

Thirlmere Way, Tahmoor

Proposal Title : **Thirlmere Way, Tahmoor**

Proposal Summary : **To rezone land from rural to low density residential.**

PP Number : **PP_2013_WOLLY_001_00**

Dop File No : **WA443781**

Proposal Details

Date Planning : **11-Feb-2013**

LGA covered : **Wollondilly**

Proposal Received :

Region : **Sydney Region West**

RPA : **Wollondilly Shire Council**

State Electorate : **WOLLONDILLY**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Precinct**

Location Details

Street : **90 Thirlmere Way**

Suburb : **Tahmoor**

City : **Wollondilly**

Postcode :

Land Parcel : **LOT 2 DP 737056**

DoP Planning Officer Contact Details

Contact Name : **David Radich**

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RPA Contact Details

Contact Name : **Kitty Carter 0246778230**

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DoP Project Manager Contact Details

Contact Name : **Stephen Gardiner**

Contact Number : **0298601536**

Contact Email : **stephen.gardiner@planning.nsw.gov.au**

Land Release Data

Growth Centre : **N/A**

Release Area Name : **N/A**

Regional / Sub : **Metro South West subregion**

Consistent with Strategy : **Yes**

Regional Strategy :

Thirlmere Way, Tahmoor

MDP Number :		Date of Release :	
Area of Release (Ha) : 2.45		Type of Release (eg Residential / Employment land) :	Residential
No. of Lots : 0		No. of Dwellings (where relevant) :	20
Gross Floor Area : 0		No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with : Yes			
If No, comment :			
Have there been meetings or communications with registered lobbyists? : No			
If Yes, comment : At this point in time, to the best of the regional team's knowledge, the Department's Code of Practice in relation to communications and meetings with lobbyists has been complied with. No such communications or meetings have occurred.			

Supporting notes

Internal Supporting Notes :

The Proposal will provide additional housing opportunities by rezoning a parcel of land from RU4 Primary Production Small Lots to R2 Low Density Residential.

The land is located adjacent to an existing residential area with urban services provided. The location of the proposal is 1km from Tahmoor Train Station and 1.3km from Tahmoor's employment area. The rezoning of the land is in keeping with the existing residential density of the area and provides an opportunity for additional housing choices. Preliminary subdivision plans indicate a yield of 20 lots from the 2.45ha parcel.

The Proposal identifies a number of studies to be completed:

- Flora and fauna and habitats,
- Drainage and Stormwater
- Bushfire Hazards
- Traffic and Transport
- Contaminated land, and
- Heritage

The planning proposal should proceed subject to conditions and studies

In accordance with the Instrument of Delegation dated 21 April 2010, the function of Gateway is not delegated to the Director General in this instance as the Proposal seeks to rezone rural land that is not identified for residential purposes in the draft South West Subregional Strategy (i.e. regional strategy). In addition, Wollondilly Council has not formally accepted delegations.

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment : The proposal is to rezone land to allow low density residential development. This will

increase housing supply in the area and contribute to meeting the objectives of the draft Wollondilly Growth Management Strategy.

The land is in an existing residential area and will contribute towards the prevention of isolated rural areas being used for more intensive residential developments

The objectives are specified in a manner consistent with the Departments guide to preparing Planning Proposals.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : To amend the provisions of Wollondilly Local Environmental Plan 2011 as follows:

- change the Land Zoning Map from RU4 Primary Production Small Lots to R2 Low Density Residential
- change the Lot Size Map from a 2 hectare minimum to a minimum lot size of 700m2
- change the Height of Buildings Map from no height limit to a maximum height of 9 metre.

The maps are set out in a manner consistent with the Departments guide to preparing Planning Proposals.

