

PE6

Draft Planning Proposal - Warradale and Silverdale Roads, Silverdale

55MCOO

TRIM 4587

REPORT

EXECUTIVE SUMMARY

- Council has received a draft Planning Proposal that proposes to rezone land between the townships of Silverdale and Warragamba to allow for residential and industrial development, with key areas of remnant native vegetation rezoned for environmental conservation.
- The application was first reported to Council in April 2008 where Council resolved to commence the rezoning process and prepare Draft Amendment No. 76 to the former Wollondilly Local Environmental Plan (LEP) 1991.
- Although seeing merit in the proposal the Department of Planning and the Department of Environment and Climate Change and Water requested additional studies be undertaken to determine the biodiversity values of the site and whether this would impact on the economic viability of the project.
- Council recommended that the Department of Planning covert the draft LEP into the new part 3 plan making process of the Environmental and Assessment Act.
- The Department of Planning instead chose to let the draft LEP lapse and requested that a fresh planning proposal be submitted to Council for consideration.
- Additional information provided in the draft planning proposal has demonstrated that the biodiversity values will not impede the economic viability of the project.
- While the issues have by no means reached any final resolution, in principle they appear capable of being resolved through further studies and analysis subsequent to the Gateway determination process.
- A preliminary assessment of the proposal against the Growth Management Strategy indicates that the proposal is generally consistent with the key policy directions of the document.
- Accordingly this report recommends:
- That Council support the draft planning proposal for Lot 5 in DP261728 (33-35 Warradale Road, Silverdale); Lot 1 DP 580222 (2 Marsh Rd, Silverdale); Lots 3, 4, 5, 6, 7 & 8 DP 38806 (5 to 15 Silverdale Rd, Silverdale); Lots 11 & 12 DP 1112339 (1 & 3 Silverdale Rd, Silverdale).
- That the draft planning proposal be forwarded to the Minister for Planning for a Gateway determination; and
- That the persons who made submissions regarding the original rezoning application be notified of Council's decision.

BACKGROUND

Site Description

The subject site comprises ten (10) adjacent allotments of land:

- Lot 5 in DP261728 (33-35 Warradale Road, Silverdale);
- Lot 1 DP 580222 (2 Marsh Rd, Silverdale);
- Lots 3, 4, 5, 6, 7 & 8 DP 38806 (5 to 15 Silverdale Rd, Silverdale);
- Lots 11 & 12 DP 1112339 (1 & 3 Silverdale Rd, Silverdale).

The site also includes unformed sections of Government and Marsh Roads, and formed sections of Production Avenue, Silverdale and Warradale Roads which are Zoned RU2 Rural Landscape or IN2 Light Industrial under Wollondilly Local Environmental Plan (LEP) 2011.

The area of the site is 27.4 hectares.

Lot 5 in DP261728 is presently vacant with the western two thirds moderately timbered and the eastern side having been previously cleared and now being heavily grassed with scattered trees and having a slight topography.

The allotment is traversed by a gully, which accommodates Megarritys Creek, and runs in a south to north direction. Various drainage depressions drain to the creek and the lot is currently zoned RU2 Rural Landscape under Wollondilly LEP 2011.

Lot 1 DP 580222 (2 Marsh Rd, Silverdale), accommodates a dwelling and associated structures and is currently zoned RU2 Rural Landscape under Wollondilly LEP 2011.

Eight (8) small holding rural allotments run along the eastern boundary of the site being Lots 3, 4, 5, 6, 7 & 8 DP 38806 (5 to 15 Silverdale Rd, Silverdale) and Lots 11 & 12 DP 1112339 (1 & 3 Silverdale Rd, Silverdale). Each allotment accommodates a dwelling with ancillary rural – residential structures such as shedding. The allotments are zoned R5 Large Lot Residential under Wollondilly LEP 2011.

The site has frontages to Warradale Road, Production Avenue and Silverdale Road. A partially formed dirt road called “Government Road” runs along the northern boundary between Silverdale Road to the east and Production Avenue to the west.

An unformed section of Marsh Road traverses the site in a north south direction and runs between Production Avenue and Warradale Road. This unformed section of Marsh Road supports overhead power lines and is generally cleared of vegetation.

There is a row of twenty three (23) reasonably uniform residential allotments running along the southern boundary between the site and Warradale Road. The allotments are zoned R2 Low Density Residential under Wollondilly LEP 2011. The row is broken in two places where the subject site fronts Warradale Road and which effectively provides two access handles from the southern boundary.

Beyond Government Road and Production Avenue to the north lies the Silverdale industrial area zoned IN2 Light Industrial under Wollondilly LEP 2011.

Description of Draft Proposal

The objective of the planning proposal is to rezone the land to permit part residential and industrial development. The proposal further seeks to rezone remnant vegetation on the site for environmental conservation.

