

Greater Sydney, Place and Infrastructure

IRF19/5709

Plan finalisation report

Local government area: Wollondilly

1. NAME OF DRAFT LEP

Wollondilly Local Environmental Plan 2011 (Amendment No 36) (draft LEP). The draft written instrument is at **Attachment LEP**.

2. SITE DESCRIPTION

The draft LEP applies to three allotments in the North Silverdale, within the Wollondilly Local Government Area (LGA). The site is irregular in shape and has a total area of approximately 64,000m². The subject allotments are shown in Table 1 (below).

Table 1: Subject allotments

	Street Address	Lot	DP
1	2300 Silverdale Road, Silverdale	10	DP 38123
2	2316 Silverdale Road, Silverdale	200	DP 1092447
3	2320 Silverdale Road, Silverdale	199	DP 1092447

The site is zoned B1 Neighbourhood Centre and RU2 Rural Landscape, under the Wollondilly Local Environmental Plan (LEP) 2011. The land zoned B1 comprises a village centre with a petrol station, small IGA supermarket, shops, and a large car parking area. The RU2 portion of the site comprises an operational large-scale plant nursery and large rural lots which are typically used for rural residential purposes.

A poultry farm adjoins the site on the northern boundary. Land to the east is zoned RU1 Primary Production and is vegetated. Land to the south west is zoned IN2 Light Industrial and land to the south is zoned R5 Large Lot Residential and comprises large rural fringe residential lots of 4,000m².

3. PURPOSE OF PLAN

The draft LEP seeks to enable the expansion of the Silverdale town centre, as follows;

- Amending the land zoning on the site (Figure 1), as follows:
 - from B1 Neighbourhood Centre to B2 Local Centre; and
 - from RU2 Rural Landscape to B2 Local Centre and B4 Mixed Use.
- Amending the minimum lot size (MLS), as follows:
 - no MLS provision for the B1 Neighbourhood Centre. The B2 Local Centre is also proposed to have no MLS; and
 - from 16 ha for the RU2 Rural Landscape zoned land to 1250m² for the B4 Mixed Use zoned land.

- Amending the Height of Building Map, as follows:
 - applying a maximum building height of 11m to the land zoned B2 Local Centre; and
 - applying a maximum building height of 9m to the B4 Mixed Use zoned land.
- Including certain land on the Natural Biodiversity Map.
- Including certain land on the Odour Buffer Map.

