon to Dombarton railway line is an initiative for investigation between 10-20 years. It is inappropriate to identify land for acquisition without a confirmed route. It is also noted that Council has not advised whether Transport for NSW has not been consulted on this matter.

Furthermore, the Department is working on the protection of corridors for future transport infrastructure in Western Sydney through a new SEPP. The Discussion Paper on the proposed State Environmental Planning Policy to protect Western Sydney Corridors was exhibited in 2018.

Therefore, Council is to remove this proposed amendment prior to public exhibition.

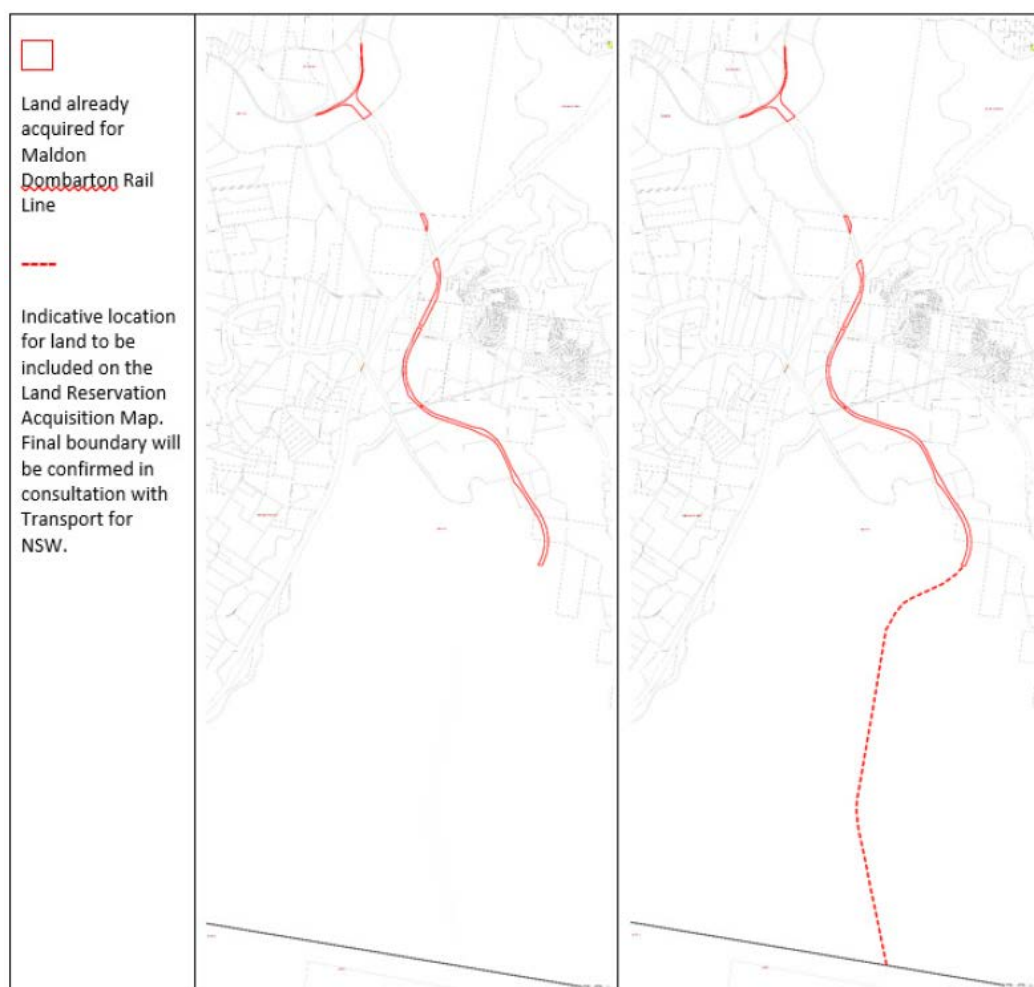


Figure 3: Land Reservation Acquisition Map (Maldon Dombarton Rail Line)