The following maps are proposed to be amended.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones
1.3 Mining, Petroleum Production and Extractive Industries
2.1 Environment Protection Zones
2.3 Heritage Conservation
4.2 Mine Subsidence and Unstable Land
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
6.3 Site Specific Provisions
7.1 Implementation of the Metropolitan Plan for Sydney 2036

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 1—Development Standards
SEPP No 4—Development Without Consent and Miscellaneous Exempt and Complying Development
SEPP No 6—Number of Storeys in a Building
SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP (Housing for Seniors or People with a Disability) 2004
SEPP (Infrastructure) 2007
SEPP (Mining, Petroleum Production and Extractive Industries) 2007
SEPP (Rural Lands) 2008
SREP No. 20 - Hawkesbury—Nepean River (No. 2 - 1997)

e) List any other matters that need to be considered :

Council does not appear to have delegated authority to undertake plan-making functions in this instance.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

1.2 Rural Zones
This Direction applies to the Proposal as it rezones land from a rural zone to a residential zone. The Proposal is inconsistent with the objective of this direction which seeks to protect agricultural production value of rural land. The inconsistency is considered to be justified for the following reasons:

- The proposal is consistent with the vision and objectives of the draft South West Subregional Strategy with the key direction of accommodating housing needs of existing and future communities, 155,000 new dwellings and to support population growth within the subregion.
- Due to the proximity to the built urban environment the agriculture production value of this land would not be a feasible use of the site.
- The proposal will represent a minor loss of rural land 2.25 hectares in size.

The approval of the Director General (or his delegate) is required to the inconsistency as it is of minor effect.

1.3 Mining, Petroleum Production and Extractive Industries

This Direction applies to the Proposal as the subject land has previously been the subject of underground coal mining and may be subjected to future such activity. The Gateway determination should make consultation with the Department of Trade & Investment a requirement to ensure consistency with the Direction.

2.1 Environment Protection Zones

This Direction is relevant to the Proposal as the subject land contains a patch of Shale Sandstone Transition Forest. The SSTF is listed under both the NSW Threatened Species Conservation Act 1995 and the Commonwealth Environment Protection and Biodiversity Conservation Act 1999. As such, consultation with the relevant State and Federal environmental authorities should be required under the Gateway determination

The aforementioned authorities are the NSW Office of Environment and Heritage and the Commonwealth Department of Sustainability, Environment, Water, Population and Communities. Compliance with s.34A of the Environmental Planning and Assessment Act 1979 is also necessary.

The Gateway determination should also require Council to prepare a flora and fauna study and consult with the Office of Environment & Heritage on the Proposal. These actions should be undertaken prior to public exhibition, and proposal accordingly.

2.3 Heritage Conservation

This Direction applies as a site to the south east contains a locally listed heritage item (Cottage).

Council proposes to undertake a heritage assessment in relation to the potential impact of the Proposal on a local heritage item located on adjoining land. As there do not appear to be any existing or likely heritage items on the subject land itself, it is considered that the Proposal is consistent with this Direction.

3.1 Residential Zones

This Direction applies to the Proposal as it rezones land for residential purposes. The subject land adjoins the existing residential area at Tahmoor and, as such, is consistent, in principle, with Council's Growth Management Strategy 2011, which identifies the subject land for potential residential growth.

Council has submitted its draft Growth Management Strategy to the Department for endorsement. The Department has delayed its consideration of the Strategy until the completion of the Government's Review of Potential Housing Opportunities on Landowner Nominated Sites. However, it is considered that, in principle, the Proposal holds merit and should proceed.

It is considered that the Proposal is consistent with this Direction as the Proposal will facilitate the orderly expansion of Tahmoor.

3.4 Integrating Land Use and Transport

This Direction applies to the Proposal as it will create a zone relating to urban land, i.e.

Zone R2 Low Density Residential. The Direction requires the Proposal to locate the zone, and include provisions that give effect to, and are consistent with the aims, objectives and principles of:

- (a) Improving Transport Choice - Guidelines for Planning and Development (DUAP 2001), and
- (b) The Right Place for Business and Services - Planning Policy (DUAP 2001).

The Proposal is generally consistent with the above planning documents in that it adjoins the existing Tahmoor residential area and is close to rail (approximately 1km from Tahmoor Railway Station), buses (albeit limited - along nearby Thirlmere Way) and shops (approximately 1.25km from Tahmoor Commercial Centre). In view of the above, the Proposal is considered to be generally consistent with the Direction.