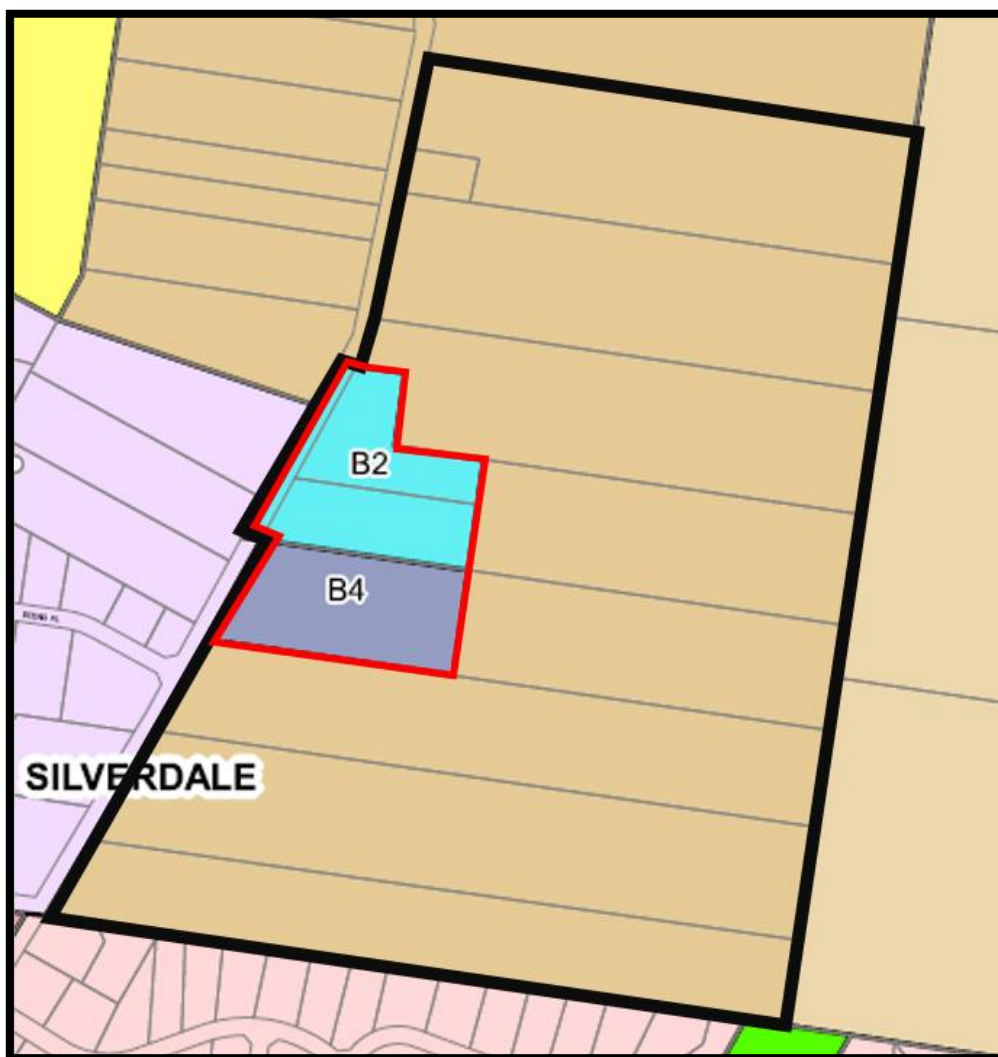


Figure 1: Proposed land zoning.

The Department has resolved to proceed only with the portion of the planning proposal **(Attachment A)** applying to the commercial component and defer the residential and environmental lands component. The rezoning of the residential and environmental land component of the proposal, is to be deferred; until odour and land-use conflicts associated with the poultry farm, servicing, contributions and traffic issues are investigated, and it has been determined that residential development can be accommodated on the subject land. This matter is addressed further in the Section 9 of this report.

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Mulgoa state electorate. Tanya Davies MP is the State Member.

The site falls within the Werriwa federal electorate. Anne Stanley MP is the Federal Member.

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

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: there are no donations or gifts to disclose and a political donation disclosure is not required.

5. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 1 May 2013 (**Attachment B**) determined that the proposal should proceed subject to conditions. The Gateway determination conditions have been satisfactorily met.

The Gateway determination has been altered previously as follows: on 25 June 2013, 20 May 2015, 12 June 2015, 12 November 2015, 19 September 2016, 17 November 2017 and 8 June 2018 (**Attachment C**).

The finalisation date for this proposal expired on 30 October 2018.

The Department received the request by Council to finalise the planning proposal. The Department is now satisfied that the planning proposal is adequate for finalisation.

A table outlining the amending plans consistency with the Gateway determination conditions and Gateway determination alterations is at **Attachment D**.

6. EXHIBITED PLANNING PROPOSAL

It is noted that the exhibited planning proposal applies to land larger than the draft LEP. The exhibited planning proposal (**Attachment A**) applies to 10 allotments at 2550 – 2350 Silverdale Road, North Silverdale. The land is generally rectangular and has a total area of approximately 68 hectares (ha) in size. These lots are legally described in Table 2 below.

Table 2: Subject allotments

	Street Address	Lot	DP
1	2250 Silverdale Road, Silverdale	122	DP 747833
2	2260 Silverdale Road, Silverdale	121	DP 747833
3	2280 Silverdale Road, Silverdale	11	DP 38123
4	2300 Silverdale Road, Silverdale	10	DP 38123
5	2316 Silverdale Road, Silverdale	200	DP 1092447
6	2320 Silverdale Road, Silverdale	199	DP 1092447
7	2324 Silverdale Road, Silverdale	2	DP 519533
8	2330 Silverdale Road, Silverdale	7	DP 38123
9	2340 Silverdale Road, Silverdale	A	DP 161634
10	2350 Silverdale Road, Silverdale	6	DP 1086326

The exhibited planning proposal sought to amend the Wollondilly LEP 2011, as follows:

- Rezoning the land zoning on the site (Figure 2), as follows:
 - from B1 Neighbourhood Centre to B2 Local Centre; and
 - from RU2 Rural Landscape to B4 Mixed Use, R2 Low Density Residential, R3 Medium Density Residential, and E3 Environmental Management.