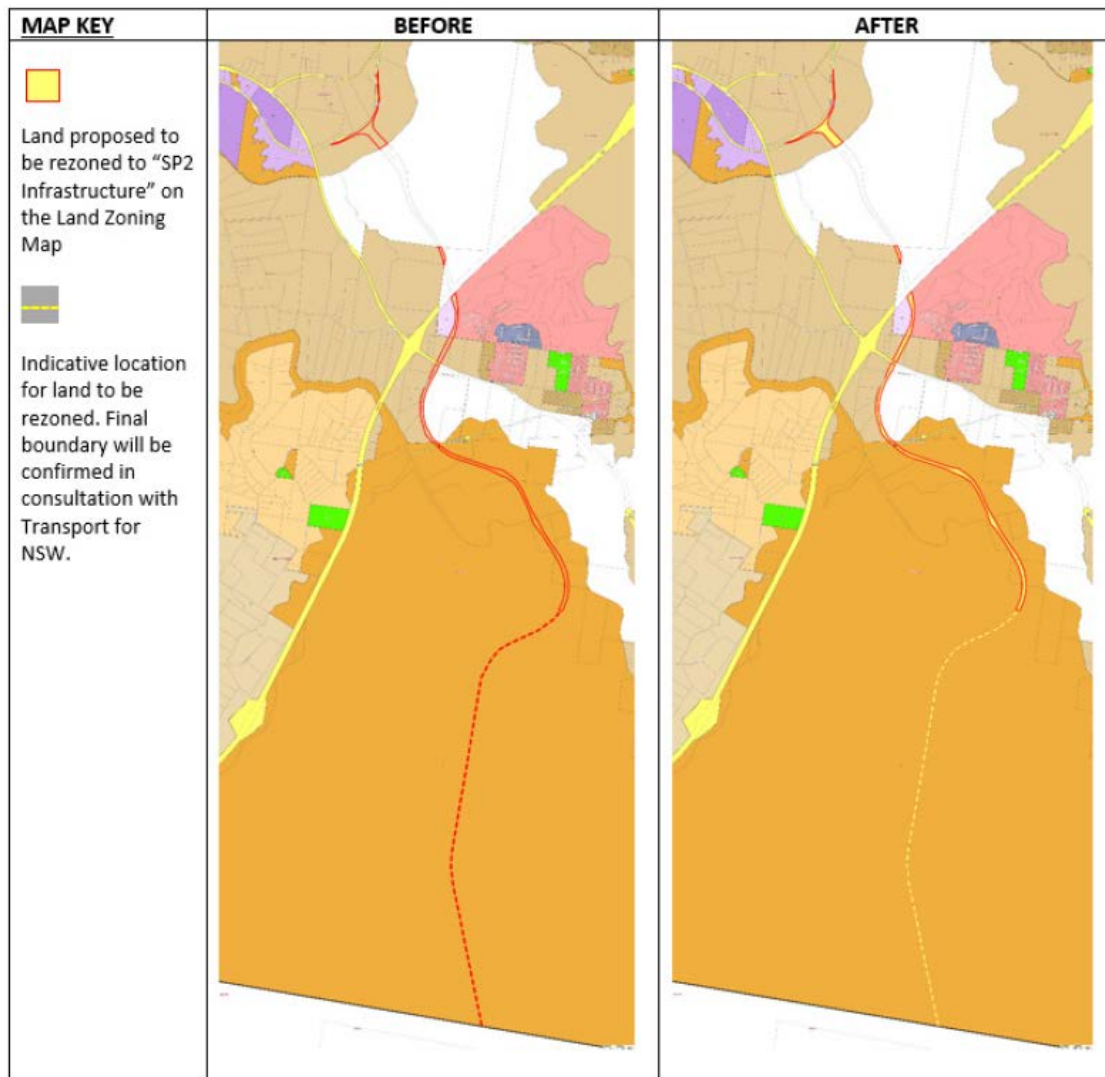


Figure 4: Land Zoning Map (Maldon Dombarton Rail Line)

Item 8: Amend land zoning map to identify Sydney Water Land as SP2 Infrastructure zone

The proposal intends to amend the Land Zoning Map to rezone certain land containing operational infrastructure and owned by Sydney Water to SP2 Infrastructure.

Sydney Water has undertaken a review of its property portfolio across various Local Government Area's with a focus on its operational property assets. As part of this review, various sites have been identified that contain permanent operational infrastructure within lands considered to contain zoning anomalies. Sydney Water recommends rezoning of these sites to SP2 Infrastructure to provide clarity to the local community as to the current and intended use of the land.

Department comment:

The Department supports the proposed rezoning of Sydney Water land to SP2 Infrastructure. However, it is recommended that this State Agency is consulted during the exhibition stage to ensure the proposed maps are accurate.

