



Planning,  
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## Plan finalisation report – PP\_2020\_WOLLY\_001\_00

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Wollondilly LEP 2011 – LEP Review Program Stage 1

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# 1 Introduction

## 1.1 Overview

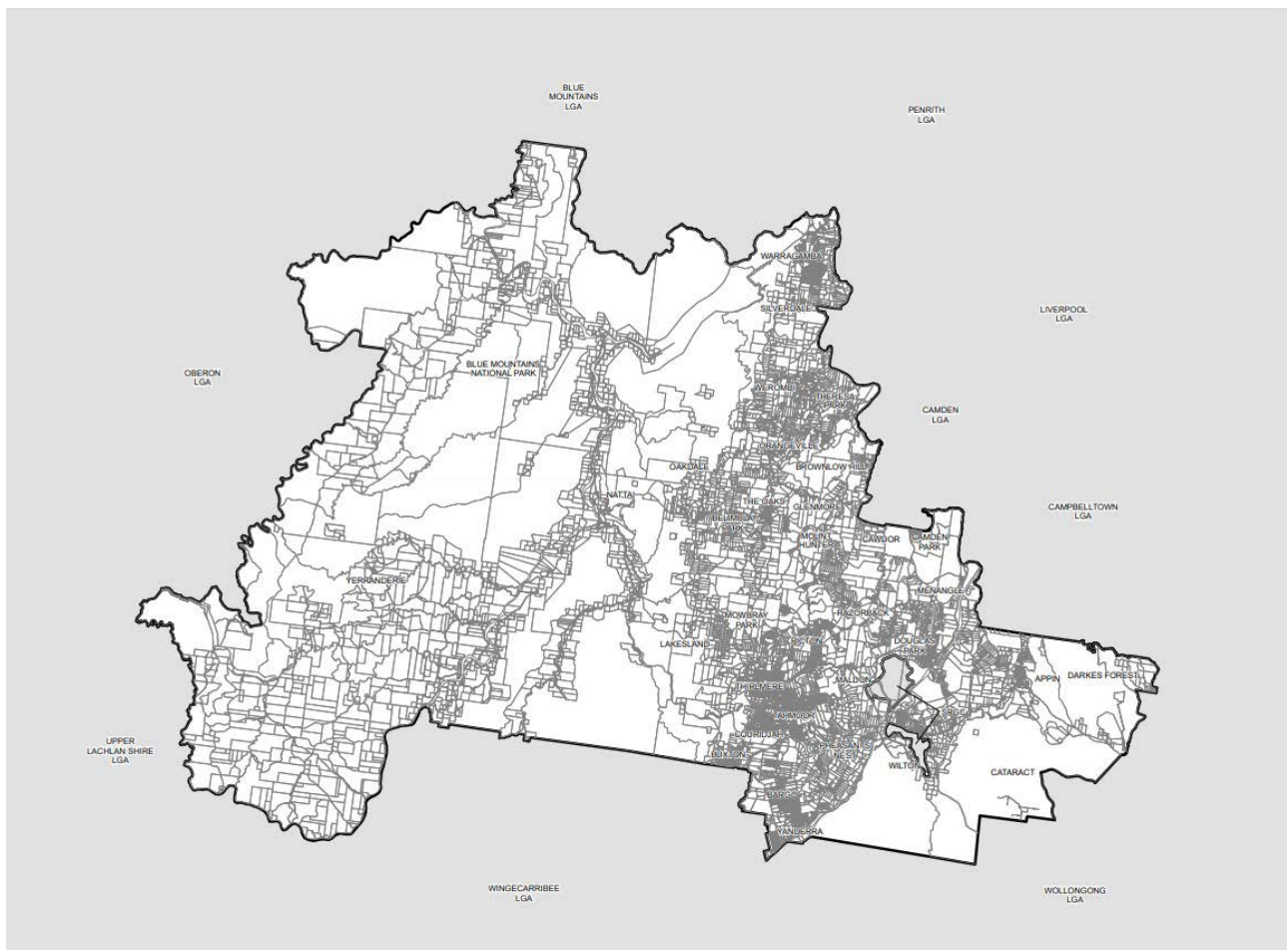
### 1.1.1 Name of draft LEP

Wollondilly Local Environmental Plan 2011 (Amendment No. 40).