- Amending the minimum lot size from no MLS for the B1 Neighbourhood Centre zoned land and a MLS of 16 ha for the RU2 Rural Landscape zoned land, as follows:
 - no MLS for B2 Local Centre and E3 Environmental Management zoned land;
 - a MLS of 1250m² for the B4 Mixed Use zoned land;
 - a MLS of 700m² for land zoned R2 Low Density Residential; and
 - a MLS of 975m² for the land zoned R3 Medium Density Residential.
- Amending the Height of Building Map, as follows:
 - applying a maximum building height of 11m to the land zoned B2 Local Centre;
 - applying a maximum building height of 9m to the B4 zoned land, R2 Low Density Residential and the R3 Medium Density Residential zoned land; and
 - no building height was proposed for the E3 Environmental Management zoned land.
- Including certain land on the Natural Resources Biodiversity Map, subject to clause 7.2 Biodiversity Protection under the Wollondilly LEP 2011;
- Including the site on the Urban Release Area Map, subject to part 6 Urban release areas under the Wollondilly LEP 2011; and
- Including part of the site (proposed residential zoned land within 500m of adjoining poultry farm) on the Odour Buffer Area Map, subject to clause 7.6 Development within a designated buffer area under the Wollondilly LEP 2011.

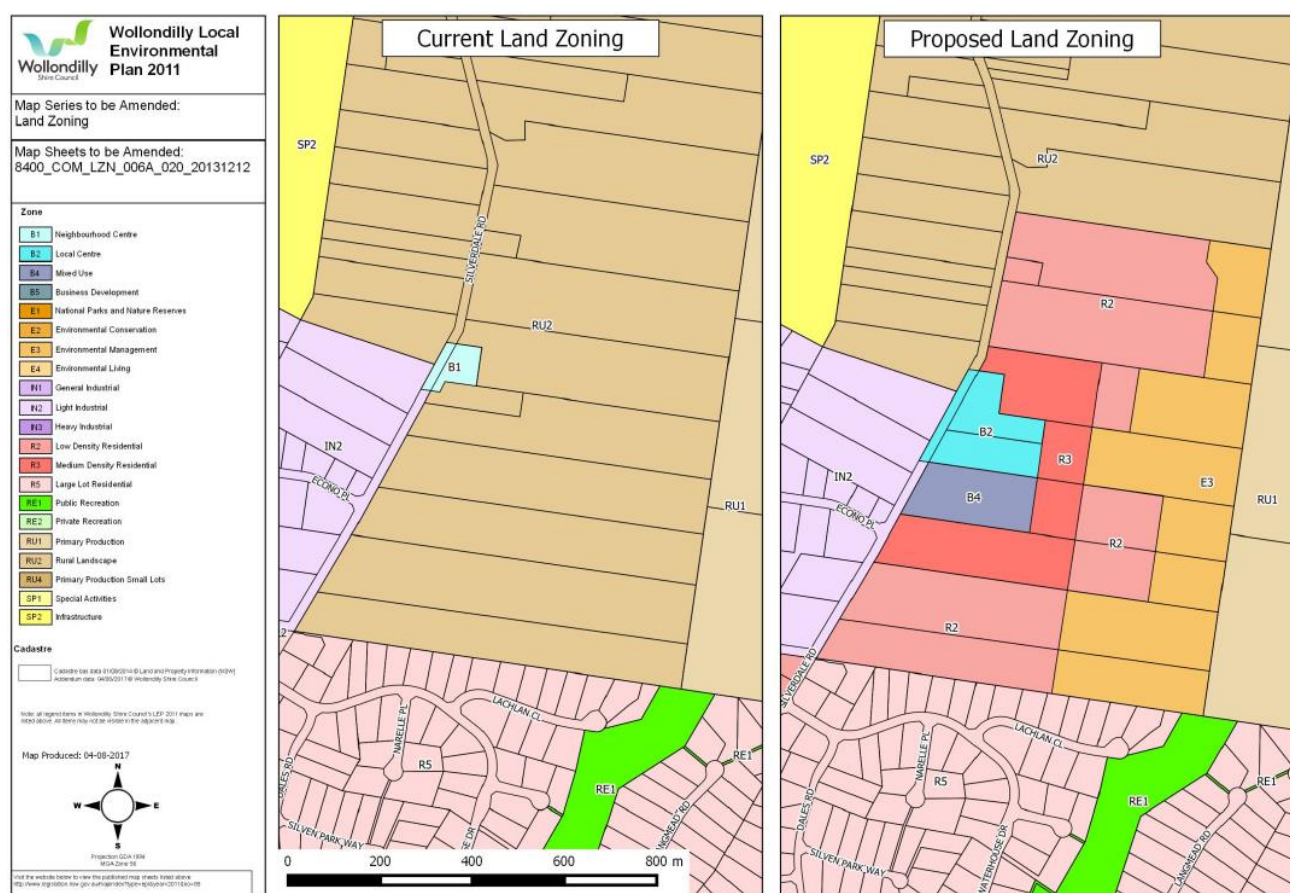


Figure 2 – Exhibited Land Zoning.