Item 9: Introduce new Koala Corridor local provision and map

The proposal intends to include a new local provision, “Koala habitat protection”, which will provide the following objectives:

- protecting high quality koala habitat;
- protecting and conserving local koala populations;
- stabilising or reversing threats to koalas;
- managing and restoring koala habitat;
- ensuring a co-ordinated approach to koala management across the region;
- ensuring that key habitat and movement corridors remain linked; and
- enhancing and restoring habitat connectivity.

The clause would apply to land identified as “sensitive land” on the Koala Habitat Map (Figure 5) and also to land in close proximity to “Sensitive land”.

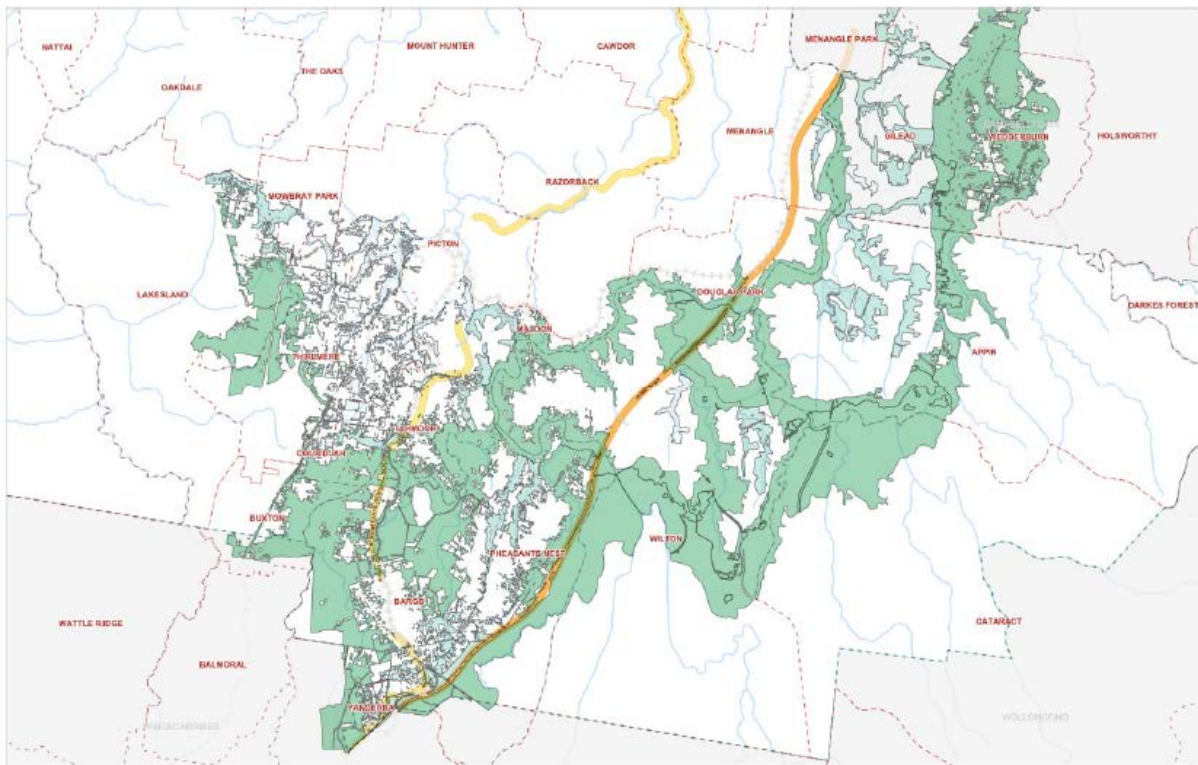


Figure 5: Koala Habitat Map

The clause would require the consent authority, prior to determining a development application on land to which this clause applies, to consider the following:

- for land identified as “sensitive land” on the Koala Habitat Map; to consider a shire wide comprehensive koala management plan. If there is not one in place than a site specific koala management plan will be required; and
- For land in close proximity to “sensitive land”; the clause would list principles that need to be considered and may include facilitating koala movement, avoiding development within core habitat, separating development from koala habitat and movement corridors, and restoring and revegetating green corridors.

The local provision will ensure that development on land near high quality koala habitat needs to be informed by a site-specific koala management plan unless there is a shire wide comprehensive koala management plan in place.