### 1.1.2 Site description

**Table 1 Site description**

Site Description	Type	Council Name	LGA
The planning proposal ( <b>Attachment A</b> ) applies to land identified on the Land Application Map under the Wollondilly LEP 2011. It does not apply to the Wilton Growth Area which is covered by the <i>State and Environmental Planning Policy (Sydney Region Growth Centres) 2006</i>	District	Wollondilly Shire Council	Wollondilly



**Figure 1 Subject site**

### 1.1.3 Background

This planning proposal is the initial stage to align the Wollondilly Local Environmental Plan (LEP) 2011 with the Greater Sydney region plan, Western City District Plan and Wollondilly Local Strategic Planning Statement (LSPS). Wollondilly Shire Council received funding from the State Government which bought forward delivery of this amendment but limited its scope to ensure implementation could occur in a timely manner. Council is preparing local strategies and studies which will support future council-led planning proposals.

### 1.1.4 Purpose of plan

The draft LEP seeks to make amendments to implement outcomes identified in the Wollondilly LSPS and housekeeping amendments including:

- Inclusion of a new LEP aim and land use table objectives to embed the consideration of health in the assessment of development within rural, residential, industrial and environmental zones.
- A new local provision to recognise the role and function of the Metropolitan Rural Area within the LGA.
- Rezoning land containing operational infrastructure that is owned by Sydney Water to SP2 Infrastructure, to protect and support it for existing and future populations.
- Permit advertising signage on sports fields as exempt development.
- Strengthen provisions relating to the subdivision of land within Original Holdings.
- Housekeeping amendments including updated the Land Reservation Acquisition Map and clarifying savings provisions.

### 1.1.5 State electorate and local member

The site falls within the Wollondilly state electorate. Nathaniel Smith MP is the State Member.

The site falls within the Hume federal electorate. The Hon. Angus Taylor MP is the Federal Member.

To the team's knowledge, neither MP has made any written representations regarding the proposal.

### 1.1.6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- The draft LEP has strategic merit being consistent with the Western City District Plan and Wollondilly Local Strategic Planning Statement.
- It is consistent with the Gateway Determination and all conditions of the Gateway determination have been addressed.
- Issues raised during consultation have been addressed, and there are no outstanding agency objections to the proposal.

## 2 Gateway determination and alterations

The Gateway determination issued on 6 April 2020 (**Attachment B**) determined that the proposal should proceed subject to conditions. Council has met all the Gateway determination conditions.

The Gateway determination removed elements of the proposal that either duplicated State-wide planning initiatives or lacked key supporting studies. These changes included removal of reference to the Wollondilly LSPS document (in the LEP), new Standard Instrument land use definitions, Western Sydney International Airport local provision and maps, Maldon Dombarton Rail Link, Koala

Corridor local provision and map, Natural Resources – Biodiversity map changes and digital plan making.

The Gateway determination was altered on 15 April 2020 and 14 May 2020 to correct minor anomalies and to remove the footways and outdoor dining proposal as exempt development and proposal to permit caravan parks and function centres in rural and recreation zones.

The subsequent alterations were, in part, in response to submissions from the RFS (see Section 3.2 below) which required a strategic bush fire assessment to be undertaken before the proposed amendments could be brought forward given the direct implications for future development on bush fire land. The required strategic bush fire study could not be completed in the timeframe for public exhibition of the draft LEP and will be pursued at a later time, supported by relevant studies.

In accordance with the Gateway determination (as altered) the proposal was due to be submitted for finalisation by 30 June 2020. Following the Department's agreement to grant Council an additional 2 months beyond the 30 June 2020 deadline to submit the proposal for finalisation, the plan I was received by the Department for finalisation on 28 August 2020.