7. PUBLIC EXHIBITION

The planning proposal was publicly exhibited by Council from 30 August 2017 to 27 September 2017. A total of 122 submissions were received from community members. Of these, 114 supported the proposal, six objected and two were neutral, but raised issues they would like addressed. The discussion below only considers comments on the commercial component of the planning proposal.

The proposal was largely supported by the community for the following reasons:

- the development would revitalise the area, improve patronage to local businesses, and create jobs;
- the rezoning would allow the site to be redeveloped to provide a full line supermarket, speciality shops, footpaths, improved car parking and will generally result in upgraded services; and
- the redevelopment will reduce the need for locals to travel to facilities in other centres, would assist to provide affordable housing and improve the visual aesthetics of the area.

Council considered the community submission in the Council Report (**Attachment E1**) and the main issues are discussed below.

7.1 Traffic impacts

Concerns were raised that the proposed development would increase traffic and negatively impact the operation of the existing road infrastructure.

Department comment

Consideration of traffic impacts is discussed under Section 8 of this report.

7.2 Financial Contributions

Submissions raised concerns about who would be fiscally responsible for any required road infrastructure upgrades.

Council noted that the scale of the proposal would rely on a significant level of supporting infrastructure, including upgrades to existing traffic infrastructure. The local Voluntary Planning Agreement (VPA) would address the future infrastructure works required.

As a local VPA has not been entered into, Council requested the inclusion of a site-specific clause in Council's LEP requiring the provision of satisfactory information regarding the provision of infrastructure on the site, including: roadworks; signals; and potential road widening required as a result of the works.

Department comment

The road is an unclassified regional road, managed by Council. Should local infrastructure be required as a consequence of the development, Council should levy developer contributions the appropriate local contribution scheme or a local VPA.

Further, the proponent has provided Council with a Letter of Offer (**Attachment F**) which proposes to deliver the following:

- a VPA being lodged with Council concurrently with the lodgement of the first development application on the site, once the rezoning has been effected; and
- an outline of the works proposed to be constructed through the VPA, in relation to traffic and road widening works.

The Department does not support the provision of a site-specific clause. It is satisfied that future road and traffic upgrades and any associated contributions can be adequately

considered, and dealt with by the consent authority, during the development application process.

7.3 Egress during emergencies

The lack of egress during emergencies such as flooding and bushfire was raised, as access to the site is only possible via Silverdale Road.

Council noted that Silverdale Road runs north-south through the suburb of Silverdale. Council considers suitable provisions can be incorporated to respond to emergency situations.

Department comment

The village of Wallacia is located to the north and Camden city centre can be accessed by heading south. The Rural Fire Service (RFS) did not raise any objections on the planning proposal in relation to egress. The Department notes that rezoning the land for the commercial component is unlikely to have a negative impact on evacuation measures during emergency situations.

7.4 Overdevelopment and associated impacts

Submissions raised concerns regarding overdevelopment and associated impacts, such as noise, pollution, crime and loss of rural values.

Council advised that the proposal was supported by an Economic Impact Study which demonstrated additional retail and commercial floor space and car parking is needed in the Silverdale area.

Council also advised it is unlikely the proposal will unreasonably increase noise and air pollution in the area. Future development would be required to be considered against the Crime Prevention Through Environmental Design Principles (CPTED) to ensure crime prevention is maximised.

Department comment

The Economic Impact Study concluded an expanded commercial centre would have positive economic impacts in the locality and would not threaten the viability of the existing retail hierarchy. The expansion of the Silverdale Shopping Centre will create employment, improve parking and expand the range of retail facilities within Silverdale.

The Department agrees with Council's assessment of noise, crime and air pollution and is satisfied that the proposed development is unlikely to result in overdevelopment or negatively affect local amenity.

8. ADVICE FROM PUBLIC AUTHORITIES

Council was required to consult with Sydney Water, NSW Health, NSW Police Force, Fire and Rescue NSW, NSW Department of Education (formerly Department of Education and Communities), Transport for NSW, Roads and Maritime Services, NSW State Emergency Service, the former Office of Environment and Heritage (now the Environment, Energy and Science group within DPIE), NSW Department of Primary Industries – Agriculture, NSW Trade and Investment – Mineral Resources and Energy, NSW Local Land Services (formerly Hawkesbury-Nepean Catchment Management Authority), NSW Department of Primary Industries – Office of Water, NSW Rural Fire Service, and adjoining LGAs, in accordance with the Gateway determination. Council has consulted these authorities and the submissions are provided in **Attachment G**.

Council also consulted the following authorities: Cubbitch Barta Native Title Claimants Aboriginal Corporation, Tharawal Aboriginal Land Council, Endeavour Energy, Ambulance Service of NSW, and South-Western Sydney Local Health District.

