

Draft Amendment to Wollondilly LEP 2011 - Part of 35 Egans Rd, Oakdale (part of Lot 93 DP 1000055)

Proposal Title : **Draft Amendment to Wollondilly LEP 2011 - Part of 35 Egans Rd, Oakdale (part of Lot 93 DP 1000055)**

Proposal Summary : **To rezone a part of the above site (2.936 ha) from RU1 Primary Production to R2 Low Density Residential Zone under Wollondilly LEP 2011 to allow for approximately 30 new residential allotments. The proposal also seeks to amend the minimum lot size applying to the land.**

The proposal applies to the generally cleared area, east of the creek line as seen in the attached Aerial photo - Tag A. The site is on the northern edge of the Oakdale residential area. The proposed zoning of the site is shown at Tag B. The current zoning of the site is at Tag B1 and lot size is at Tag B2.

The Council's Planning Proposal is at Tag C.

PP Number : **PP_2011_WOLLY_013_00** Dop File No : **11/11100**

Proposal Details

Date Planning Proposal Received :	09-Sep-2011	LGA covered :	Wollondilly
Region :	Sydney Region West	RPA :	Wollondilly Shire Council
State Electorate :	WOLLONDILLY	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	Egans Rd		
Suburb :	Oakdale	City :	Sydney
Land Parcel :		Postcode :	2570
Street :			
Suburb :		City :	
Land Parcel :	Lot 93 DP1000055		

DoP Planning Officer Contact Details

Contact Name : Michelle Dellagiacoma
 Contact Number : 0298738573
 Contact Email : Michelle.Dellagiacoma@planning.nsw.gov.au

RPA Contact Details

Contact Name : James Sellwood
 Contact Number : 0246771831
 Contact Email : james.sellwood@wollondilly.nsw.gov.au

DoP Project Manager Contact Details

Contact Name : Terry Doran
 Contact Number : 0298738557
 Contact Email : Terry.Doran@planning.nsw.gov.au

Land Release Data

Growth Centre :	N/A	Release Area Name :	
Regional / Sub Regional Strategy :	Metro South West subregion	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	30	No. of Dwellings (where relevant) :	30
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : Yes

If No, comment : At this point in time, and to the best of the regional teams' knowledge, the department's Planning Code of Practice in relation to lobbyists has been complied with.

Have there been meetings or communications with registered lobbyists? : No

If Yes, comment : At this point in time, and to the best of the regional teams' knowledge, there have not been communications and meetings with lobbyists.

Supporting notes

Internal Supporting Notes : The proposal was received on the 31 August but further essential information was received on the 9 September, 2011. The Planing Proposal report is at Tag C.

The proposal is generally in accordance with the Metropolitan Plan for Sydney 2036 and accords with Wollondilly Council's Growth Management Strategy 2011. This strategy has been prepared by Wollondilly Council to guide the extent and location of Wollondilly's residential growth. The Growth Management Strategy has not been endorsed by the Director General or Department, at this time.

External Supporting
Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? **Yes**

Comment : **Council's objective is clear. The proposal will enable the orderly development of land currently zoned for small lot rural development to a low density residential use.**

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

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

Comment : **The explanation of proposed provisions is adequate.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.2 Rural Zones

1.5 Rural Lands

* May need the Director General's agreement

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.4 Planning for Bushfire Protection

5.2 Sydney Drinking Water Catchments

5.8 Second Sydney Airport: Badgerys Creek

6.1 Approval and Referral Requirements

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 (Rural Lands) 2008

Drinking Water Catchments Regional Environmental Plan No. 1

SREP No. 20 - Hawkesbury-Nepean River (No. 2 - 1997)

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

Council has identified 12 Section 117 Directions in its Planning Proposal. However, consideration of the relevant Section 117 Directions is, as follows:

1.2 Rural Zones

Direction 1.2 applies to planning proposals which affect land within an existing or proposed rural zone and states a Planning Proposal must not rezone land from a rural zone to a residential zone which will increase the permissible density of that land. The Direction seeks to protect the agricultural production value of rural land by preventing its rezoning to certain other zones, including residential, and by ensuring that the permissible density of land within a rural zone (other than land within an existing town or village) is not increased.

The Planning Proposal is inconsistent with this Direction as it will:

- a) rezone part of the rural zoned land to a residential zone, and**
- b) increase the permissible housing density of the subject land, which lies in the rural area at the edge of the Oakdale residential area.**

The site area is 2.936 ha and is zoned RU1 Primary Production. Under Wollondilly LEP 2011, the minimum subdivision size is 20 ha. Consequently the land cannot be subdivided to allow residential subdivision (as proposed) under the current local

provisions.