### 3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 28 May 2020 to 30 June 2020.

The State Government introduced legislation in March and April 2020 in response to COVID-19 which made changes to the Environmental Planning and Assessment Regulation 2000, temporarily removing the requirement for councils to display physical copies of documents at their offices and to notify planning processes in local newspapers.

During exhibition materials were available on Council's engagement platform. Stakeholder and community engagement was encouraged through: Council's website, notification letters to affected properties, letters to agencies and adjoining councils, notification on the Planning Portal, presentation to the Rural Industry Community Advisory Committee, and notification of a database of interested stakeholders.

A total of 92 community submissions were received, comprising 82 community and stakeholder submissions, 7 public agency submissions and 3 submissions from adjoining Councils. There were 43 submission that raised issues outside the scope of the proposed amendments.

#### 3.1 Submissions during exhibition

Table 2 below provides a response to the submissions received for each amendment proposed by the planning proposal.

**Table 2 Summary of Key Issues**

Issue raised	Council response
<b>Amendment 1 – Embed the consideration of health in assessment of development</b>	
Concern with additional steps for approval	Council has been working in partnership with the South Western Local Health Districts to understand and identify opportunities to integrate the consideration of health into land use planning. Recognition of this link as one of the overarching aims of the LEP complements this work. Council considers that the inclusion of the overarching aim sets a high-level policy direction and is not considered to add unnecessary additional steps for the development approval process.
Issues covered by 'health considerations	Council highlighted that the proposed LEP aim set the high level policy direction to assist with determining the application of the controls. The Wollondilly LSPS and Planning Priority 6 provide further information and actions around health.
Supporting Concept of amendment (health)	Noted.
<b>Amendment 2 – Recognising the role and function of the Metropolitan Rural Area within the LEP</b>	
Concerns with additional steps for approval	Council responded that the introduction of the amendment was not intended to require the preparation of additional documentation, in most cases, to support development applications. It acknowledged that some applications would require additional evidence to justify their proposal.
Greater protection for residential development (existing within the MRA)	<p>Council considered the intent of the amendment, in part, seeks to establish a more robust approach to protecting and managing conflict on agricultural land. At a site level the proposed clause is intended to protect rural areas and contribute to the ongoing viability of local industries. How it will apply as part of the assessment for a development application will depend on the location and context of the development site. All the matters for consideration may not be relevant to a development application and will be considered on merit.</p> <p>The proposed MRA map will take in rural and residential zoned areas across the Shire and is not intended to create green belt areas.</p>
Insufficient detail	Council recommended that the proposed clause should be supported by controls in the development control plan to provide further guidance. Any future controls within the development control plan would provide more detailed direction in applying the clause which will be progressed while the planning proposal is finalised.
Concept of MRA	The amendment seeks to introduce a framework for the consideration of the values of the Shire's rural areas. It is not intended to identify areas where housing growth will be encouraged in the future or will not change the land use zone. It is also unlikely to affect land values as it will not, in principle, change the types of development permissible.