The current zoning prevents the development of the subject site to achieve the intended objective of the planning proposal. To achieve this objective it is proposed to rezone the land in the following manner:

- R2 Low Density Residential for the eastern and south western corner portions of the site to allow for the development of approximately 120 residential allotments (minimum allotment size of 700m²).
- IN2 Light Industrial for the north western corner of the site to allow for the development of an industrial area approximately 7571 m².
- EN2 Environmental Conservation for the riparian lands of Megarritys Creek and its western tributary which contains significant stands of remnant vegetation.

The exact boundaries of the proposed land use zones and the area of developable land will be delineated through further detailed studies as confirmed by a Gateway determination.

History of Proposal

The application was first reported to Council in April 2008 where Council resolved to commence the rezoning process and prepare Draft Amendment No. 76 to the former Wollondilly Local Environmental Plan (LEP) 1991.

The Department of Planning (DoP) responded to Council in July 2008. Prior to proceeding forward the DoP requested that Council address additional 'sustainability criteria tests' and prepare a 'justification report' in respect of the application. In order to address the information requests of the DoP, Council consulted with the Department of Environment and Climate Change and Water (DECCW) in August 2008 on the proposal's ability to meet 'maintain or improve' outcomes in respect of the proposed clearing of native vegetation required to support future development of the land.

Subsequent discussions with the DoP and DECCW to clarify their information requests were held in late 2008 and early 2009. Council received a formal response from the DoP in June 2009 on the justification report submitted by Council to the DoP in March 2009 in respect of the application. The response advised that Council could not proceed forward with the rezoning until the additional information requests of the DECCW were satisfied, namely:

- A revised flora and fauna assessment;
- The full extent of clearing required to support future development;
- An Aboriginal heritage assessment;
- A water quality assessment;
- An assessment of land use conflict between the proposed industrial and residential areas.

A meeting was convened between Council and the relevant agencies in July 2009 to discuss these issues. The outcome of the meeting was that the applicant be requested to undertake a revised flora and fauna assessment to inform a series of development scenarios for the land.

A draft revised flora and fauna assessment was submitted to Council in November 2009 and referred to the DECCW for comment. Feedback on the draft report was provided to the applicant in November 2009 which outlined several matters that were required to be addressed prior to the finalisation of the revised flora and fauna assessment.

The final flora and fauna assessment, a water cycle management plan and a business plan were submitted to Council in May 2010. Council submitted a revised justification report and the additional information provided by the applicant to the DoP for consideration in late May 2010.

The DoP referred the matter to the DECCW for consideration whom formally replied in September 2010. Whilst not objecting to the proposal, the DECCW provided comments on the robustness of the flora and fauna assessment to assist Council and the DoP on the assessment of the application.

The DoP advised Council in October 2010 that it was necessary to make a request to covert the draft LEP into the new part 3 plan making process of the Environmental and Assessment Act as the draft LEP would not be finalised by 1 January 2011.

Council wrote the DoP in October 2010 seeking to convert all draft LEPs that:

- were notified to the Director-General under the former Section 54 before 1 July, 2009;
- had no Section 65 Certificate issued to enable public exhibition and no delegation to issue a certificate;
- could not be incorporated into the Wollondilly LEP 2011;
- were progressing steadily however could not be made by 1 January 2011.

Council's recommendation to the DoP in respect if the draft LEP was:

'that the draft LEP is brought into the current Part 3 plan making process to determine additional specialist studies that need to be undertaken in lieu of the former Section 62 consultations. This approach is considered appropriate considering the pre LES studies already undertaken in the fields of flora and fauna, and water cycle management to satisfy the preliminary comments received on the proposal from the DECCW'

Council received a formal response from the Department of Planning in January 2011 on its request to convert all draft LEPs. In reference to draft LEP Amendment No. 76 the correspondence outlined that the draft plan had lapsed and needed to be reconsidered by Council as a revised planning proposal.

A draft planning proposal was prepared by the applicant and submitted to Council in May 2011 requesting the rezoning process be considered by Council and forwarded to the Minister for Planning for a Gateway determination.

The revised draft planning proposal addresses most of the issues raised above and it is considered that any unresolved issues could potentially be resolved through the Gateway process and subsequent studies.

CONSULTATION

Preliminary Community Consultation

In accordance with Council's notification policy, preliminary consultation with adjoining and potentially affected residents in the vicinity of the proposal was undertaken in 2008 for the initial rezoning application to ascertain the views and opinions of the community. Seven (7) written submissions were received from the 150 notification letters sent out. The majority of the submissions were supportive of the rezoning request.

A summary of the issues raised is outlined in the table below.

Summary table of submissions received from rezoning notification letters sent 24 January 2008.