Department comment:

On 1 March 2020, the State Environmental Planning Policy (Koala Habitat Protection) 2019 (Koala SEPP) commenced which includes an updated definition of core koala habitat, new mapping, and a new guideline about the process and content of Koala Plans of Management. Under the Koala SEPP, applicants will be required to prepare their development application in accordance with the criteria in a new guideline, for council to consider when assessing the application.

It is recommended that the proposed local provision and mapping be removed from the planning proposal as it duplicates functions under the Koala SEPP. Instead, Council is recommended to prepare a comprehensive LGA wide Koala Plan of Management under the Koala SEPP.

Item 10: Amend Natural Resources – Biodiversity Map

The proposal intends to amend the Natural Resources – Biodiversity Map (NRB Map) to remove land which has been legally cleared and is no longer considered to be “sensitive land”. The existing and proposed maps are shown on page 58-62 of the planning proposal (**Attachment A**).

There are a number of areas within Wollondilly where development has been approved and undertaken involving the legal removal of vegetation through an offset agreement on land identified on the NRB Map. The land now needs to be removed from the NRB Map as there is no longer “sensitive land” requiring protection.

This would remove unnecessary barriers to local residents accessing cheaper and fast-track assessment of new development on their land i.e. exempt and complying development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Department comment:

The Cumberland Plain Conservation Plan (CPCP) is under development by the Department and may contain the subject land. Therefore, this proposed amendment is not supported at this time as the CPCP work is not complete. It is recommended that Council consult with the Environment, Energy and Science Group about this proposed amendment before consideration in a future planning proposal. Accordingly, it is recommended that the proposed amendment be removed from the planning proposal.

Item 11: Amend clause 4.1B Original Holdings provision to clarify land to which provision applies

The proposal intends to amend Clause 4.1B Subdivision of certain land in Zone E4 Environmental Living to strengthen the intent of the clause for land identified as “Original holdings” by clarifying that the density standard applies to:

- all land within the original holding and not just land within a development application; and
- land possessing two essential characteristics, namely:
 - zoned E4 Environmental Living; and

- identified as “Original holdings” on the Original Holdings Map.

The “Original holdings” provision (clause 4.1B) seeks to preserve landscape character in identified locations through a density restriction so that land is not subdivided to significantly increase the density of development on the land. The interpretation of this clause has been challenged on several occasions through the Courts. The proposed amendments are in response to recent legal challenges.

Department comment:

The Department raises no objections to the proposed amendment as it seeks to strengthen the intent of an existing clause. It is noted that the provisions will be subject to final drafting by Parliamentary Council.

Item 12: Standard Instrument Land Use Table updates

The proposal intends to permit new land use with consent within the following zones:

- “Timber yard” in RU1, RU2 and RU4 land use zones (currently permitted in business zones);
- “Artisan Food and Drink Industry” in RU1, RU2, RU4, B1, B2, B4 and B5 (currently permitted in industrial zones);
- “High technology industry” in B5 land use zone (currently permitted in industrial zones);
- “Bee keeping” in residential and business and E3 land use zones (currently permitted in RU1, RU2, RU4, SP1 and E4 land use zones);
- “Eco-tourist facility” in RU1, RU2, RU4 and E4 land use zones (currently not permitted in any land use zone);
- “Markets” in RU1, RU2, RU4, RE1, RE2 and E3 land use zones (currently permitted in business zones and SP1); and
- Including the model clause for “Eco-tourist facilities” which requires the consent authority to be satisfied that the ecotourist facility is sympathetic to and maintains the environmental and cultural values of the land and is designed and managed to have minimum impact on the environment.

Department comment:

The proposed land uses fall within the following group definition:

- Timber yard and Markets are defined as retail uses;
- Artisan food and drink industry (the Wollondilly LEP includes a floor area restriction for the rural zone) and High technology industries are a type of light industry; and
- Bee keeping is a type of extensive agriculture for commercial purposes.

The proposed amendment to permit “Eco-tourist facility” in rural zones and E4 Environmental zones is supported with a mandated criterion for future development of eco-tourist facilities to maintain the environmental and cultural values of the land.

The Department supports the proposed amendments as the intended uses are consistent with the core objectives of the land use zones. For the uses in the rural zones, these are considered to be appropriate and ancillary to the agricultural uses in these areas. Further, these uses are unlikely to create any land use conflict.