The land is currently used as a poultry farm at the edge of the residential footprint of Oakdale Village. Council has advised that there is an ever present land use conflict between this agricultural land use and the adjoining R2 Low Density Residential Zone.

Rezoning to a residential zone will:

- eliminate this land use conflict
- allow residential development consistent with the surrounding land uses;
- increase the supply of residential dwellings - consistent with the Council's Growth Management Strategy and the draft South West Subregional Strategy; and
- encourage residential development within the footprint identified for future residential area adjoining the Oakdale Village, as identified in Council's Growth Management Strategy and as shown on the map at Tag D.

The land is classified as Class 4 Agricultural land in the Agricultural land Classification Atlas which identifies the land as suitable for grazing but not for cultivation. The reduction of 2.936 ha of agricultural land in this area will not have significant impact on the overall agricultural land use in the LGA.

In these circumstances, it is considered that the inconsistency with the Direction is of a minor significance and the approval of the Director General (or his delegate) is recommended.

1.5 Rural Lands

The Planning Proposal will change the existing subdivision standard in the Wollondilly LEP 2011 to enable the land to be subdivided to create 30 additional residential allotments, with allotment sizes ranging from 700 sqm to approximately 1,300 sqm.

The Planning Proposal is inconsistent with Direction 1.5, as it affects land within an existing rural zone and seeks to change the existing minimum lot size.

Any inconsistency, however, is considered justified taking into consideration the following:

* The proposed residential use is consistent with the strategic policy adopted by Wollondilly Council.

* The proposed rezoning will minimise rural land use conflicts with the surrounding residential lands.

* The land is part of a rural zoned land and is already an undersized allotment in terms of the existing minimum lot size for RU1 zoned land.

* Because of its nature and locality, the land has limited potential for agricultural uses. As such the proposal is not inconsistent with the Rural Subdivision Principles contained in the SEPP (Rural Lands).

* Additional housing choice will result.

It is, therefore, considered that the inconsistency with the direction is of minor significance and the approval of the Director General (or his delegate) is recommended on this basis.

3.1 Residential Zones

The Planning Proposal is consistent with this direction.

The direction aims to encourage a variety of housing and the efficient use of infrastructure. The proposal is consistent as it will broaden the choice of building types

within the Wollondilly Local Government Area and will optimise efficient use of infrastructure and services.

3.4 Integrating Land Use and Transport

Whilst the planning proposal is partially inconsistent with this Direction, with only limited access to the Oakdale Service centre and public transport and access to "alternative means of transport", the inconsistency is justified on the basis that the proposal allows only limited development and the site has been identified for future residential development within Council's Growth Management Strategy.

The Planning Proposal is accordingly not considered to be inconsistent with this direction.

4.4 Planning for Bushfire Protection

This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land. Council has advised that the land is identified as bushfire prone land on Council's maps and, therefore, the direction applies.

Under this direction, a relevant planning authority is required to consult with the Commissioner of the NSW Rural Fire Service (RFS) following receipt of a Gateway Determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made. The direction also requires the planning proposal to have regard to "Planning for Bushfire Protection 2006" and to introduce development controls to ensure bushfire hazard protection measures and the provision of an Asset Protection Zone (APZ).

A planning proposal may be inconsistent with the terms of the direction only if the relevant planning authority can satisfy the Director-General (or his delegate) that the council has obtained written advice from the Commissioner of the NSW Rural Fire Service, to the effect that, notwithstanding the non-compliance, the NSW Rural Fire Service does not object to the progression of the planning proposal.

It is recommended that Council consult the Commissioner of NSW RFS prior to undertaking community consultation in accordance with section 57 of the Act.

5.2 Sydney Drinking Water Catchments

Council has advised that the land is within the Lake Burragorang sub-catchment (No. 22). Storm water is managed on the site by grassed swales and the farm storage dam. Further design and implementation of a stormwater management system based upon principles of Water Sensitive Urban Design will be considered as part of the planning process. Council have indicated that it will comply with the requirements of this Direction.

It is recommended that an appropriate condition be included in any Gateway Determination to ensure consultation with Sydney Catchment Authority.

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

If No, explain : **Although justified, various matters (identified above) will require that appropriate studies/consultations are undertaken.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Council was requested to provide relevant zoning maps on the 6 September, 2011. A map was provided on 9 September, 2011.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **No**

Comment : Council has indicated that the Gateway Determination will identify the appropriate community consultation, however, Council recognises the need for consultation with the Office of Environment and Heritage.