Submission Number	TRIM Record Reference	Issues raised in submission
1	484.100P2#107	▪ Area is affected by the proposed flight path for Badgery's Creek Airport which has not altered by the Department of Planning since proposed. Council has previously refused rezoning applications based on these terms and rezoning should not be approved until the final configuration of the second airport is determined. ▪ There is available industrial land available in Warragamba & rezoning will cause an oversupply. ▪ There is insufficient capacity in the sewerage treatment plant to

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Submission Number	TRIM Record Reference	Issues raised in submission
		accommodate the extra load.
2	484.100P2#108	In reference to the land proposed to be donated to council for open space, would it be possible for more viable land to be donated to accommodate the future development (e/g halls, childcare centre, bush fire shed, off leash areas, cycleways, and community facilities)?
3	484.100P2#113	Supportive of rezoning application
4	484.100P2#114	- Subject land is located outside the hydrological catchments of Sydney & adjacent regional centres. - The rezoning would not result in development that adversely impacts Sydney's drinking water.
5	484.100P2#115	- Supportive of rezoning application - Requests that submission closing date remains unaltered.
6	484.100P2#116	- Suggest land in question would be better suited for residential development, with the exception of land facing Production Avenue be rezoned industrial. - Notes there is approximately 65 acres of land zoned industrial in the locality which has not been developed. - Questions whether the new sewerage treatment plant can cater for the proposed rezoning.
7	484.100P2#123	- Do not have any objections to have with this application and trust that it will be assessed in the proper manner. - Requests further correspondence on the matter be sent to the mailing address supplied.

The issues raised in the submissions are addressed within the body of this report.

Consultation with Government Departments

As detailed in the 'History of Proposal' section in this report there has been substantial consultation with the Department of Planning (DoP) and the Department of Climate Change and Water (DECCW) on the former draft LEP. It is considered that should the proposal be supported the Gateway determination will outline further consultation requirements with the DoP, DECCW and any other relevant government agencies.

Further community consultation

If this draft proposal progresses, further community consultation opportunities will occur as part of the preparation and exhibition of a draft local environmental plan. In accordance with the new Gateway process, Council has the opportunity to recommend the engagement process and other consultation appropriate for this draft proposal.

RELEVANCE TO COMMUNITY STRATEGIC PLAN OUTCOMES

All planning proposals are assessed against the key themes and directions of Council's Community Strategic Plan. It is considered that this proposal in principle is capable of delivering outcomes consistent with the CSP, particularly the following:

The natural environment is protected and conserved and Wollondilly has a healthy, sustainable, and resilient environment with a rural character (EO-1).

The impact of existing and new development on the environment is reduced in turn reducing the Shire's ecological footprint (EO-2).

POLICIES & LEGISLATION

Planning Proposals

The draft planning proposal has been prepared in accordance with section 55 of the *Environmental Planning and Assessment Act 1979* and relevant Department of Planning guidelines including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*. The draft planning proposal addresses the matters required by the Director-General to be addressed in all planning proposals.

The draft planning proposal that has been submitted is requesting the rezoning of the subject land. If Council wishes to proceed with the proposal to rezone the land, Council must resolve to support the draft planning proposal and to forward it to the Minister for Planning for a Gateway determination.

Council's Options/Role

In deciding whether to forward the planning proposal on to the Minister for Planning for a gateway determination, Council is effectively endorsing the planning proposal in principle and from that point on the planning proposal is deemed to be *Council's* planning proposal - no longer the applicant's planning proposal.

Council's options are therefore:

1. Resolve to support the draft planning proposal as submitted. This option means that the existing planning proposal from then on becomes *Council's* planning proposal. Council then sends it to the Minister for a "Gateway determination". Unresolved matters are assumed to be capable of resolution through future studies as determined by the Gateway process.
2. Resolve that the planning proposal needs to be amended by Council before it can receive Council support and be forwarded to the Minister for a "Gateway determination". As is the case with option 1 above, the planning proposal becomes *Council's* and unresolved matters are assumed to be capable of resolution through future studies as determined by the Gateway process.

3. Resolve not to support the planning proposal. The applicant could choose to revise/amend their proposal and submit a new application. (Note that there are no appeal rights through the Land and Environment Court against Council's refusal to support a planning proposal).

Option one (1) is the recommendation of this report

Gateway Determination

When a planning proposal has been endorsed by Council, it is then forwarded to the Minister for Planning for a Gateway determination. The Gateway determination is a checkpoint for planning proposals before significant resources are committed to carrying out technical studies and investigations. It enables planning proposals that are not credible or well founded or not in the public interest to be stopped early in the process before resources are committed to detailed studies and investigations, and before government agencies are asked to commit their own resources to carrying out assessments.

At the Gateway determination, the Minister will decide:

- Whether the proposal is justified on planning grounds;
- Whether the planning proposal should proceed (with or without variation);
- Whether the planning proposal should be resubmitted for any reason (including for further studies or other information, or for the revision of the planning proposal);
- The community consultation required;
- Any consultation required with State or Commonwealth agencies;
- Whether a public hearing by the Panel Assessment Commission or other specified person or body is required;
- The timeframes for the various stages of the procedure to make the draft amendment;
- Whether the function of making the LEP is to be exercised by the Minister for Planning or delegated to Council.