Public agencies provided advice on the proposed rezoning of the site for the purposes of an expansion to the commercial centre, low and medium density development and environmental purposes. However, the discussion below only considers the comments related to the commercial component.

8.1 Rural Fire Service (RFS)

RFS advised the subject lots are identified as bushfire prone. No objections were raised on the provision, that future development is appropriately designed to comply with Planning for Bushfire Protection 2006 and AS3959-2009 Construction of buildings in bushfire prone areas.

8.2 Sydney Water

On 5 February 2020, Sydney Water provided the following advice (**Attachments H1 & H2**) has confirmed wastewater servicing is available on the portion of the site proposed to be zoned B2 Local Centre. Development may proceed on the proposed adjoining B4 Mixed Use zoned land, if feasibility and servicing requirements can be demonstrated, or when the Wallacia Wastewater Treatment Plant (WTP) plant upgrades occur in 2026

An application has been made to Sydney Water for development at 2320 Silverdale Road, Silverdale (Lot 199 DP 1092447) and Sydney Water advised it has capacity to service this development (Sydney Water case number 153895) (**Attachment H2**).

Sydney Water also advised it cannot commit to wastewater servicing on the adjoining lots at 2300 and 2316 Silverdale Road (Lot 10 DP 38123 and Lot 200 DP 1092447) before the upgrades occur in 2026, without more detailed information. Sydney Water recommended the proponents would need to engage a Water Servicing Coordinator and submit a feasibility application to enable assessment of projected wastewater volumes before servicing requirements can be determined (**Attachment H2**).

Department Comment

The Department advised Planning Plus, the consultant acting on behalf of the landowners (**Attachment I1**), that it may be possible the rezoning will trigger an increase in land rates and development may not be possible on the site until servicing becomes available in 2026.

Planning Plus, has also advised that it is pursuing wastewater servicing arrangements with Sydney Water on the B4 Mixed Use zoned land at Lot 200 DP 1092447, 2316 Silverdale Road, Silverdale and Lot 10 DP 38123, 2300 Silverdale Road, Silverdale. The preliminary verbal advice is that the issue of wastewater can be satisfactorily resolved on these allotments (**Attachment I2**).

The availability of the services may depend upon the use of the site under the zone, where wastewater loads may not be an impediment to development. Consequently, it is considered the rezoning proceeds on this basis.

8.3 Trade & Investment – Resources and Energy

Trade and Investment – Resources and Energy Division advised the site overlies the northern portion of Coal Authorisation A, the northern most point of the Department's Southern Coalfield titles. Coal resources underlie the subject area, but the depth and thickness indicate that mining would be unlikely in the foreseeable future and raised no issues with the proposal.

8.4 Department of Primary Industries (DPI) – Agriculture

The Department of Primary Industries – Agriculture raised the following concerns:

- the development would impact the commercial poultry farms to the north of the site due to complaints from residents/businesses experiencing odour and noise;
- the EPA odour assessment indicates odour could occur within 1700m of the poultry sheds, the proposed 500m buffer is not substantiated by evidence;
- a noise impact assessment has not been provided, it is highly recommended the consent authority consider the need to incorporate noise mitigation measures in noise sensitive developments; and
- recommends council may need to provide some assurance that any odour or noise complaints directed at the poultry farm as a result of the proposed rezoning do not compromise the normal operation of the farm.

In response to issues raised by DPI (Agriculture), Council requested the Department work with the proponent to resolve the concerns raised.

Department Comment

Odour

In response DPI-Agriculture's comments, an odour buffer is proposed to be applied to the subject site, subject to clause 7.6 Development within a designated buffer area, under the Wollondilly LEP 2011.

This clause compels Council to consider the following, prior to issuing development consent:

- the impacts any odour associated with the poultry farm would have on the proposed development;
- any measures proposed to limit the impact of odour emissions; and
- whether the proposed development would adversely affect the operation of the poultry farm.

Further, it is anticipated Council would require future development applications to provide an Odour Study to demonstrate consistency with the clause requirements.

The Department is satisfied that the inclusion of the site to the Odour Buffer Map, subject to clause 7.6 will ensure the consent authority must be satisfied the new development would not restrict the operation of the poultry farm and that the future development is suitable to be located near the poultry farm.

Noise

The Wollondilly Development Control Plan 2016, contains objectives and controls which require the consent authority to consider noise in assessing development applications.

Clause 2.9 Non-Residential Development specifically seeks to ensure the subdivision of land is carried out with due regard for other forms of existing non-residential development, in the locality. The consent authority must be satisfied the new development would not restrict the ability of the existing development to meet amenity requirements in relation to issues such as noise.

