

Our Reference: CM 7236#248

Christine Gough
Acting Director
Department of Planning, Industry & Environment
GPO Box 39
Sydney NSW 2001

19 July 2019

Dear Ms Gough,

REQUEST FOR ALTERATION TO GATEWAY DETERMINATION FOR PP_2013_WOLLY_007_00 – ARGYLE STREET BUSINESS LANDS PLANNING PROPOSAL.

Wollondilly Shire Council requests an altered Gateway determination for the planning proposal at Argyle Street Business Lands, Picton under Section 3.35 of the *Environmental Planning & Assessment Act 1979*. The alteration sought is to amend the determination to say that the planning proposal is not to proceed.

This Proposal was initially submitted to Council in November 2012. Council originally supported the proposal at its Ordinary Meeting in March 2013 and resolved to forward the proposal to the NSW Department of Planning & Environment (DPE) for a Gateway determination.

A Gateway determination for the planning proposal was issued by DPE on 20 June 2013 which supported the proposal and indicated a number of specialist studies that needed to be undertaken. The initial Gateway determination specified a finalisation timeframe of 18 months from the week following the date of the Gateway determination (being 27 December 2014). A copy of the Gateway determination, and extensions, are attached.

Since the initial Gateway determination was issued, four timeframe extension requests have been granted by DPE. The most recent timeframe extension expired on 31 May, 2019.

The purpose of the four previous extensions to the Determination timeframe were to allow time for the required specialist studies to be undertaken and for the proposal to progress accordingly. Unfortunately, Council has not received any of the required specialist studies and therefore has not been able to progress the proposal.

Throughout 2016 correspondence was made with the proponent advising them of the steps that they needed to take in order to progress the planning proposal. The advice was provided in February and August 2016 and advised that briefs detailing the scope of works for the preparation of the necessary specialist studies were required in order to progress the proposal. Council has not received any correspondence from the proponent on this proposal since this time.

The proponent was requested to provide an update on the status of the preparation of these studies on 3 January 2019 and 31 January 2019. No response was received.

Council then wrote to the proponent on 26 March 2019 outlining concerns with the lack of progress on this proposal and stated the following:

Our records show that the most recent correspondence with you regarding this proposal and the preparation of the specialist studies was in August 2016. It is also noted that Council requested an update from you on the status of the specialist studies by email on 3 January 2019 and 31 January 2019. Unfortunately, Council has not yet received a response to these emails and the status of the preparation of these studies remains unclear.

Given that the most recent gateway determination deadline has expired, and Council has not yet received any of the required studies, Council will seek a final gateway extension from DPE of three (3) months so that the matter can be reported to Council with a recommendation to not proceed with this Planning Proposal.

If you would like to withdraw your Planning Proposal, please advise us within seven (7) days of the date of this letter. If the planning proposal is not withdrawn then the matter will be considered at the May Ordinary Meeting of Council.

This matter was recently reported to the Ordinary Meeting of Council on 15 July 2019 and at this meeting the following was resolved:

- 1. That Council no longer supports the Argyle Street Business Lands Planning Proposal.*
- 2. That a request is made to the NSW Department of Planning & Environment for an alteration to the Gateway determination to specify that the planning proposal should no longer proceed.*
- 3. That the applicant and submitters be notified of Council's decision.*

Please find attached the following relevant documents:

- Gateway determination dated 20 June 2013
- Gateway extension requests
- The report considered by Council at the July, 2018 Ordinary Council Meeting (including attachments);
- The minutes of the July, 2018 Ordinary Council Meeting;

Council no longer intends to progress this planning proposal and therefore now seeks an altered Gateway determination that the planning proposal is not to proceed, given the extended period of time this planning proposal has lain dormant with no commitment on actioning the outstanding studies.