4.2 Mine Subsidence and Unstable Land

This Direction applies to the Proposal as it is located within the Bargo Mine Subsidence District. The Direction requires Council to consult with the Mine Subsidence Board and the Proposal indicates that such consultation will occur. Consultation should be made a requirement of the Gateway determination and that Council should demonstrate consistency with the Direction following public exhibition.

4.4 Planning for Bushfire Protection

This Direction applies to the Proposal as the subject land contains bushfire prone land.

The Direction requires Council to consult with the Commissioner of the Rural Fire Service prior to public exhibition and the Proposal indicates that such consultation will occur. Considered that the above consultation should be made a requirement of the Gateway determination and Council should be required to demonstrate consistency with the Direction following public exhibition.

7.1 Implementation of the Metropolitan Plan for Sydney 2036

This Direction requires the Proposal to be consistent with the Metropolitan Plan for Sydney 2036. The Proposal is considered to be generally consistent with the above document in that it will provide housing opportunities in a generally appropriate location. This will assist in accommodating future housing needs within the Wollondilly LGA.

SEPPS AND DEEMED SEPPS

SEPP No 1—Development Standards

The proposal does not contain provisions which would hinder the application of this SEPP

SEPP No 4—Development Without Consent and Miscellaneous Exempt and Complying Development

The proposal does not contain provisions which would hinder the application of this SEPP

SEPP 44 - Koala Habitat Protection

The Proposal identifies the subject land as containing Shale Sandstone Transition Forest (SSTF). Depending on the outcome of consultation with the Office of Environment and Heritage and the Flora, Fauna and Habitat Assessment, Council may need to amend the Proposal to include any required changes to address SEPP 44. Species that form part of SSTF form part of critical habitat for Koalas (i.e. Forest Red Gum, Grey Gum).

SEPP 55 - Remediation of Land

SEPP 55 applies to the Proposal as the subject land may have a history of agricultural use. The Proposal indicates that, pursuant to the SEPP, a preliminary land contamination investigation will be undertaken. It is considered that such investigation should be conducted prior to public exhibition of the Proposal and that this should be

made a requirement of the Gateway determination.

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

The proposal does not contain provisions which would hinder the application of this SEPP

SEPP (Infrastructure) 2007

The proposal is consistent with this SEPP and does not contain provisions which would hinder the application of this SEPP

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

The proposal does not contain provisions which would hinder the application of this SEPP

SREP 20 - Hawkesbury - Nepean River (NO. 2—1997)

SREP 20 applies to the Proposal and requires Council to give consideration to various general and specific planning matters and related recommended strategies. The Proposal includes a consideration of the above requirements and consequently identifies the need for various studies and plans to be undertaken.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The mapping accompanying the Proposal is considered to be adequate for the purposes of consideration by the Gateway.

Community consultation - s55(2)(e)

Has community consultation been proposed? **No**

Comment : The planning proposal has been through preliminary community consultation from October 2012 – November 2012 (4 weeks) with one submission received. Council has not proposed a time-frame for post-gateway consultation. A 28 day exhibition period is recommended.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : The proposal provides sufficient information for an assessment and recommendation for the purposes of a Gateway determination.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : Council's Standard Instrument Principal LEP, Wollondilly LEP 2011, was notified in February 2011.

Assessment Criteria

Need for planning proposal : A planning proposal is the best tool to facilitate the delivery of 20 new residential Lots and contribute to the growth in the draft Wollondilly Growth Management Strategy.

Consistency with strategic planning framework :

The Proposal is consistent, in principle, with Council's Draft Wollondilly Growth Management Strategy 2011.

The subject land adjoins the residential area at Tahmoor and represents a logical extension to the urban boundaries.

The Proposal is also consistent with the general direction of the Metropolitan Plan for Sydney 2036 and the draft South West Subregional Strategy as it provides housing opportunities in a generally appropriate location.