Issue raised	Council response
Concept of MRA, preventing development	The proposed MRA amendment will not change the development potential of land. The proposed amendment reflects the higher order strategic policies, and the proposed amendment will only be a consideration in development application assessments. Planning proposals would be considered on strategic merit and the proposed clause would not prevent subsequent subdivision.
Concept of MRA, viability of rural industries.	The proposed amendment will not exclusively apply to rural zoned land and will not change the development potential of land within the Wollondilly LGA. The proposal seeks to strengthen the approach to preventing conflict with agricultural land. The MRA is applied at a strategic policy level and will be applied differently at the development application assessment process under the LEP. The proposal does not include any amendments to rezone land to enable housing growth.
Suitability of matter for consideration – enhancing habitat and biodiversity and preserving scenic land	The proposed amendment seeks to introduce a framework for the consideration of the values of the MRA. It is recommended that this should be supported by controls in the DCP to provide further guidance. The advocacy for incentives to establish a protected buffer around scenic land is noted. However, it is beyond the scope of this planning proposal. The proposed amendment may be relevant to a development application which seeks to preserve land adjoining gorges.
Suitability of matter for consideration – protecting mineral and energy resources and extractive industries	The proposed amendment seeks to introduce a framework for the consideration of the value of Wollondilly LGA's rural areas. How it will apply as part of the assessment of a development application will depend on the location and context of the development site. All the matters for consideration may not be relevant to all development applications.
Suitability of matter for consideration – preserving land for productive uses	The proposed amendment will apply to development applications. The consideration of the MRA for planning proposals (such as rezoning) is informed by the Greater Sydney Region Plan, the Western City District Plan and Wollondilly LSPS.
Suitability of matter for consideration – adequately managing hazards (flooding in Picton)	Noted. No changes are considered necessary.
Suggested matters to be included – e.g., dams, restrict release of land for housing	Council noted the submitters concerns and potential cumulative impacts associated with the loss of earth dams. However, it did not consider it appropriate to include a reference specifically to farms dams within the proposed amendment. Council confirmed that the proposal does not include any amendment to rezone land to enable housing growth.
MRA boundary	The boundary for the proposed MRA amendments has been taken from the Greater Sydney Region Plan. It is not intended to exclusively identify rural zoned areas and includes Wollondilly's towns and villages except for growth areas. It includes those areas that will remain predominately rural in their character, even where there is limited growth planned. It is not possible to change the boundary of the MRA through the LEP.



Issue raised	Council response
Amendment 3 – Protect land required to provide essential services to support existing and future populations	
Purpose of rezoning	The proposed amendment seeks to rezone 24 lots containing operational infrastructure in different locations across Wollondilly. The land to be rezoned are not buffer areas and the proposal does not include any land within National Parks
Incorrect address	It is recommended that the property reference for the land is clarified when finalising the planning proposal. The lot and deposited plan reference and mapping within the planning proposal is correct.
General support	Noted.
Amendment 4 – Enable advertising on sports fields	
Size limits and materials for signs	In response to feedback received from public exhibition, it is recommended that the key principles for advertising signage are retained. Those matters that may require a different approach for different sports grounds or where there may be multiple solutions could be removed from the amendment and included as a guideline. The standard relating to maximum advertising display areas, metal frames has been included as a guideline.
Temporary signage	Inclusion of a development standard to prohibit temporary signage is too restrictive.
Unaddressed matters in proposed development standards including advertising on club balconies, fixing methods, advertising associated with gambling, inappropriate signage around Hume Oval and dark sky requirements	<p>If a sponsorship advertising sign is not able to meet the development standards this does not necessarily mean the sign is prohibited. Rather, that the proposed sign is not considered to be minor and requires consent. Club identification signage on the balcony is supported. However, given the prominent location, it is not appropriate for advertising signage to be exempt. Council resolved to amend the planning proposal to enable signage on the balcony at Victoria Park, Picton as exempt development however the intention is that this would be limited to a club identification sign only. Sponsorship advertising in this location would require development consent.</p> <p>A guideline for Sponsorship Advertising at Sporting Facilities be prepared. The additional references to advertising for gambling suggestion has merit and will be included. A new development standard to prevent illuminated advertising sign being exempt development will be included.</p>
Who benefits from sponsorship money	Local non-profit sports club operate on limited budgets. For many sponsorships allows them to provide benefits for their members and to the community.
Amendment 5 – Strengthen provisions relating to the subdivision of land within Original holdings	
Review boundaries for zoning/Original holdings	The land covered by the clause was identified in a study undertaken in 1996. The amendment does not propose to amend the boundary of the land identified as Original holdings.