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 :

Proposal Assessment

Principal LEP:

Due Date : **February 2011**

Comments in relation to Principal LEP : The Planning Proposal seeks to amend Wollondilly Local Environmental Plan 2011, which was published on 25 February, 2011.

Assessment Criteria

Need for planning proposal : The Planning Proposal is part of a strategic planning process undertaken by Council which has culminated in the identification of the subject land for development in the Wollondilly Growth Management Strategy 2011.

The Planning Proposal is the best means of achieving the intended aim as a rezoning is required to facilitate the proposed development. The area is 2.936 ha and under the Wollondilly LEP 2011 the land cannot be subdivided under the current local provisions.

The land is currently used as a poultry farm at the edge of the residential footprint of Oakdale Village and the Planning Proposal will enable the land to be subdivided to create 30 residential allotments.

Council has advised that there is an ever present land use conflict between the current agricultural land use with the adjoining R2 Low Density Residential Zone. Rezoning to Residential will:

- eliminate this land use conflict;
- allow residential development consistent with the surrounding land uses;
- increase residential dwellings - consistent with the Council's Growth Management Strategy and the draft South West Subregional Strategy; and
- encourage residential development within the footprint identified for future residential growth near the Oakdale Village in accordance with Council's Growth Management Strategy, shown on the map at Tag D.

The land is classified as Class 4 Agricultural land in the Agricultural land Classification Atlas which identifies the land as suitable for grazing but not for cultivation. The removal of 2.936 ha of land from the overall agricultural land area will not have a significant impact on agricultural production in the LGA. Because of its nature and locality, the land has limited potential for agricultural uses. Further, the proposal will not create rural land fragmentation and will minimise rural land use conflicts with the surrounding residential

lands. As such, the proposal is not considered to be inconsistent with the Rural Subdivision Principles contained in the SEPP (Rural Lands).

It is expected that the Proposal will provide a net community benefit, assuming the private financing of all relevant infrastructure, through the provision of opportunities for new housing and a variety of housing forms, which are lacking in the locality.

Further, the subject land adjoins existing an existing urban area and is, therefore, generally consistent with the relevant objectives and actions contained within the draft South West Subregional Strategy and the Metropolitan Plan for Sydney 2036, which seek to direct urban growth near existing centres. The location of the proposal, relative to the surrounding landuse pattern can be seen in the aerial photo at Tag A.

There is no known heritage items on the site. Council has however agreed to conduct a due diligence study of the site to determine the impacts on Aboriginal Cultural Heritage.

However, Council has noted that the development area proposed for rezoning for residential purposes is located on the eastern section of the site, which is highly disturbed as a result of agricultural activity over a number of decades. It is, therefore, considered unlikely that the due diligence study will identify Aboriginal Cultural Heritage impacts.

Consistency with strategic planning framework :

Metropolitan Plan for Sydney 2036:

The subject land adjoins existing urban areas and is, therefore, generally consistent with the relevant objectives and actions contained within the Metropolitan Plan for Sydney 2036, which seek to contain urban growth.

The Draft South West Sub- Regional Strategy :

The proposal is consistent with the direction in the draft plan which calls for limited growth adjoining existing serviced areas in Wollondilly.

The Wollondilly Growth Management Strategy 2011:

The Wollondilly Growth Management Strategy 2011 includes the Proposal, which is shown as potential residential growth areas, adjacent to low density residential areas on the attached map, titled "Structure Plan - Oakdale" taken from the strategy (extract at Tag D). The Strategy has been adopted by Council and submitted to the Department for final endorsement. The Strategy is currently receiving consideration by the regional team.

Environmental social economic impacts :

Environmental considerations: The supporting report notes that the proposed boundary of the proposal is located 40 metres east of the watercourse. The boundary was located at that point to allow the remainder of the site, which exhibits greater biodiversity values, to remain within the RU1 Zone.

The Preliminary Environmental Assessment indicates that the proposal avoids 90% of the remnant vegetation (woodland/open forest), however, some remnant vegetation is located within the area of proposal. Further, the proposal is in the vicinity of several known threatened species communities, including 32 flora and 40 fauna species. Accordingly, it is recommended that a Threatened Species Assessment be undertaken in accordance with the Office of Environment and Heritage (OEH) guidelines. Based on this assessment, and if it is recommended that the boundary of the proposal be altered, or some portion of the area form a buffer, that this be revised in consultation with OEH.

The proposal is situated within the Sydney Drinking Water Catchment, as such S.117 Direction 5.2 and State Environmental Planning Policy (Sydney Drinking Water catchment) 2011, applies. Direction 5.2 requires that the proposal should demonstrate it has neutral or beneficial effect on water quality. There is also an obligation to consider the outcomes of the Sydney Catchment Authority's "Strategic Land and Water Capability Assessment".