If you require further information on this matter contact Nicholas Kafer from Council's Strategic Planning Team by phone on 4677 9537 or by email on nicholas.kafer@wollondilly.nsw.gov.au

Yours faithfully,



Stephen Gardiner
Manager
SUSTAINABLE GROWTH



Planning & Infrastructure

Mr J L (Les) McMahon
General Manager
Wollondilly Shire Council
PO Box 21
PICTON NSW 2571

WOLLONDILLY SHIRE COUNCIL	
TRIM No.	7236
PROP. No.	
24 JUN 2013	
AUTH. No.	
ASSIGNED TO:	Kitty

Contact: Amar Saini
Phone: (02) 9860 1560
Email: Amar.Saini@planning.nsw.gov.au
Postal: GPO Box 39, Sydney NSW 2001
Our ref: PP_2013_WOLLY_007_00 (13/08746)
Your ref: 7236 kc:kc

Dear Mr McMahon,

Planning proposal to amend Wollondilly Local Environmental Plan 2011

I am writing in response to your Council's letter dated 30 April 2013 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to rezone land at 459, 465, 467, 469 and 475 Argyle Street, Picton from RU2 Rural Landscape and IN2 Light Industrial to B5 Business Development, apply a maximum building height of 12m and have no minimum lot size applicable to the subject land and introduce a B5 zone into Wollondilly Local Environmental Plan (LEP) 2011.

As delegate of the Minister for Planning and Infrastructure, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have also agreed the planning proposal's inconsistency with S117 Direction 1.2 Rural Zones is of minor significance. No further approval is required in relation to this Direction.

Council may still need to obtain the Director General's agreement to satisfy the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending LEP is to be finalised within 18 months of the week following the date of the Gateway determination. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the department for administrative purposes.

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 EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Amar Saini of the regional office of the department on 02 9860 1560.

Yours sincerely,

 20/4/15
Daniel Keary
Acting Executive Director
Metropolitan Planning
Planning Operations and Regional Delivery

Gateway Determination

Planning proposal (Department Ref: PP_2013_WOLLY_007_00): to rezone land at Picton for business purposes and amend the development standards applicable to the subject land.

I, the Acting Executive Director, Metropolitan Planning at the Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Wollondilly Local Environmental Plan (LEP) 2011 to rezone land at 459, 465, 467, 469 and 475 Argyle Street, Picton from RU2 Rural Landscape and IN2 Light Industrial to B5 Business Development, apply a maximum building height of 12m and have no minimum lot size applicable to the subject land and introduce a B5 zone into the LEP should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to update the planning proposal to include current and proposed land zoning, height of buildings and lot size maps, which are at an appropriate scale and clearly identify the subject site.
2. Additional information regarding the below matters is to be placed on public exhibition with the planning proposal:
 - traffic and transport
 - economic feasibility
 - heritage
 - acoustic, lighting and visual impact and urban design
 - On site waste package treatment plant
 - Stormwater and Water Sensitive Urban Design Management Plan
3. Council is to update the planning proposal, once it has obtained the above mentioned additional information, to adequately demonstrate consistency or justify any inconsistency with the below S117 Directions:
 - 1.1 Business and Industrial Zones
 - 2.3 Heritage Conservation
 - 5.2 Sydney Drinking Water Catchments
4. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 - Remediation of Land. An initial site contamination investigation report to demonstrate that the site is suitable for rezoning to the proposed zone is to be prepared. This report is to be included as part of the public exhibition material.
5. 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 a minimum of **28 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 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning & Infrastructure 2013).



Planning & Infrastructure

6. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:

- Office of Environment and Heritage
- Sydney Water
- Sydney Catchment Authority
- Transport for NSW – Roads and Maritime Services
- Mine Subsidence Board (S117 Direction 4.2 Mine Subsidence and Unstable Land)
- NSW Department of Trade and Investment - Minerals and Petroleum (S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

7. 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. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
8. The timeframe for completing the LEP is to be **18 months** from the week following the date of the Gateway determination.

Dated 20TH day of

JUNE 2013.