Issue raised	Council response
Purpose of control	The proposal seeks to ensure the clause is applied as intended by removing the opportunity for ambiguity in its application. Specifically, by clarifying what land the density standard applies to. It is not intended that the amendment will change the subdivision potential of land within the Original Holdings.
Concept of Original holding	There has been longstanding protection of these areas which were identified in 1996 as part of the Review of Rural Lands Report. The density clauses were included in 1993 and the principle has been carried out to the current Wollondilly LEP. The transition of the clause meant that the clause was not included in the same way and overtime interpretation of clause has been challenged in the Courts. The proposed amendments are in response to recent legal challenges.
Amendment 6 – Ensure that relevant land is reserved for certain public purposes	
Future use of land	The land identified in the planning proposal has already been acquired and therefore no longer needs to be identified for future acquisition. There is nothing to suggest that the land will be used for any other purpose.

### 3.1.1 Other issues raised

Other matters of concern raised by submissions included:

- Complexity of the documents
- Advocating for further subdivision and rezoning
- Matters outside the Stage 1 planning proposal scope.

The Department considers Council has adequately addressed matters raised in public submissions and made amendments to the proposal where appropriate.

## 3.2 Advice from agencies

In accordance with the Gateway determination, Council was required to consult with agencies listed below in Table 3 who have provided the following feedback.

**Table 3 Advice from public authorities**

Agency	Advice raised	Council response
Environment, Energy and Science (Department of Planning, Industry and Environment)	<ul style="list-style-type: none"> <li>• Recommends alternative wording for the proposed objectives in the E1, E2 and E3 zones.</li> <li>• The removal of an amendment to protect koala habitat corridors and the intention to progress a separate planning proposal is noted. Supports the intention and is available to assist Council to develop local provision.</li> <li>• Notes inconsistency to site references relating to Sydney Water land to be rezoned.</li> </ul>	<ul style="list-style-type: none"> <li>• The purpose of the proposed amendment is to embed health in the consideration of development assessments. The suggested wording is not considered to add value and would shift the focus of the proposed new aim.</li> <li>• Noted.</li> <li>• It is acknowledged that an amendment to the planning proposal to correct the inconsistency will be required as part of any Council resolution.</li> </ul>
Department of Primary Industries	<ul style="list-style-type: none"> <li>• Supports the proposal to introduce LEP clause to protect and enhance the values of the MRA and proposed requirement to consider adequate buffers to protect productive agriculture is supported.</li> <li>• Supports intent but notes that the proposal does not indicate any intended changes to the Land Use Table to alter permissible uses in rural areas.</li> <li>• Recommends further clarification on what constitutes 'productive rural uses'</li> </ul>	<ul style="list-style-type: none"> <li>• Noted</li> <li>• A review of the land use table is not possible at this stage and is likely to be required in response to the Rural Lands Strategy which is currently under preparation.</li> <li>• Recommended proposed clause is supported by controls in the DCP to provide further guidance and clarification on 'productive rural uses.'</li> </ul>