Item 13: Digital Plan Making

The proposal intends to transition Wollondilly LEP 2011 from maps (PDF) to 'digital mapping' as the legal map reference. Council has indicated its support for the introduction of digital mapping when it resolved to move to a digital LEP at its meeting of 18 June 2018.

Moving to a digital local environmental plan removes the need to prepare map sheets and presents a number of benefits for Council, community and other stakeholders;

- decreasing Council resources required for planning proposals by significantly reducing the time required for manual processes to manage spatial data. This would free up staff to do more in terms of mapping based solutions for staff and to the public,
- providing more flexibility in land use planning by removing artificial administrative barriers that tend to restrict the scope of changes that can be considered for land,
- improve efficiency by bringing all of Council's spatial data together on a single spatial cadastre,
- encouraging innovation by enabling open access to data which is fit for purpose in terms of quality and integration with external datasets such as eplanning as well as professional users,
- removing duplication of work by both Council and the NSW Government,
- increasing the accessibility of the local environmental plan to the community and other stakeholders by enabling access to accurate information in a format they can use. Removing the need to navigate map sheets which is cumbersome,
- reduction in the risk of human error by reducing the sheer number of changes requires and only amending the data subject to change, and
- reducing the likelihood of liability for present and future errors. This is particularly relevant to recent issues associated with mapping discrepancies between the Wollondilly LEP and the Growth Centres SEPP for land at Wilton.

Department comment:

The Department broadly supports the intended outcome to transition from PDFs to a digital LEP. However, the Department is still trialling this work therefore this proposed amendment should be removed until this work can be completed.

2.3 Mapping

The proposal includes amendments to the following LEP maps:

- Land zoning map; and
- Land Reservation Acquisition Map.

Department comment:

As noted in Section 2.2 of this report, certain proposed amendments are not supported and the associated maps are required to be removed from the planning proposal.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is for a comprehensive review of the Wollondilly LEP 2011 containing a combination of amendments. The planning proposal seeks to amend existing provisions in the Wollondilly LEP 2011 and add new provisions to align the actions in the Wollondilly 2040 LSPS (endorsed by Council on 11 February 2020). It is also noted that Council intends to establish Wollondilly LEP 2020 as part of this proposal.

Given the requirement for Council to submit the proposal to the Department for finalisation prior to 30 June 2020 to meet the conditions of the NSW Government's Accelerated LEP Review Funding Program, the Gateway requires the proposal to be revised prior to public exhibition so that it reflects an amendment to the Wollondilly LEP 2011, rather than a new LEP 2020.

The proposal is supported by the LSPS and Destination Weddings and Business Conferencing Strategic Review Report dated August 2019 (**Attachment D4**).

The planning proposal process is the best mechanism to achieve the intended outcome under 3.13 of the EP&A Act.

4. STRATEGIC ASSESSMENT

4.1 Western City District Plan

The Greater Sydney Commission released the Western City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal (excluding the proposed amendments required to be removed) is generally consistent with the priorities for infrastructure and collaboration, liveability, productivity and sustainability in the plan.

This proposed health amendments considerations seek to enable healthy active lifestyles are catered for in new and existing communities (Planning Priority W4). In addition, the introduction of exempt development provisions for outdoor dining, events and sponsorship advertising at sporting facilities will facilitate the renewal of public spaces (Planning Priority W4 and W6).

Planning Priority W17 Better managing rural areas seeks to protect and support agricultural production and mineral resources by preventing inappropriately dispersed urban activities in rural areas. The introduction of an MRA map into the LEP will further support this priority. However, Council will be required to provide further details in relation to the explanation of the draft clause. The amendment to the Original Holdings provision will assist in retaining the landscape character (Planning Priority W16).

The additional land uses proposed for the rural and business zones will provide additional jobs which supports Productivity under the District Plan.

The Department is satisfied that the proposal gives effect to the Western City District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*.

4.2 Local

Wollondilly 2040 Local Strategic Planning Statement

The Wollondilly 2040 Local Strategic Planning Statement (LSPS) (**Attachment E**) is a Council-adopted document (February 2020) to inform how the LEP will evolve to meet the community's 20-year land use vision in the LGA over a ten-year period. The Strategy intends to focus future planning on the Wilton Planned Precinct, increase local jobs, advocate for better infrastructure and services, support the growth of agricultural businesses close to Western Sydney International Airport and tourism across the Shire.