The Department is satisfied that noise impacts will be adequately considered by the consent authority during the development application process, and if required, the consent authority may request a noise impact assessment to support an application.

8.5 Roads and Maritime Services (RMS)

Advice was sought from RMS on potential road works/upgrades and contributions arising from the commercial component of the proposal. The RMS provided the following comments (**Attachment J**):

- finalising the commercial component will reduce the impact of the planning proposal, however, it is not possible to make an informed decision without an update to the traffic impact assessment (TIA);
- the TIA would need to detail:
 - likely traffic generation rates and distributions from the commercial component only;
 - intersection modelling to support identified treatment/s; and
 - strategic design of the identified treatment/s to clarify the scope of works and demonstrate a compliant design could be constructed within the existing property boundaries; and
- in addition to the above, the planning proposal should detail an appropriate planning mechanism to ensure the identified treatment/s are funded and delivered in a timely manner.

RMS advised Silverdale Road is an unclassified regional road managed by Council. If public infrastructure including road and traffic upgrades are required because of any future development, Council can seek developer contributions towards the cost of providing the required infrastructure as a condition of development consent.

Further, RMS advised it will not issue any consents or concurrences for road works until its concerns have been satisfactorily addressed. It is anticipated that the consent authority would request an updated Traffic Impact Assessment to support any future development applications.

Department Comment

A Letter of Offer was provided by the proponent in August 2018 (**Attachment F**). The offer proposed to undertake traffic intersection and road widening works as required and advises a local VPA will be lodged with Council, concurrently with the lodgement of the first development application on the site, once the land has been rezoned. In addition, Planning Plus in its recent correspondence of 25 February 2020, advised the Department that the landowners group accepts additional work is required on the TIA (**Attachment I2**).

Future road and traffic upgrades can be adequately considered and dealt with by the relevant consent authorities during the development application process. Consequently, it is considered the rezoning proceeds on this basis.

9. POST-EXHIBITION CHANGES

9.1 Council Changes

On 21 May 2019, Council wrote to the Department, as the Delegate of the Minister, requesting the planning proposal proceed to the plan making process, in an amended form (**Attachment K**), as follows:

- by amending the land zoning on the site, as follows:
 - from B1 Neighbourhood Centre to B2 Local Centre; and
 - from RU2 Rural Landscape to B2 Local Centre and B4 Mixed Use.
- by amending the minimum lot size zoned land, as follows:
 - from no MLS for the B1 Neighbourhood Centre to no MLS for the B2 Local Centre; and
 - from a MLS of 16 ha for the RU2 Rural Landscape zoned land to 1250m² for the B4 Mixed Use zoned land.

- by amending the Height of Building Map, as follows:
 - applying a maximum building height of 11m to the land zoned B2 Local Centre; and
 - applying a maximum building height of 9m to the B4 Mixed Use zoned land;
- including certain land on the Natural Biodiversity Map;
- including a cap in the LEP limiting the number of dwellings in the B4 zone to 26;
- referring the decision on whether to include the land as an Urban Release Area to the Minister;
- including a clause to ensure that development consent cannot be granted until there are site-specific planning controls in place for the land; and
- deferring the residential and environmental land component.

Residential and environmental land component

Council resolved (**Attachment E2**) to defer making the residential and environmental land component of the proposal, for the following reasons:

- unresolved RMS, traffic and road issues;
- no mechanism is in place to provide local infrastructure including parks, footpaths, drainage, road upgrades and widening;
- noise, dust and odour concerns from the adjoining poultry farm have not been resolved; and
- unresolved and inadequate justification to support the proposed medium density residential increase and whether the increase is:
 - local growth;
 - in keeping with the existing local character of the area; and
 - consistent with or enhances the values of the Metropolitan Rural Area.

9.2 Department Consideration

Residential and environmental land component

The deferral of the residential and environmental land component will ensure these aspects of the proposal remain valid, while allowing time for the unresolved issues to be investigated and to determine if residential development can be accommodated on the subject land.

Urban Release Area

The purpose of identifying the site as an urban release area is to provide a mechanism to ensure satisfactory arrangements are made for the provision of designated State public infrastructure.

The amending plan is not seeking to develop the land intensively for urban purposes, and therefore, the provision of State public infrastructure is not required. Accordingly, the subject site is not recommended for inclusion on the Urban Release Area Map subject to Part 6 of the Wollondilly LEP 2011.