Agency	Advice raised	Council response
NSW RFS	<ul style="list-style-type: none"> <li>No objection to the planning proposal subject to the removal of amendments relating to events, functions in rural areas, new land use definitions and diverse tourist accommodation. These amendments have direct implications for future development on bush fire prone land and would require the preparation of a Strategic Bush Fire Study.</li> </ul>	<ul style="list-style-type: none"> <li>The planning proposal was amended and the proposed amendments were removed from the planning proposal to reflect the RFS comments and timeframes for exhibition and finalisation of the planning proposal.</li> </ul>
Water NSW	<ul style="list-style-type: none"> <li>Generally supportive of the proposal, particularly the new health related provisions.</li> <li>Notes feedback/suggested amendments for the LEP from Water NSW to the LSPS have not been addressed. Requests how and when further reviews will be undertaken to align with the final LSPS. There are opportunities to optimise water management protection outcomes.</li> <li>Recommends alternative working to new LEP aim.</li> <li>Suggest additional heads of consideration for the MRA amendment to include protecting water catchments to help protect water catchments in the SWDC and other catchments.</li> </ul>	<ul style="list-style-type: none"> <li>The LEP Review Program timeframes set by the State Government have directed the scope and extent of the planning proposal and has meant only certain amendments could be progressed at this time. It is intended that updates to the LEP in response to the broader LEP Review program will be progressed in stages.</li> <li>The suggested wording is not considered to add value to the proposed amendment and would shift focus of the proposed new aim.</li> <li>It is suggested the additional matter for consideration is included as it has merit and reflects one of the values of the MRA.</li> </ul>
Roads and Maritime Services within Transport for NSW	<ul style="list-style-type: none"> <li>All existing TfNSW corridors and reservations need to be maintained.</li> <li>Supports Council's approach by completing studies and strategies.</li> <li>Consideration should be given to explicitly mentioning cycling provisions/tree canopy/weather protection etc in the commentary of walkable in support of health and well-being of the community.</li> </ul>	<ul style="list-style-type: none"> <li>The proposal does not include any amendments related to TfNSW corridors.</li> <li>The inclusion of additional commentary is not considered to add any additional value to the progress of the planning proposal at this stage. However, the identified links between elements of the built environment and health and wellbeing of the community are acknowledged.</li> </ul>

Agency	Advice raised	Council response
School Infrastructure NSW	<ul style="list-style-type: none"> <li>Supportive of proposal, subject to consideration of school heritage listings which limit the ability for works to be undertaken under exempt and complying development and the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.</li> </ul>	<ul style="list-style-type: none"> <li>Heritage listings tend to be applied to the whole lot. Further evidence will likely be required to support any amendments to the area identified on the Heritage Map. Further investigation is required to understand the merits of the suggested amendments and what information would be required.</li> </ul>
South Western Sydney Local Health District	<ul style="list-style-type: none"> <li>Supports the inclusion of the health focussed objectives and acknowledged the integration of health from the Community Strategic Plan, into the LSPS and draft LEP.</li> </ul>	<ul style="list-style-type: none"> <li>Noted.</li> </ul>
Sydney Water	<ul style="list-style-type: none"> <li>Noted the current areas within Wollondilly which are expected to provide housing growth, predominately in the Wilton Growth Area and Appin.</li> <li>Sydney Water is currently taking steps to increase the capacity of the Picton Sewage Treatment Effluent Management system to enable future development within the catchment to connect to the system. Sydney Water has in previous communication to Council agreed to service development within the current coverage of the Picton Sewerage System which is permissible under the planning controls in effect at the enactment of the Wollondilly LEP 2011. Sydney Water will continue to work with Council with regards to development within the Picton Sewerage System.</li> </ul>	

Agency	Advice raised	Council response
Blue Mountains Council	<ul style="list-style-type: none"> <li>Supporting of introduction of MRA amendment and suggest that the final drafting of the clause given as strong weight as possible to protect the MRA values.</li> <li>Directed to aims of the Blue Mountains LEP which speak to protection of environmental and cultural values of the area which Council may wish to use in negotiating final drafting.</li> </ul>	<ul style="list-style-type: none"> <li>Noted. Parliamentary Counsel will prepare the final drafting. The proposal has been set out to model the intended sequence and approach for the final clause.</li> <li>The advice is noted and will be considered with future amendments to the Wollondilly LEP following completion of a number of technical studies currently being prepared.</li> </ul>
Campbelltown Council	<ul style="list-style-type: none"> <li>The proposed objectives and amendments are noted. Council would be pleased to be advised of future amendments and continue to collaborate on regional matters of relevance to LGAs.</li> </ul>	Noted.
Wollongong City Council	Council has no comment.	Noted.

The Department considers Council has adequately addressed matters raised in submissions from public authorities.

## 3.3 Post-exhibition changes

### 3.3.1 Council resolved changes

At Council's Ordinary Meeting on 18 August 2020, Council resolved to proceed with the planning proposal with the following minor post-exhibition changes:

#### Amendment 1 (Embedding health in land use planning)

- Update the proposed new zone objective for the E1, E2 and E3 land use zones to refer to 'suitable' opportunities for people to engage with nature.