If the Gateway determination recommends that the planning proposal has merit and should proceed, the proposal will be publically exhibited to obtain the views of the community and referred to State or Commonwealth Public Authorities (as specified by the Gateway determination). All submissions received during the public exhibition shall be reported to Council.

Under the new plan making procedures. The written draft local environmental plan amendment (the draft LEP) is prepared by Parliamentary Counsel when the planning proposal is finalised, immediately before it is made by the Minister or delegate. The LEP takes effect when it is published on the NSW legislation website.

The ultimate development of the land would then require further approvals through detailed development applications.

Wollondilly Local Environmental Plan 2011

The site is currently zoned part RU2 Rural Landscape and part R5 Large Lot Residential under Wollondilly LEP 2011. The minimum lot size for this area is currently 16 hectares and 4000m² respectively. The site is made up of ten (ten) existing lots, none of which would have subdivision potential under the current LEP provisions.

It is proposed to rezone the site in the following manner:

- R2 Low Density Residential for the eastern and south western corner portions of the site to allow for the development of approximately 120 residential allotments (minimum allotment size of 700m²).
- IN2 Light Industrial for the north western corner of the site to allow for the development of one industrial lot approximately 7571m².
- EN2 Environmental Conservation for the riparian lands of Megarritys Creek and its western tributary which contains significant stands of remnant vegetation.

Site Specific Development Control Plan (DCP)

A Site Specific Development Control Plan (DCP) will be prepared for the subject land which will include specific site objectives and development controls for the future development of the site. The Site Specific DCP would be expected to include a range of design and built form controls, including (but not limited to):

- Building envelopes
- Building setbacks based on the environmental features of the site
- Site landscaping
- Public domain treatments
- Bushfire asset protection zones
- Treatment of the urban / environmental protection interface
- Urban sensitive water design

The range of provisions included in the Site Specific DCP will be informed by specialist studies undertaken to support the proposal. A draft Site Specific DCP will be reported to Council when it is prepared.

RELEVANT CONSIDERATIONS

Wollondilly Growth Management Strategy (GMS)

Council's GMS has recently been adopted by Council. Planning Proposals are required to be assessed against the GMS to determine whether they should proceed or not.

The GMS sets directions for accommodating growth in the Shire for the next 25 years. The GMS contains Key Policy Directions which form the overarching growth strategy for Wollondilly. The location of the subject site is included as a 'draft residential rezoning' on the structure plan for Silverdale and Warragamba, reflecting Council's previous resolution to support the rezoning.

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The following table sets out the relevant Key Policy Directions within the GMS along with comments relating to the draft proposal:

Key Policy Direction	Comment
General Policies	
P1 All land use proposals need to be consistent with the key Policy Directions and Assessment Criteria contained within the GMS in order to be supported by Council.	The draft proposal is generally consistent with Key Policy Directions and Assessment Criteria of the GMS. It is recommended that the draft proposal be supported.
P2 All land use proposals need to be compatible with the concept and vision of "Rural Living" (defined in Chapter 2 of the GMS)	The draft proposal is generally consistent with the concept and vision of 'Rural Living'. Whilst the proposal seeks to develop land in between Silverdale and Warragamba, separation of the two towns is achieved due to the topographic constraints of the site to the preservation of remnant vegetation in the riparian corridor of Megarritys Creek. Despite its rural zoning, the land is highly constrained for agricultural uses. Therefore the proposal does not sterilise a viable agricultural resource.
P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.	Council consulted with the community on the original rezoning application. The submissions received were generally supportive of the proposal. Further opportunities for consultation will occur should the planning proposal proceed and be supported by a 'Gateway' determination enabling future public exhibition of the plan.
P4 The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.	No such representations have been made regarding this draft proposal and therefore this Key Policy Direction has been satisfied.
P5 Council is committed to the principle of appropriate growth for each of our towns and villages. Each of our settlements has differing characteristics and differing capacities to accommodate different levels and types of growth (due to locational attributes, infrastructure limitations, geophysical constraints, market forces etc.).	It is considered that the draft proposal represents a logical extension of the Silverdale urban area. The draft proposal takes into consideration the environmental features and constraints of the site. The inclusion of industrial land in the north western corner of the site is considered to be a logical extension to the industrial land located in Production Avenue, Warragamba.
Housing Policies	
P6 Council will plan for adequate housing to accommodate the Shire's natural growth forecast.	The draft proposal contributes toward Council's 1000 new dwellings target for Warragamba and Silverdale outlined in the GMS. The Structure Plan for Warragamba and Silverdale includes the subject land as a 'draft residential rezoning' in accordance with Council's prior resolution in support of rezoning the land.