Dwelling Cap

The main objectives of the B4 Mixed Use zone under the Wollondilly LEP 2011 is to provide a mix of compatible land uses, including business, office, residential, retail and other development to encourage local employment, in accessible locations. Residential accommodation within the B4 zone is limited to Boarding Houses, Seniors Housing, and Shop Top Housing to ensure a mixed-use development can be achieved within the zone.

In March 2018, Council requested the provision of a dwelling cap, of no more than 26 residential dwellings, in the B4 Mixed Use zone (**Attachment L1**). In June 2018 the Department advised Council it had provided insufficient information for the Department to support the provision of a dwelling cap (**Attachment L2**).

When the amending plan was lodged for finalisation Council again requested the provision of a dwelling cap, however neither an adequate justification or additional information to support the provision a dwelling cap was provided.

Further, the proposed development controls for the B4 zoned land will provide limitations on the number of dwellings achievable on the land therefore a dwelling cap is not recommended.

Site-specific planning controls

Council sought to apply a site-specific clause within the LEP requiring the following:

- drainage infrastructure required including costs, maintenance requirements and any proposed dedication of land;
- a plan which shows connecting footpaths within the site;
- satisfactory information regarding the provision of infrastructure on the site including roadworks, signals and potential road widening required as a result of the works. All land dedication needs to mapped and quantified and then needs to be valued; and
- schedule of land, works, monetary contributions and maintenance contributions.

These requirements may be imposed, as part of the development application process, under Council's 7.11 Contributions Plan and/or in accordance with clause 7.1 Essential Services of the Wollondilly LEP 2011. Further, Council has had the opportunity to seek contributions, prepare a 7.11 plan if necessary or enter into a voluntary planning agreement.

It is noted that while it is beneficial to have a VPA in place at the planning proposal stage, where this is not possible it is a matter for consideration of the consent authority at the development application stage and accordingly, site specific planning controls are not recommended to be supported.

9.2 Department Recommendation

It is recommended that the delegate of the Minister rezones the commercial component of the proposal and defers rezoning the residential and environmental land until land use conflicts, infrastructure provisions, servicing and traffic impacts have been resolved, for the following reasons:

- Rezoning the commercial component will allow the commercial element to proceed to the development application stage, enabling the expansion and redevelopment of the North Silverdale Town Centre, which was generally supported by the community.
- Deferring the rezoning of the residential and environmental land component will ensure these aspects of the proposal remain valid and allow time for the unresolved issues to be investigated, without delaying the commercial aspect.
- The Gateway determination conditions as well as the relevant community and public agencies submissions have been satisfied.
- The plan is consistent with the relevant section 9.1 Directions and State Environmental Planning Policies.
- The amending plan gives effect to the Western City District Plan.
- The subject land will not impact on the operation of the future Western Sydney Airport.

10. ASSESSMENT

10.1 Section 9.1 Directions

There were no unresolved section 9.1 Directions.

Direction 3.4 Integrated Land Use and Transport

RMS recommended the proposal be updated to address section 9.1 Direction 3.4 Integrated Land Use and Transport. This recommendation was made during and again after the public exhibition period in its correspondence.

While RMS raised this issue, the proposal was not updated post exhibition by Council. It is understood that Council did not consider this necessary as Council has resolved to progress the commercial component of the plan and defer the residential and environmental land component.

In these circumstances further consideration of this direction is not considered necessary.

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

This Direction came into effect in August 2018 and applies to land located within the Western Sydney Aerotropolis and land affected by the obstacle limitation surface (OLS) and ANEF contours for Western Sydney Airport.

This direction is relevant as the site is located within the Obstacle Limitation Surface and has an OLS height relative to ground level of 62.4m. The maximum height proposed for the subject land is 11m and will not intrude into the OLS or affect the operation of the airport. The site is not located within the Australian Noise Exposure Forecast (ANEF) proposed alignment.

Therefore, the amending plan is considered consistent with this Direction.

10.2 State environmental planning policies

The draft LEP is consistent with relevant SEPPs or deemed SEPPs.

10.3 State, regional and district plans

The Western City District Plan is the relevant plan for the subject site. The proposal gives effect to the Western City District Plan, however, its location within the Metropolitan Rural Area requires discussion.

Metropolitan Rural Area

The subject site is located within the Metropolitan Rural Area (MRA) under the Western City District Plan (Plan) and the Plan seeks to limit development to existing urban areas and maintain or enhance the values of the MRA, using place-based planning.

The proposal was lodged in 2013 and exhibited in 2017, preceding the introduction of the Plan, which came into effect in March 2018. As the site is identified as MRA, Council sought advice from the Greater Sydney Commission (GSC) on the location of the site within the Metropolitan Rural Area.