Daniel Keary
Acting Executive Director
Metropolitan Planning
Planning Operations and Regional Delivery
Department of Planning and Infrastructure

Delegate of the Minister for Planning and Infrastructure



Planning & Infrastructure

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Wollondilly Shire Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2013_WOLLY_007_00	Planning proposal to rezone land at 459, 465, 467, 469 and 475 Argyle Street, Picton from RU2 Rural Landscape and IN2 Light Industrial to B5 Business Development, apply a maximum building height of 12m and have no minimum lot size applicable to the subject land and introduce a B5 zone into Wollondilly Local Environmental Plan (LEP) 2011.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "A guideline for the preparation of local environmental plans" and "A guide to preparing planning proposals".

Dated

20th JUNE 2013


Daniel Keary
Acting Executive Director
Metropolitan Planning
Planning Operations and Regional Delivery
Department of Planning and Infrastructure

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	PP_2013_WOLLY_007_00
Date Sent to Department under s56	30/04/2013
Date considered at LEP Review Panel	13/06/2013
Gateway determination date	20/06/2013

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&I requesting notification		

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional relevant information:



Mr Michael Malone
Acting CEO
Wollondilly Shire Council
PO Box 21
Picton NSW 2571

Attention: Stephen Gardiner

Dear Mr Malone

Alteration of Gateway Determination – extension of time to complete eight (8) planning proposals

I refer to your letter seeking an extension of time to complete the following planning proposals;

- PP_2011_WOLLY_014_00 (Macquariedale Road Appin),
- PP_2013_WOLLY_005_00 (North Silverdale),
- PP_2013_WOLLY_006_00 (Land Adjoining Oakdale Sportsfields),
- PP_2013_WOLLY_007_00 (Argyle Street Business Lands),
- PP_2013_WOLLY_014_00 (Burraborang and Steveys Forest Road Oakdale),
- PP_2014_WOLLY_003_00 (Cross Street Tahmoor),
- PP_2015_WOLLY_001_00 (Land Adjacent Mushroom Tunnel Picton), and
- PP_2017_WOLLY_003_00 (2471 Silverdale Road, Silverdale).

I have determined as the delegate of the Minister, in accordance with section 3.34(7) of the *Environmental Planning and Assessment Act 1979*, to alter the Gateway determinations for six (6) of the eight (8) planning proposals.

Two (2) proposals, being for Macquariedale Road Appin and North Silverdale will not receive an extension. It is considered that PP_2011_WOLLY_014_00 (Macquariedale Road Appin) does not require an extension as it has been forwarded to the Department of Planning for finalisation following the resolution of Council on 18 February 2019 not to proceed.

Regarding PP_2013_WOLLY_005_00 (North Silverdale), this planning proposal should now be forwarded to the Department for finalisation in light of Councils resolution on 18 February 2019 to proceed with the business/commercial zones. Council should now prepare the planning proposal and associated documents to submit to the Department for finalisation. In doing so any outstanding issues should be highlighted for the Department to consider in its assessment.

Regarding PP_2015_WOLLY_001_00 (Land Adjacent Mushroom Tunnel Picton), the Department is prepared to grant an extension until 31 October 2019 during which Council should resolve the wastewater capacity issue in consultation with the

proponent and Sydney Water. Upon resolution of this issue, the Department will consider a further extension. It is not advisable to continue to request further studies until there is greater certainty that the site can be serviced.

The Department notes that Council is proposing to withdraw proposal PP_2013_WOLLY_007_00 (Argyle Street Business Lands) due to a lack of progress.