Clause 9 of the SEPP requires that "(1) Any development or activity proposed to be carried

Draft Amendment to Wollondilly LEP 2011 - Part of 35 Egans Rd, Oakdale (part of Lot 93 DP 1000055)

out on land to which this Policy applies should incorporate the Authority's current recommended practices and standards". A letter from an environmental consultant indicates that the subdivision permitted by the proposal could be reasonably made to comply with the requirements of the Sydney Catchment Authority, as required under the SEPP.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **14 Days**

Timeframe to make LEP : **9 Month** Delegation : **DDG**

Public Authority : **Catchment Management Authority - Hawkesbury / Nepean**
Consultation - 56(2)(d) : **Office of Environment and Heritage**
: **NSW Rural Fire Service**

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

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

If no, provide reasons :

Resubmission - s56(2)(b) : **Yes**

If Yes, reasons : **Only required if there is a substantial change in the boundary of the proposal following preparation of a detailed Threatened Species Assessment Report. A minor boundary adjustment would not require resubmission.**

Identify any additional studies, if required. :

Flora
Fauna
Heritage
Bushfire

If Other, provide reasons :

Preliminary assessment of practicability of complying with "Norbet" test in Drinking catchment SEPP.

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 : **It is not considered that a proposed 30 lot subdivision would warrant funding of State Infrastructure.**

Documents

Document File Name	DocumentType Name	Is Public
Tag_C_-_Planning_Proposal_Part_1.pdf	Proposal	Yes
Tag_C_-_Planning_Proposal_Part_2.pdf	Proposal	Yes
Tag_C_-_Planning_Proposal_Part_3.pdf	Proposal	Yes
Tag_C_-_Planning_Proposal_Part_4_Council_Report.pdf	Proposal	Yes
Tag_A_-_Site_Aerial_Map.doc	Map	Yes
Tag_B_-_Proposed_Zoning_map.pdf	Map	Yes
Tag B1 - Zoning map.pdf	Map	Yes
Tag B2 - Minimum Lot Size map.pdf	Map	Yes

Draft Amendment to Wollondilly LEP 2011 - Part of 35 Egans Rd, Oakdale (part of Lot 93 DP 1000055)

Tag_D_-_Structure_Plan_map_Wollondilly's_Growth_Management_Strategy.pdf	Map	Yes
Tag_A_-_Aerial_Map_with_Veg_and_Residential_Subdivision.pdf	Map	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 4.4 Planning for Bushfire Protection
- 5.2 Sydney Drinking Water Catchments
- 5.8 Second Sydney Airport: Badgerys Creek
- 6.1 Approval and Referral Requirements
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : **The Planning Proposal should proceed subject to the following conditions:**

1. approval by the Director General's delegate in relation to S.117 Directions: 1.2 Rural Zones and 1.5 Rural Lands;
2. consultation with the Commissioner of the NSW Rural Fire Service as required by section 117 Direction 4.4 - Planning for Bushfire Protection, prior to public exhibition and that Council takes into account any comments made by the Commissioner;
3. given the proposed lot density, that a preliminary assessment of the practicability of complying with the Norbet test, be undertaken as required for development under State Environmental Planning Policy (Sydney Drinking Water catchment) 2011;
3. the proposal should be resubmitted only if these studies or other reports required under legislation (environmental, heritage, bushfire reduction, etc.) indicate a need for a substantial change to the original proposal;
4. community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act"), as follows:
 - (a) the planning proposal must be made publicly available for 14 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of A Guide to Preparing LEPs (Department of Planning 2009);
5. consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Office of Environment and Heritage
 - Catchment Management Authority - Sydney Metro;
6. a public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act; and
7. the timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

Draft Amendment to Wollondilly LEP 2011 - Part of 35 Egans Rd, Oakdale (part of Lot 93 DP 1000055)

It is noted that the Planning Proposal applies to Lot 93, DP 100055, which is zoned RU1 Primary Production with a minimum lot size of 20 ha.

To facilitate the residential subdivision of the site, it will be necessary for Council to include in its exhibition material that the minimum lot size standards will be introduced for the area of land proposed for urban development and the remainder of the lot which is to retain its current RU1 Zone.

It is recommended that Council be advised in this regard, should the Gateway agree for the proposal to proceed.

Supporting Reasons :

The proposal generally complies with State and local strategies for the area and should proceed provided all relevant environmental matters are adequately considered

Signature:



Printed Name:

T. DORAN

Date:

16/9/11