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Key Policy Direction	Comment
P8 Council will support the delivery of a mix of housing types to assist housing diversity and affordability so that Wollondilly can better accommodate the housing needs of its different community members and household types.	The conceptual site analysis provided with the draft proposal primarily accommodates lot sizes of 700m ² . In order to provide for a range of housing types, the draft plan can be amended to accommodate a proportion of lot sizes of 450m ² , and lots between 800 - 900m ² that are capable of future development for dual occupancies. A site specific DCP can control the mix of lots sizes.
P9 Dwelling densities, where possible and environmentally acceptable, should be higher in proximity to centres and lower on the edges of towns (on the "rural fringe").	The conceptual site analysis provided with the draft proposal demonstrates dwelling densities on the edge are lower, consistent with the environmental features of the site. Dwelling densities closer to the existing urban settlement reflect lot sizes of 700m ² . As noted above, the draft plan can be amended to accommodate a proportion of lot sizes of 450m ² , and lots between 800 - 900m ² that are capable of future development for dual occupancies. A site specific DCP can control the mix of lots sizes.
P10 Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.	The site immediately adjoins existing residential development located in Warradale and Silverdale Roads, Silverdale.
Macarthur South Policies	
Key Policy Directions P11, P12, P13 and P14 are not applicable to this planning proposal. The subject land is not with the Macarthur South area	Not applicable
Employment Policies	
P15 Council will plan for new employment lands and other employment generating initiatives in order to deliver positive local and regional employment outcomes	The draft proposal includes the addition of approximately 7571 m ² of industrial land to the Silverdale / Warragamba industrial area. Additional employment land in the locality will positively contribute towards local, and to lesser degree, regional employment outcomes.
P16 Council will plan for different types of employment lands to be in different locations in recognition of the need to create employment opportunities in different sectors of the economy in appropriate areas.	Silverdale / Warragamba industrial area traditionally supports light engineering and manufacturing businesses. Additional employment land in the locality will provide employment opportunities for this sector through the establishment of additional businesses following the rezoning of the land.
Integrating Growth and Infrastructure	
P17 Council will not support residential and employment lands growth unless increased infrastructure and servicing demands can be clearly demonstrated as being able to be delivered in a timely manner without imposing unsustainable	It is considered that the addition of approximately 120 additional residential allotments in the locality is not likely to adversely burden Council. Developer contributions payable at the development application stage will fund the necessary local infrastructure required to support any future development. Likely state and regional infrastructure demands

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Key Policy Direction	Comment
<i>burdens on Council or the Shire's existing and future community.</i>	will be assessed by relevant agencies post 'Gateway' determination.
P18 <i>Council will encourage sustainable growth which supports our existing towns and villages, and makes the provision of services and infrastructure more efficient and viable – this means a greater emphasis on concentrating new housing in and around our existing population centres.</i>	The draft proposal site is located approximately 1km from both the Silverdale and Warragamba shopping centres. The site has access to reticulated water and sewerage systems. The site adjoins the Silverdale urban area. Approximately 120 new dwellings may stimulate demand for services within the existing Silverdale and Warragamba shopping centres and strengthen the local economy.
P19 <i>Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.</i>	The draft proposal does not contribute toward dispersed population growth, but rather proposes urban growth immediately adjacent to the Silverdale urban area.
P20 <i>The focus for population growth will be in two key growth centres, being the Picton/Thirlmere/Tahmoor Area (PTT) area and the Bargo Area. Appropriate smaller growth opportunities are identified for other towns.</i>	This is an area identified as a focus for population growth on the Silverdale / Warragamba Structure Plan in the GMS. The draft proposal contributes toward Council's target of 1000 new dwellings for Warragamba and Silverdale identified in the GMS.
Rural and Resource Lands	
P21 <i>Council acknowledges and seeks to protect the special economic, environmental and cultural values of the Shire's lands which comprise waterways, drinking water catchments, biodiversity, mineral resources, agricultural lands, aboriginal heritage and European rural landscapes.</i>	The subject land is located outside catchment lands for Sydney's drinking water supplies. Significant environmental features of the site are proposed to be zoned for environmental conservation protecting the remnant vegetation located in the riparian lands surrounding Megarrity's Creek Vegetation proposed to be cleared to support the future development of the site will need to be offset.
P22 <i>Council does not support incremental growth involving increased dwelling entitlements and/or rural lands fragmentation in dispread rural areas. Council is however committed to maintaining where possible practicable, existing dwelling and subdivision entitlements in rural areas.</i>	Key Policy Direction P22 is not applicable to the draft proposal.

FINANCIAL IMPLICATIONS

As noted previously in this report, the draft planning proposal is deemed to be Council's planning proposal once endorsed by Council and forwarded to the Minister. Despite the planning proposal becoming Council's at that point, the legislation nevertheless enables Council to recoup from the applicant the costs of progressing the planning proposal (i.e. study costs etc).

As the planning proposal proceeds further investigations into contributions towards infrastructure provision through planning agreements and section 94 will need to occur.

CONCLUSION

A draft planning proposal has been submitted for 27.4 hectares of land located between the townships of Silverdale and Warragamba. The objective of the draft planning proposal is to rezone land to allow for approximately 120 residential allotments, an industrial area of 7571 m² and environmental conservation for the riparian lands of Megarritys Creek and its western tributary.