The new finalisation dates are as follows:

Planning proposal	New finalisation date
PP_2013_WOLLY_006_00 being Land adjoining Oakdale Sportsfields	31 July 2020
PP_2013_WOLLY_007_00 being Argyle Street business lands	31 May 2019
PP_2013_WOLLY_014_00 being Burragorang and Steveys Forest Road Oakdale	30 April 2020
PP_2014_WOLLY_003_00 being Cross Street Tahmoor	30 September 2019
PP_2015_WOLLY_001_00 being Land Adjacent to the Mushroom Tunnel Picton	31 October 2019
PP_2017_WOLLY_003_00 being 2471 Silverdale Road, Silverdale	31 August 2019

I remind Council that the State Government is committed to reducing the time taken to complete LEP's. In order to meet this commitment, the Minister may take action under section 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

If you have any questions in relation to this matter, I have arranged for Mr Matthew Black to assist you. Mr Black can be contacted on 9860 1553.

Yours sincerely


7/5/2019
Ann-Maree Carruthers
Director, Sydney Region West
Planning Services

Encl: Six (6) Alterations of Gateway Determination



Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2013_WOLLY_007_00)

I, Director, Sydney Region West at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 20 June 2013 (since altered) for the proposed amendment to the Wollondilly Local Environmental Plan 2011 as follows:

1. Delete:

"condition 8"

and replace with:

a new condition 8 "The time frame for completing the LEP is by 31 May 2019"

Dated 7th day of May 2019.

A handwritten signature in cursive script, appearing to read "Ann-Maree Carruthers".

**Ann-Maree Carruthers
Director, Sydney Region West
Planning Services
Department of Planning and
Environment**

**Delegate of the Minister for Planning
and Public Spaces**

Our Reference TRIM 7236, 6895, 7696, 9019, 9004, 8767

Catherine Van Laeren
Director, Sydney Region West
Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

1 December 2017

Dear Ms Van Laeren,

REQUEST FOR EXTENSION TO TIMEFRAMES OF VARIOUS PLANNING PROPOSALS

The purpose of this letter is to seek extensions to the specified gateway timeframes for the following six (6) planning proposals:

1. Argyle Street Business Development Lands (PP_2013_WOLLY_007_00)
2. Stonequarry Commercial (PP_2013_WOLLY_010_00)
3. Great Southern Road (PP_2014_WOLLY_005_00)
4. Boundary Adjustments and Minimum Subdivision Lot Size for Community Title Schemes (PP_2016_WOLLY_004_00)
5. The Oaks North Silverdale Road (PP_2016_WOLLY_005_00)
6. Land Adjoining Bargo Sportsground (PP_2012_WOLLY_009_00)

Further information related to each request is provided below:

1. Argyle Street Business Development Lands (PP_2013_WOLLY_007_00)

Gateway Determination: 20 June, 2013

Current Finalisation Date: 31 December, 2017

Current Status:

Council had previously received an objection to the proposal from NSW Department of Resources and Industry based on mining related issues. In November, 2015 Council received advice from the Department of Resources and Industry where it was advised that based on the consideration of additional information provided, they would now support the proposal. Council has since consulted with the Mine Subsidence Board who also raised no objections to the proposal. The proponent is currently in the process of preparing Specialist Studies for the Planning Proposal.

Expected timeline for completion:

Project detail	Timeframe	Timeline
Timeframe to receive and review specialist studies and make any amendments to the Planning Proposal or Specialist Studies as a result.	6 months	Late June, 2018
Commencement and completion dates for public exhibition – after amending the Planning Proposal if required, preparation of maps and DCP provisions.	4 months	Late October, 2018
Timeframe for consideration of submissions	1 month	Late November, 2018
Timeframe for consideration of a proposal post exhibition including amendments, maps and report to Council.	3 months	Late February, 2019
Anticipated date Council will forward Draft LEP Amendment to PC and to the Department.	Within 1 month of Council Report	Late March, 2019
Anticipated date the Department will finalise the LEP Amendment and it is notified on the website.	1 month	Late April, 2019

Requested Gateway Extension:

In view of the above, Council requests an extension until 30 April 2019 to complete the planning proposal.