Council advises that the following studies are currently being undertaken to support the LSPS and inform further amendments to the Wollondilly LEP 2011:

- Local Housing Strategy;
- Rural Lands Strategy;
- Scenic and Cultural Lands Study;
- Commercial Centres Study;
- Employment Lands Review;
- Shire Wide Tree Canopy Plan;
- Transport Model review;
- Tahmoor Precinct Study and Master Plan;
- Silverdale/Warragamba Precinct Study and Master Plan;
- Active Transport Strategy; and
- Bike Plan Review.

The proposed amendments (except those to be removed) are consistent with the following priorities of the LSPS:

- Planning Priority 6: Embedding health and wellbeing considerations into land use planning for health places – health objectives in the LEP and zones;
- Planning Priority 7: Cultivating a creative and cultural destination connecting people with places – exempt provision for outdoor dining and events;
- Planning Priority 8: Enhancing vibrant, healthy and sustainable local town and villages – exempt provision for outdoor dining and events;
- Planning Priority 16: Enhancing and protecting the diverse – MRA map and clause.

Wollondilly Community Strategic Plan 2033

Council advises that the planning proposal is consistent with the directions of the Wollondilly Community Strategic Plan. Consistency of the planning proposal with the Community Strategic Plan is discussed further on page 22 of the planning proposal at **Attachment A**.

Local Planning Panel

On 28 November 2019, the Wollondilly Local Planning Panel resolved to support the planning proposal proceeding to Gateway determination (**Attachment F**) subject to the followed suggested advice:

- Amendment (Koala Corridors) be strengthened with additional objectives to give greater weight to achieving long term restoration of corridors to support sustainable population. This can be supported with development control plan provisions to improve development outcomes.
- Amendment (Caravan Parks) permitted caravan parks in the rural zones creates the potential for large scale mobile home parks/manufactured home estates with permanent occupancy. The Panel considers that Council should be aware that this amendment may result in defacto urban development.

Council has made further assessments (**Attachment G**) on the Panel's advice and on 16 December 2019, resolved to:

- update amendment (Koala Corridors) to:
 - include an additional objective to enhance and restore habitat connectivity;
 - broaden the application of the clause to that it applies to 'sensitive land' and nearby land; and
 - include principles for assessing development capture by the clause.
- update amendment (Caravan Parks) to seek the introduction of a new land use term for "Tourist Park" to be permissible in recreation and rural zones. If this option is not available to proceed with the original proposed amendment. With either option, amendment (Caravan Parks) should be removed from the planning proposal, if after further investigation, it is considered that the amendment has the potential to unintentionally permit planned housing growth in the Metropolitan Rural Area.
- adjust amendment (Original Holdings) to ensure that the density standard applied to:
 - all land within the original holding and not just land within a development application; and
 - land possessing two essential characteristics, namely:
 - zone E4 Environmental Living; and
 - identified as "Original Holdings" on the Original Holdings map.
- update amendment (Destination Weddings) to introduce a new land use term for "Rural Function Centre" in rural and some environmental protection zones (E3 and E4) and if the option is not available to proceed with the original proposed amendment.
- update amendment (Rezoning Sydney Water Land) to remove all land associated with 550 Wilton Road, Appin for the planning proposal.

4.4 Section 9.1 Ministerial Directions

The consistency of the planning proposal (except the proposed amendments required to be removed) with all relevant Section 9.1 Directions is discussed below.

Direction 1.1 Business and industrial zones

The objectives of this direction are to encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified centres. This direction applies as the proposal seeks to introduce “Artisan Food and Drink Industry” in the business zones.

This amendment is considered to be consistent with this direction as it will enable an additional business use within the zone.

Direction 1.2 Rural Zones

The objective of this direction is to protect the agricultural production value of rural land. This direction applies as the proposal seeks to enable new uses in the rural zones. It will also rezone certain Sydney Water land from a rural zone to SP2 Infrastructure.

The proposal not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. It will also not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

Direction 1.5 Rural Lands

The objectives of this direction are to protect the agricultural production value of rural land and facilitate the orderly and economic use and development of rural lands for rural and related purposes. This direction applies as the proposal affects rural and environment protection zones.