#### Amendment 2 (Metropolitan Rural Area)

- Include 'protecting water catchments' as a matter for consideration.

#### Amendment 3 (Rezoning Sydney Water Land)

- Remove mapping from Part 4 associated with 550 Wilton Road, Appin (Lots 1 to 3 in DP808006 and Lots 3 & 4 in DP 1085929)
- Update property reference for included land at Douglas Park to Lot 1 in DP 1200484, Moreton Park Road, Douglas Park.

#### Amendment 4 (Sponsorship Advertising at sporting facilities)

- Refine the proposed standard provision prohibiting signs advertising tobacco or alcohol related products to also refer to gambling,
- Remove development standards relating to mesh fencing, maximum advertising display area, rounded corners, and metal frame and include these in a guideline,

- Include new development standards to:
  - Prevent illuminated advertising signs being exempt development;
  - Require compliance with Council's guidelines and specifications for sponsorship advertising at sporting facilities;
  - (Enable balcony signage at Victoria Park, Picton as exempt development but limited to a club identification sign.

### 3.3.2 The Department's recommendation

It is recommended that the amendment be endorsed without requiring further exhibition as it does not change the intent of the planning proposal as exhibited.

### 3.3.3 Justification for post-exhibition changes

The Department notes that these post-exhibition changes are justified and do not require re-exhibition. It is considered that the post-exhibition changes:

- Are a reasonable response to comments provided in submissions and comments from public authorities.
- Do not alter the intent of the planning proposal and are minor amendments to the planning proposal.
- Are to rectify minor inconsistencies in references.

## 4 Department's Assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination (**Attachment B**) and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

As outlined in the Gateway determination report (**Attachment E**), the planning proposal submitted to the Department for finalisation:

- Remains consistent with the regional and district plans relating to the LGA.
- Remains consistent with the Council's Local Strategic Planning Statement.
- Remains consistent with all relevant Section 9.1 Directions or where inconsistent it is justified.
- Remains consistent with all relevant SEPPs.

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 4.1.

**Table 4 Summary of strategic assessment**

	Consistent with Gateway determination report Assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
District Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

	Consistent with Gateway determination report Assessment	
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Planning Panel (LPP) recommendation	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Section 9.1 Ministerial Directions	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

**Table 5 Summary of site-specific assessment**

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Environment impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

## 4.1 Detailed Assessment

The following section provides details of the Department's assessment of key matters and any recommended revisions to the planning proposal to make it suitable.

The planning proposal is the first stage of aligning the Wollondilly LEP 2011 with the Wollondilly LSPS and it also responds to section 3.8(4) of the EP&A act which requires councils to review their LEP to ensure it gives effect to the relevant district plan within two years of the district plan being made final.

The planning proposal seeks to make a number of amendments to the Wollondilly LEP 2011, however further amendments are anticipated to be made in the future to reflect the outcomes of strategic studies of the Wollondilly LGA currently being undertaken and finalised. The proposal was deemed by the Gateway determination to have strategic merit.

### 4.1.1 Section 9.1 Directions

A condition of Gateway determination required Council to address the unresolved inconsistency with the following section 9.1 Directions:

#### 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 environmental protection zones.

The proposal is inconsistent with this direction as it will rezone some rural land to SP2 Infrastructure. The inconsistency is of minor significance as the proposed land to be rezoned has Sydney Water infrastructure already located on it.



### 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 as it seeks to rezone residential zoned land to SP2 Infrastructure thereby reducing the permissible residential density of that land. The inconsistency is 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. The inconsistency with this direction is of minor significance as there will be no flooding impacts.

## 4.1.2 State Environmental Planning Policies (SEPP)

The draft LEP is considered consistent with relevant SEPPs.

## 4.1.3 State, regional and district plans

### **District**

The planning proposal is consistent with the Western City District Plan.