To achieve this objective the following zones under Wollondilly LEP 2011 are proposed:

- R2 Low Density Residential;
- IN2 Light Industrial;
- EN2 Environmental Conservation.

Council originally resolved to support the rezoning application in April 2008 and prepare Draft Amendment No. 76 to the former Wollondilly Local Environmental Plan 1991. Since that time there have been ongoing deliberations between Council, the Department of Planning (DoP) and the Department of Climate Change and Water (DECCW) and the applicant on the biodiversity values of the site potentially impeding future development of the land.

In response to Council's request to convert the draft plan into the new part 3 plan making process of the Environmental and Assessment Act, the DoP determined that the rezoning application should lapse as of 1 January 2011. Furthermore, it was recommended that a fresh planning proposal be submitted to Council addressing the key issues raised by the DoP and DECCW that prevented the draft plan from moving forward.

The key issues have been addressed in the draft planning proposal which demonstrates that the biodiversity values will not impede the economic viability of the project.

- The draft proposal is consistent in principle with Council's recently adopted Growth Management Strategy and it is therefore recommended that the planning proposal be forwarded to the Minister for Planning for a Gateway determination.

ATTACHMENTS

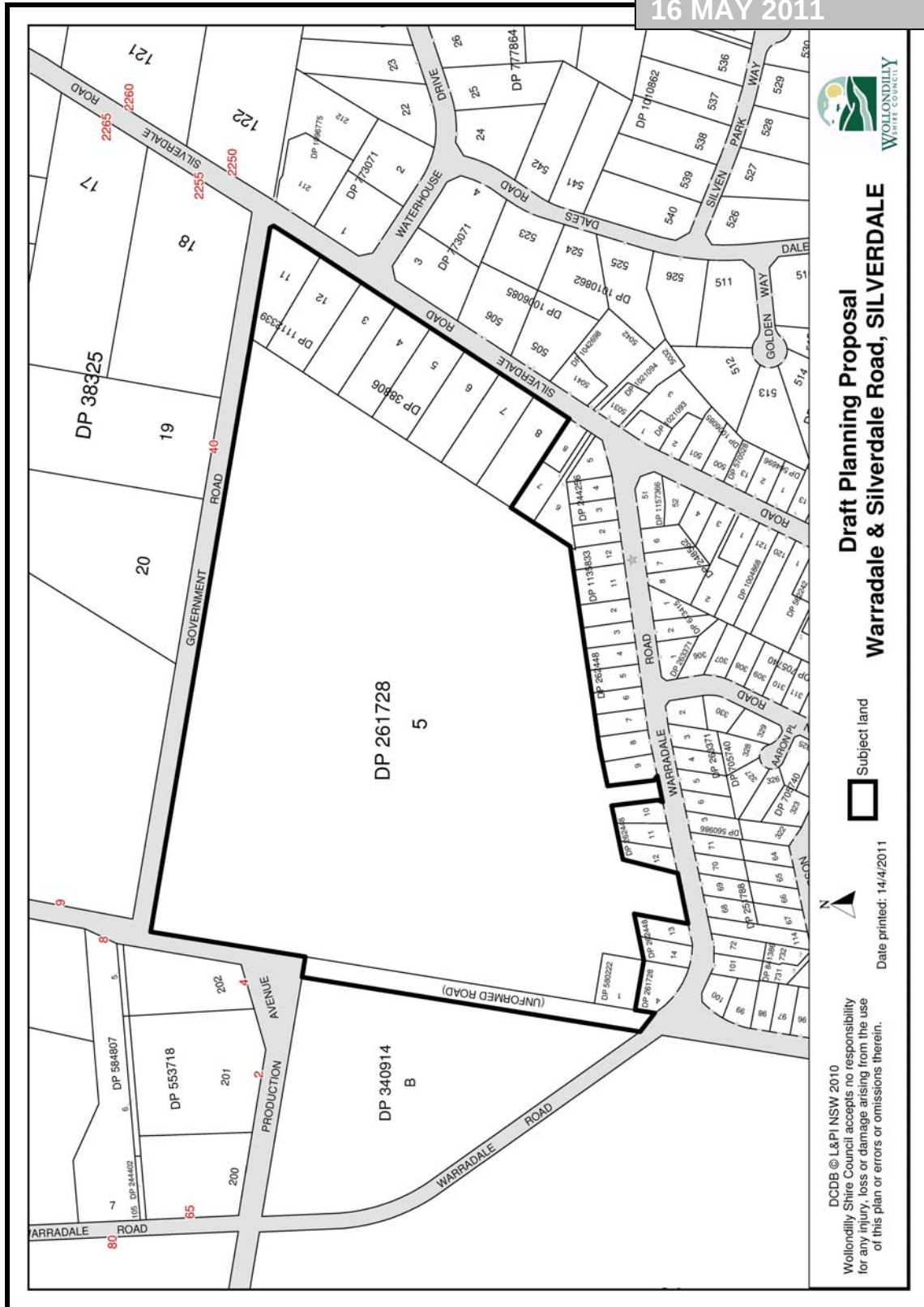
1. Subject Land
2. Conceptual Subdivision Layout
3. Site Constraints Analysis
4. Preliminary Bushfire Asset Protection Layout
5. Correspondence from the Department of Planning