The proposal is inconsistent with this direction as it will rezone some rural land to SP2 Infrastructure as well as introducing caravan parks and function centres onto rural land thereby removing the agricultural potential of this land. The introduction of caravan parks and function centres onto rural lands may also result in cumulative impacts on the amenity of the surrounding areas and could potentially result in land use conflict with agricultural activities. Council will need to update its planning proposal to address these matters.

Direction 2.1 Environment Protection Zones

The objective of this direction is to protect and conserve environmentally sensitive areas. This direction applies as it seeks to introduce eco-tourist facilities into the environmental zones.

The proposal is inconsistent with the direction as it is proposing to include new land use in environmental zones. However, the inconsistency is considered to be justified as of minor significance as eco-tourist facilities are considered to be compatible uses for an environment protection zone.

Direction 3.1 Residential Zones

The objectives of this direction are to encourage a variety and choice of housing types, make efficient use of existing infrastructure and services, and minimise the impact of residential development on the environment and resource lands.

The proposal is inconsistent with this direction it seeks to rezone residential zoned land to SP2 Infrastructure thereby reducing the permissible residential density of that land. However, the inconsistency is considered to be justified as the land is owned by Sydney Water and the rezoning would reflect the existing use of the land.

Direction 4.3 Flood Prone Land

The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land. This direction applies to the proposal as the LGA contains flood prone land which is affected by the various proposed clauses.

The proposal is inconsistent with this direction as it will rezone rural zoned land to a special use zone which is not allowed under this direction. However, the inconsistency of this proposal with this direction is considered to be of minor significance as there will be no flooding impacts.

Direction 4.4 Planning for Bushfire Protection

The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and encourage sound management of bush fire prone areas.

The planning proposal is inconsistent with the direction as it will permit new land uses on bushfire prone land without proposing new bushfire controls. However, these uses are compatible with the zones and bushfire controls will need to be addressed at the development application stage.

However, in accordance with the requirements of this direction, Council is required to consult the NSW Rural Fire Service prior to public exhibition to ensure it does not object to the progression of the planning proposal.

Direction 5.2 Sydney Drinking Water Catchment

In its current form, the planning proposal is inconsistent with the Direction as it will permit future development within the Sydney drinking water catchment which has the potential to adversely impact water quality and catchment health. This inconsistency remains unresolved until consultation with the NSW Water is undertaken.

To ensure consistency with the Direction, it is recommended that Council refer the planning proposal to NSW Water as part of the public exhibition and updated in accordance with any comments received.

Direction 6.3 Site Specific Provisions

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls. This direction applies as Council intends to introduce a new local clause for the MRA. However, this inconsistency is considered to be minor as this amendment seeks to protect the MRA as required by the District Plan.

Direction 7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan

The objective of this direction is to ensure development within the Western Sydney Aerotropolis is consistent with the Stage 1 Western Sydney Aerotropolis Land Use and Infrastructure Implementation Plan dated August 2018 (the Stage 1 Land Use

and Implementation Plan). The Department notes that the north-eastern corner of the LGA is affected by the ANEC/ANEF Contours for the Airport.

The proposal affects land within the Aerotropolis including the introduction of the 'Function Centre' and 'Caravan Park' in the rural zones, the MRA map, and the identification of Sydney Water land as SP2 Infrastructure zone. In the case of caravan parks only temporary accommodation should be permissible in noise affected areas and this will be addressed in the Aerotropolis SEPP.

The Department notes that these amendments will not impact the strategic intent of the Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan therefore is consistent with this direction. However, it is recommended that the planning proposal is updated prior to public exhibition to demonstrate consistency with this direction.

4.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all applicable State Environmental Planning Policies (SEPP) except the following:

SREP No 20 – Hawkesbury-Nepean River

The aim the SREP is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

The planning proposal acknowledges the potential for indirect impacts within the Hawkesbury Nepean River Catchment. The proposal further notes that the proposed LEP amendments will not hinder the application of the SREP as part of any further development application.

Taking into account the potential impacts of future land uses on the river system, Gateway determination has recommended further consideration to be given to the specific locations of land uses in rural and environmental zones.

SEPP (Sydney Drinking Water Catchment) 2011

The aims of this SEPP are to provide for healthy water catchments that will deliver high quality water and ensure consent authorities must not grant consent to development that would negatively affect water quality.

The planning proposal contains a number of amendments that permit new land uses within the Sydney Drinking Water Catchment.