Environmental social economic impacts :

ENVIRONMENTAL IMPACTS

The Proposal proposes the following studies:

- flora and fauna and habitats,
- hydrology (dealing with drainage and Water Sensitive Urban Design options),
- bushfire hazard management, and
- traffic and transport,
- contaminated land, and
- heritage

The proposed studies will determine any environmental impacts and are supported. The Proposal also notes that, as the subject land is located at the rural-urban fringe, specific urban design requirements will be needed to minimise the potential for rural landuse conflicts and ensure compatibility with native vegetation on adjoining land.

SOCIAL AND ECONOMIC IMPACTS

No significant adverse social or economic impacts are expected.

Assessment Process

Proposal type : **Precinct** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 Month** Delegation : **Minister**

Public Authority Consultation - s56(2)(d) : **Hawkesbury - Nepean Catchment Management Authority
Office of Environment and Heritage
Department of Trade and Investment
Mine Subsidence Board
NSW Rural Fire Service
Transport for NSW
Sydney Water**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

Flora

Fauna

Heritage

Bushfire

If Other, provide reasons :

Thirlmere Way, Tahmoor

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Wollondilly Shire Council.letter_.pdf	Proposal Covering Letter	No
Planning Proposal 90 THIRLMERE WAY, TAHMOOR_.pdf	Proposal	No
Ecology Study_.pdf	Study	No
Stormwater and Drainage study_.pdf	Study	No
Bushfire Study_.pdf	Study	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 4.2 Mine Subsidence and Unstable Land
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 6.3 Site Specific Provisions
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : **It is recommended that the Proposal proceed subject to the following conditions:**

1. Community consultation is required under sections 56(2)(c) and 57 of the EP&A Act 1979 for a period of 28 days;

2. The timeframe for completing the local environmental plan is to be 12 months from the week following the date of the Gateway determination (Council should consolidate and reduce the 4 months + 3 weeks + 3 months proposed for considering submissions);

3. The Director General approves the inconsistency with section 117 Direction 1.2 – Rural Zones on the basis that the inconsistency is of minor significance;

The following conditions should be met prior to community consultation:

4. Council should consult with the Mine Subsidence Board and subsequently demonstrate consistency with section 117 Direction 4.2 Mine Subsidence and Unstable Land;

5. Council should consult with the Department of Trade & Investment (Mineral Resources and Energy) and subsequently demonstrate consistency with section 117 Direction 1.3 Mining, Petroleum Production and Extractive Industries;

6. Council should prepare a flora and fauna study and consult with the NSW Office of Environment and Heritage and the Commonwealth Department of Sustainability, Environment, Water, Population and Communities. Compliance with s.34A of the Environmental Planning and Assessment Act 1979 is also necessary. Council should subsequently demonstrate consistency with Direction 2.1 Environment Protection Zones and address SEPP 44;

7. Council should consult with the Commissioner of the Rural Fire Service and

subsequently demonstrate consistency with section 117 Direction 4.4 Planning for Bushfire Protection;

8. Council should prepare the following studies:

- a heritage assessment (regarding the impact on the local heritage item located on the adjoining land),
- a preliminary land contamination investigation (and subsequent demonstration of compliance with SEPP 55 - Remediation of Land),
- a hydrology study (dealing with drainage and stormwater and water sensitive urban design options),
- a traffic and transport study, and
- a bushfire hazard assessment.

9. Council should additionally consult with the following public authorities:

- the Hawkesbury-Nepean Catchment Management Authority,
- Sydney Water,
- Roads and Maritime Services, and
- Endeavour Energy.

Supporting Reasons :

1. The Proposal will provide additional housing opportunities by rezoning a parcel of land from RU4 Primary Production Small Lots to R2 Low Density Residential. This will increase housing supply in the area and contribute to meeting the objectives of the Wollondilly Growth Management Strategy
2. The rezoning of the land is in keeping with the existing housing density of the area and provides an opportunity for additional housing choices.
3. This is an appropriate landuse as the proposal is 1km from Tahmoor Train Station and 1.3km from Tahmoor's employment area.
4. The land is in an existing residential area with urban services provided and will contribute towards the prevention of isolated rural areas being used for more intensive residential developments.

Signature:



Printed Name:

STEPHEN GARDNER

Date:

15/2/13