### **Local**

The planning proposal directly seeks to implement the Wollondilly Local Strategic Planning Statement. The Wollondilly LSPS was endorsed by the GSC on 11 February 2020 and adopted by Council on 27 March 2020.

# 5 Post assessment consultation

The Department has consulted with the following stakeholders after the assessment.

**Table 6 Consultation following the Department's assessment**

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	25 maps have been reviewed by the Department's ePlanning team and meet the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

Council	<p>Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i> (<b>Attachment F</b>).</p> <p>Council provided comments on the draft LEP on 19/02/2021 (<b>Attachment G</b>), noting the following:</p> <ul style="list-style-type: none"> <li>• Update clause 1.2 Aims of Plan and Land Use Table (Rural Zones) to reference 'residents, workers and visitors' rather than 'community'.</li> <li>• Update Land Use Table (Rural zones) to also reference 'residents, workers and visitors' in cl 1.2 and the land use table.</li> <li>• Update Land Use Table (Residential zones) to provide flexibility for conditions that do not relate to connections/walkability.</li> <li>• Update Land Use Table (Industrial zones) to provide an explicit reference to 'health'.</li> <li>• Update Land Use Table (Environmental zones) to also make reference to 'having a planet to live on'.</li> <li>• Update Clause 4.1B Subdivision of certain land in Zone E4 Environment Living to 'ensure that it applies to all land within the original holding and not just land within a development application boundary'.</li> <li>• Update 7.9 Development within metropolitan rural area to include 'protecting water catchments' as a matter for consideration and remove the reference to 'soil instability' under 7.9(b)(v).</li> <li>• Update 7.10(3)(c) (Signage at outdoor sporting venues) to ensure that the signage is only located and oriented towards areas facing onto the sports field.</li> <li>• Update 7.10(3)(b) to apply to and be restricted to internal fencing around the sporting area and not just any internal fencing.</li> <li>• Update clause 7.10 to also include 'club identification sign' in the form of balcony signage at Victoria Park, Picton.</li> <li>• Update clause 7.10 to address the need for sponsorship advertising signage to comply with Council's guideline on Sponsorship Advertising at Sporting Facilities.</li> </ul>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No, see below for details</p>
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Stakeholder	Consultation	The Department is satisfied with the draft LEP
	<p>DPIE Comment:</p> <p>Since Council provided comments on the draft LEP, the draft instrument has been amended. The term 'community' has been changed to residents, workers and visitors in clause 1.2 and the environmental zone land use table. The change is not appropriate for the residential and industrial zones</p> <p>The objective of clause 4.1B is to ensure that Zone E4 is not subdivided to significantly increase the density of development. The clause expressly applies to E4 zone land only.</p> <p>The MRA provision has been updated to include 'protecting water catchments' as an additional consideration. Reference to 'soil stability' has been replaced with 'flooding'.</p> <p>Rather than permit a site-specific exception for Victoria Park, the clause 7.10 has been expanded to include club identification signs on internal fencing or a balcony and combined with a revision for signage to face the playing area and not be visible from outside the sporting venue. The revision is considered to offer sufficient latitude for interpretation i.e. internal fencing could be interpreted as internal to the perimeter of the facility but must face the sporting field. As Council does not currently have an adopted guideline for sponsorship advertising at sporting facilities the reference to an undated guideline in the LEP is considered too ambiguous.</p>	
Parliamentary Counsel Opinion	On 23/03/2021, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at <b>Attachment PC</b> .	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

## 6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- The draft LEP has strategic merit being consistent with the Western City District Plan and Wollondilly Local Strategic Planning Statement.
- It is consistent with the Gateway Determination and all conditions have been addressed.
- Issues raised during consultation have been addressed, and there are no outstanding agency objections to the proposal.



23 March 2021

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Assessment officer

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## Attachments

**Attachment A** – Planning Proposal

**Attachment B** – Gateway Determination

**Attachment C** – Gateway Determination Report