As mentioned earlier, it is recommended NSW Water be consulted on the proposal as part of the public exhibition. Subject to this consultation being carried out, the Department is satisfied that the proposal can proceed to Gateway determination.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The planning proposal includes a number of amendments which are intended to have positive social benefits either through enhancing the health and wellbeing of communities and/or attracting investment and growing local jobs.

5.2 Environmental

The proposal is unlikely to have an adverse impact on the existing vegetation with the LGA.

5.3 Economic

The proposal will provide greater economic opportunities for landowners as additional commercial land uses have been added to the rural, environment and business zones. These uses are considered to be compatible with the zone objectives.

5.4 Infrastructure

The planning proposal will not result in major developments that would place significant additional demands on the existing infrastructure (utilities, transport or other services).

6. CONSULTATION

6.1 Community

Community consultation as proposed by Council is for a 28-day period. It is considered appropriate.

6.2 Agencies

It is recommended the following agencies are consulted:

- Greater Sydney Commission;
- Sydney Water;
- Water NSW;
- Roads and Maritime Services within Transport for NSW; and
- NSW RFS.

7. TIME FRAME

Council is required to submit the planning proposal to the Department for finalisation prior to 30 June 2020.

8. LOCAL PLAN-MAKING AUTHORITY

Council has not requested for authorisation for local plan-making authority. Given the planning proposal is required to give effect to the District Plan and the Department has provided funding for Council to prepare the amendment by 30 June 2020, authorisation for Council to be the local-plan making authority is not recommended.

9. CONCLUSION

The planning proposal is supported to proceed to Gateway Determination subject to a number of conditions as the proposed amendments have strategic and site-specific merit, are generally consistent with the Western City District Plan and form the first stage of amendments to align the Wollondilly LEP 2011 with the draft Wollondilly LSPS.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions, 2.1 Environment Protection Zones, 3.1 Residential Zones, 4.3 Flood Prone Land, 6.3 Site Specific Provisions are minor or justified; and
2. note that the consistency with section 9.1 Directions 1.5 Rural Lands, 4.4 Planning for Bushfire Protection and 5.2 Sydney Drinking Water Catchment are unresolved and will require justification.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to public exhibition, the planning proposal is to be amended as follows:
 - (a) remove the following proposed amendments and associated references or maps from the planning proposal:
 - i. Aims for strategic planning;
 - ii. New standard LEP definitions;
 - iii. Western Sydney International Airport local provision and maps;
 - iv. Maldon Dombarton Rail Link;
 - v. Koala Corridor local provision and map;
 - vi. Natural Resources – Biodiversity Map;
 - vii. Digital Plan Making; and
 - viii. Reference to establishing “Wollondilly Local Environmental Plan 2020”.
 - (b) Update amendment to Schedule 2 Exempt development to delete Footways - Outdoor Dining and update Part 2 Explanation of provisions to clarify what land the event provisions would apply and address issues relating to minimum event site area, amenity impacts, accessibility, traffic impacts, public liability, approval for events on Council land, cumulative signage at sports grounds and limitations on sign permit validity;
 - (c) Update the planning proposal to address how Council intends to manage the cumulative impacts of caravan parks and function centres on the amenity of the surrounding areas and potential land use conflict of function centres and caravan parks on agricultural activities;
 - (d) consult the NSW Rural Fire Service prior to public exhibition in accordance with section 9.1 Direction 4.4 Planning for Bushfire Protection and address any comments from this agency;
 - (e) include the intention to introduce a new savings and transitional clause to ensure that proposed amendments do not affect any lodged development applications or appeal processes; and
 - (f) include a note that the draft proposed clauses will be subject to legal drafting and may alter under this process.

2. The revised planning proposal is to be updated in accordance with condition 1 and forwarded to the Department for review and approval prior to public exhibition.
3. The planning proposal should be made available for public exhibition for a minimum of 28 days.
4. Council is to inform all landowners affected by the MRA amendments in writing about the exhibition of the proposal, outlining the effect of the proposed changes.
5. Consultation is required with the following public authorities:
 - Greater Sydney Commission;
 - Sydney Water;
 - Water NSW;
 - Roads and Maritime Services within Transport for NSW; and
 - NSW RFS.
6. Council is required to submit the planning proposal to the Department for finalisation prior by 30 June 2020.
7. Given the nature of the planning proposal, Council is not authorised to exercise delegation to make this plan.



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