RECOMMENDATION

1. That Council support the draft planning proposal for Lot 5 in DP 261728 (33-35 Warradale Road, Silverdale); Lot 1 DP 580222 (2 Marsh Rd, Silverdale); Lots 3, 4, 5, 6, 7 & 8 DP 38806 (5 to 15 Silverdale Rd, Silverdale); Lots 11 & 12 DP 1112339 (1 & 3 Silverdale Rd, Silverdale).
2. That the draft planning proposal be forwarded to the Minister for Planning for a Gateway determination; and
3. That the persons who made submissions regarding the original rezoning application be notified of Council's decision.

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ATTACHMENT 1
TRIM 4587
16 MAY 2011



**Planning &
Economy**

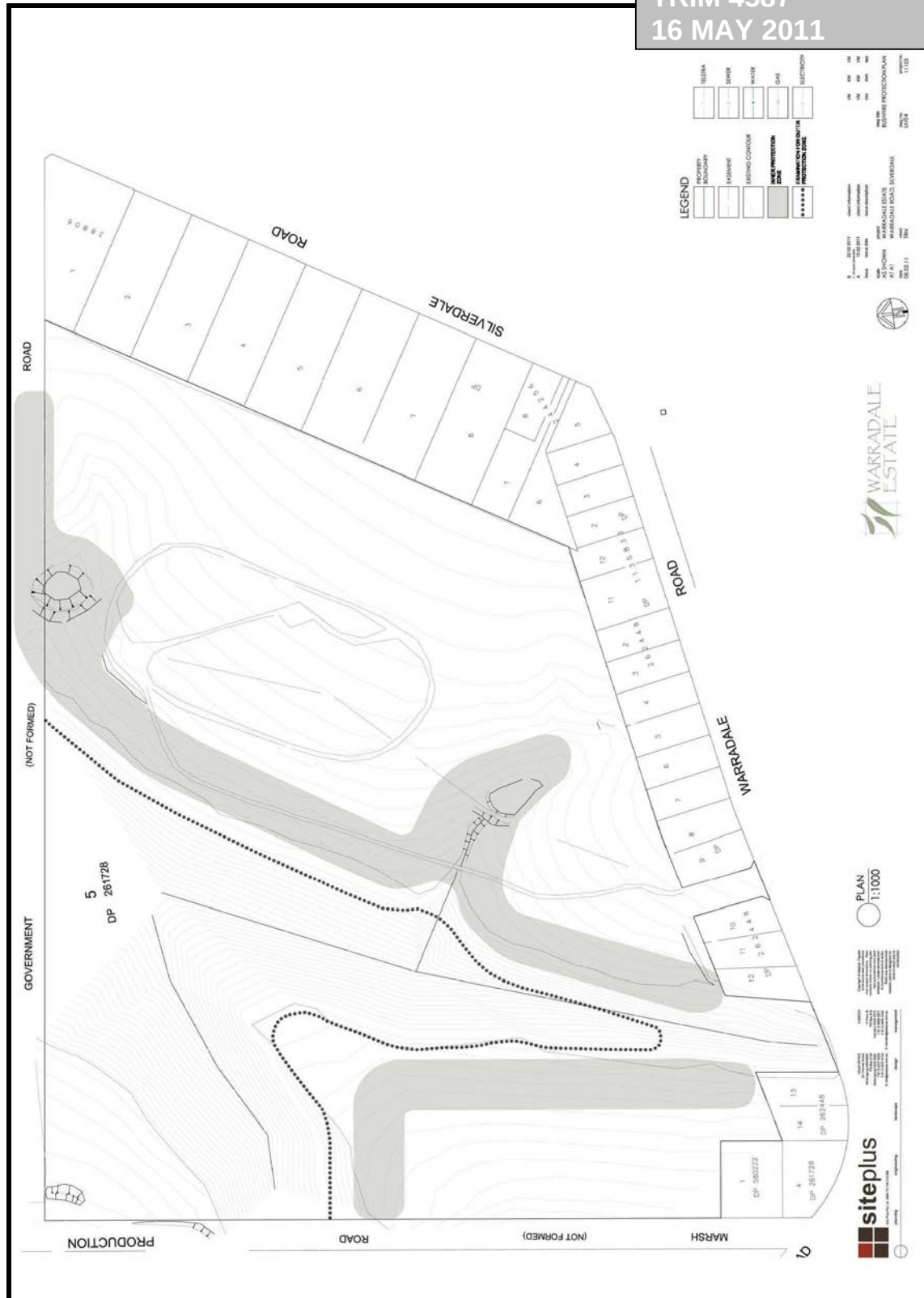
Planning & Economy



**ATTACHMENT 3
TRIM 4587
16 MAY 2011**



Planning & Economy



Report of Wollondilly Shire and its Planning and Economy to the Ordinary Meeting of Council held on Monday 20 June 2011