The GSC advised that proposals that seek to facilitate growth in rural towns and villages, such as Silverdale, will need to consider how the proposal:

- responds to local demand for growth;
- maintains and enhances the character of the town or village; and
- considers the surrounding landscape and rural activities.

The Silverdale and Warragamba Structure Plan under the Wollondilly Growth Management Strategy (GMS) 2011 identifies the land adjoining the existing B1 zone as suitable for

commercial expansion and specifies any commercial expansion needs to be linked to residential growth (Figure 3).

The initial planning proposal lodged with Council (October 2011) sought to expand the commercial component of the site and rezone it B2 Local Centre. Council advised the proposal needed to meet the requirements of Council's GMS to demonstrate residential growth linked to the commercial expansion.

In response to these comments, the proponent revised the proposal to include land to be rezoned land for residential purposes. The revised planning proposal was subsequently lodged with the Department for Gateway.

The Department's Gateway determination Assessment Report found the subject land had limited potential for significant future rural uses, was well located for the orderly expansion of Silverdale and was generally consistent with the draft South West Subregional Strategy, the relevant regional plan at that time (page 6 of **Attachment M**).

The proposal has demonstrated consistency with the relevant strategic plans over the history of the proposal and predates the introduction of the Western City District Plan. The expansion of the commercial centre responds to local demand for growth, is a minor expansion to the village of Silverdale, is generally supported by the local community and does not adversely diminish the character of the village or the surrounding landscape. On this basis the commercial rezoning is recommended to be supported.

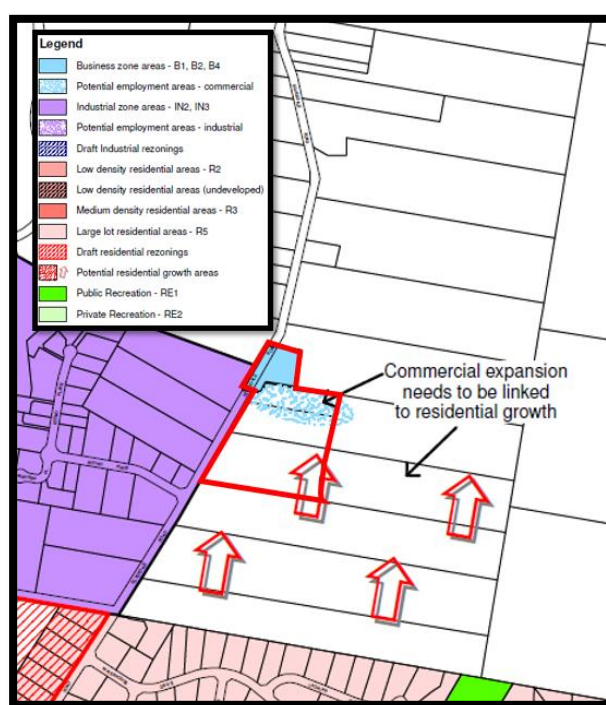


Figure 3: Extract from Wollondilly Growth Management Strategy – subject site is highlighted in red

11. MAPPING

The amending plan seeks to amend the following maps:

- 1) Land Zoning Map – map tile 006A;
- 2) Lot Size Map – map tile 006A;
- 3) Height of Building Map – map tile 006A;
- 4) Natural Resources – Biodiversity Map – map tile 006A; and
- 5) Odour Buffer Area Map – map tile 006A.

The maps and map cover sheet are correct, have been checked by the Department's ePlanning Team and sent to Parliamentary Counsel.

12. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment N**). Council advised that it did not support the draft instrument as it was inconsistent with the Council resolution (**Attachment O**) as the amendment did not seek to include a dwelling cap or insert a site-specific clause to ensure the provision of local infrastructure

Council provided insufficient information to support the inclusion of a dwelling cap, and accordingly a dwelling cap has not been applied. The site-specific planning controls proposed by Council are not recommended to be supported as these requirements may be imposed as part of the development application process (refer to Section 9 of this report).

13. PARLIAMENTARY COUNSEL OPINION

On 10 March 2020 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

14. 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:

- Rezoning the commercial component will allow the commercial element to proceed to the development application stage, enabling the redevelopment of the North Silverdale Town Centre, which was generally supported by the community.
- Deferring the rezoning of the residential and environmental land component will ensure these parts of the proposal remain valid and allow time for the unresolved issues to be investigated, without delaying the commercial aspect.
- The Gateway determination conditions as well as the relevant community and public agencies submissions have been satisfied.
- The plan is consistent with the relevant section 9.1 Directions and State Environmental Planning Policies.
- The amending plan gives effect to the Western City District Plan.
- The subject land will not impact on the operation of the future Western Sydney Airport.



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