ATTACHMENT 5
TRIM 4587
16 MAY 2011



Planning

Mr Les McMahon
General Manager
Wollondilly Shire Council
PO Box 21
Wollondilly NSW 2571

Attention: Martin Cooper

Dear Mr McMahon

WOLLONDILLY SHIRE COUNCIL	
TRIM No.	1177-2
PROP. No.	13 JAN 2011
AUTH. No.	Martin
ASSIGNED TO	

Contact: Amar Saini
Phone: 02 9873 8593
Fax: 02 9873 8599
Email: amar.saini@planning.nsw.gov.au

File ref: 10/22436
Your ref: 1177-2:MPC

Re: Request for draft Local Environmental Plans to be transferred into the current Part 3 Plan Making Process

I am writing in response to Council's request for the former LEP plan making provisions to cease to apply to five draft amending plans and for the current provisions of Part 3 of the Environmental Planning and Assessment Act 1979 to apply.

I have determined (as a delegate of the Director General) under clause 12(2) of the Environmental Planning and Assessment Regulation 2000 that the former LEP plan-making provisions cease to apply to three of the draft plans, namely:

- Wollondilly LEP 1991 (Amendment No 73 – Picton Tahmoor Thirlmere New Urban Lands),
- Wollondilly LEP 1991 (Amendment No 75 – Maldon Employment Lands), and
- Wollondilly LEP 1991 (Amendment No 77 – The Oaks).

The current provisions of Part 3 of the Act now apply to these draft plans.

Furthermore, I have, as the delegate for the Minister for Planning, determined under clause 122(2) of Schedule 6 to the Act to dispense with all the conditions precedent up to Section 57 of the Act for the making of these draft LEPs.

Following the completion of any relevant studies and the exhibition process, the draft LEPs may be submitted to the Director General.

Council is to finalise the LEP as follows:

- draft amendment No 73 – Picton Tahmoor Thirlmere - new urban lands: within 9 months of the receipt of this letter;
- draft amendment No 75 – Maldon Employment Lands: within 9 months of the receipt of this letter; and
- draft amendment No 77 – The Oaks: within 9 months of the receipt of this letter.

Council's request for the Department to draft and finalise these LEPs should be made at least 6 weeks prior to the projected publication date.

I note you have also sought advice over amendment of the boundaries of draft Amendment No 73.

**Planning &
Economy**

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ATTACHMENT 5
TRIM 4587
16 MAY 2011Planning &
Economy

I confirm that I have no objection to the plan proceeding for Amendment No 73 provided the relevant government agencies are informed of the proposal's exhibition and are given the opportunity to provide their comment at that time.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the *Environmental Planning and Assessment Act 1979* if the time frames outlined in this determination are not met. In this regard, Council is asked to submit milestone plans for each planning proposal and to provide progress at each milestone that will assist in maintaining the agreed timeframes.

In regard to the other two draft plans, I have carefully considered the circumstances pertaining to each and I have taken the view that it would be more appropriate for these draft plans to lapse and be reconsidered by Council. This would allow a measured review of both matters, and if Council continues to support these proposals, I would welcome submission by Council of fresh planning proposals.

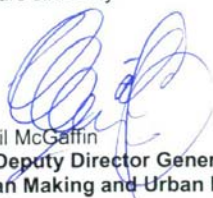
I would also assure Council that the Department remains committed to the planning process for these plans continuing, subject to the satisfactory resolution by Council of the associated outstanding issues.

I have noted that the proponents are disputing the extent of proposed studies to support draft amendment No 74 (Land between Thirlmere and Tahmoor). While this is primarily a matter for Council, the Department's advice has been consistent in this matter. While some studies may be more relevant than others, they are all valid matters for investigation and the Department's position is that issues raised by consulted authorities need to be addressed. The relevance and extent of each study should reflect the likely impact. Sufficient information should be available to ensure the Planning Proposal can be completed within 12 months.

I have also noted that further advice from the Department of Environment Climate Change and Water has been provided to Council in respect of amendment No 76 – Warradale Road, Silverdale. In view of this advice, I would ask that Council review the environmental constraints on the site to ensure that these, and any other factors, do not impede part of the land being developed for residential and industrial purposes. It may be the case that following review, Council may wish to support a reduced urban footprint for development and this may have implications for the viability of the proposal.

Should you have any queries regarding this matter, please contact Peter Goth of the Sydney West Office of the Department on telephone no. 9873 8589.

Yours sincerely



22.12.10
Neil McGaffin
A/Deputy Director General
Plan Making and Urban Renewal