Council Contact: Mark Ruddiman, 4677 9592 or mark.ruddiman@wollondilly.nsw.gov.au

2. Stonequarry Commercial (PP_2013_WOLLY_010_00)

Gateway Determination: 9 August, 2013

Current Finalisation Date: 31 December, 2017

Current Status: Council has received specialist studies and undertaken consultation with government agencies. The applicant is required to address OEH concerns with regards to flooding, in the form of a Flood Study and Hydrology and Hydraulic Assessment and has submitted these studies which are being assessed with regard to recent flood studies undertaken by Council in response to the flooding of Stonequarry Creek in June last year. Council is currently undertaking a traffic and transport investigation in relation to the Picton Town Centre which incorporates consideration of the impact from this planning proposal. The Planning Proposal is not able to be finalised until the outcomes of the investigation including requirements for infrastructure and planning agreement negotiations are complete.

Expected timeline for completion:

Project detail	Timeframe	Timeline
Timeframe to review specialist studies and make any amendments to the Planning Proposal or Specialist Studies and also prepare a planning agreement for provision of transport and other infrastructure	4 months	April 2018
Commencement and completion dates for Public Exhibition – after amending the Planning Proposal if required, preparation of maps and DCP provisions.	3 Months	July 2018
Timeframe for consideration of submissions and proposal post exhibition including amendments, maps and report to Council.	3 months	October 2018
Anticipated date Council will forward Draft LEP Amendment to PC and to the Department for finalisation.	2 months	December 2018

Requested Gateway Extension: In view of the above, Council requests an extension until 31 December 2018 to complete the planning proposal.

Council Contact: Kitty Carter, 4677 8230 or kitty.carter@wollondilly.nsw.gov.au

3. Great Southern Road (PP_2014_WOLLY_005_00)

Gateway Determination: 2 October, 2014

Current Finalisation Date: 31 December, 2017

Current Status:

Specialist Studies for the Planning Proposal were provided to Council in July, 2016. A comprehensive review of the Specialist Studies was carried out by Council and it was identified that amendments to the Planning Proposal (typically related to zoning and minimum lot sizes) were required to address issues around vegetation, water quality and effluent disposal. An altered Gateway determination was approved by the Department on 3 February 2017. As a result of this, revised specialist studies were provided by the proponent in April 2017. Public Exhibition occurred from 31 August 2017 until 3 October 2017.

Expected timeline for completion:

Project detail	Timeframe	Timeline
Timeframe for consideration of a proposal post exhibition including amendments, maps and report to Council.	1 Month	December, 2017

<i>Project detail</i>	<i>Timeframe</i>	<i>Timeline</i>
Anticipated date Council will forward Draft LEP Amendment to PC and to the Department.	2 months	February, 2018
Anticipated date the Department will finalise the LEP Amendment and it is notified on the website.	1 month	March, 2018

Requested Gateway Extension:

In view of the above, Council requests an extension until 31 March, 2018.

Council Contact: Mark Ruddiman, 4677 9592 or
mark.ruddiman@wollondilly.nsw.gov.au

4. Boundary Adjustments and Minimum Subdivision Lot Size for Community Title Schemes (PP_2016_WOLLY_004_00)

Gateway Determination: 6 September, 2016

Current Finalisation Date: 13 December, 2017

Current Status: A request for PC opinion has been submitted (1 December 2017).

Expected timeline for completion:

<i>Project detail</i>	<i>Timeframe</i>	<i>Timeline</i>
Anticipated date Council will forward Draft LEP Amendment to PC and to the Department.	2 months	December, 2017
Anticipated date the Department will finalise the LEP Amendment and it is notified on the website.	1 month	February, 2018

Requested Gateway Extension:

In view of the above, Council requests an extension until 28 February 2018.

Council Contact: Carolyn Whitten, 4677 9551 or
carolyn.whitten@wollondilly.nsw.gov.au

5. The Oaks North Silverdale Road (PP_2016_WOLLY_005_00)

Gateway Determination: 8 December, 2016

Current Finalisation Date: 15 December, 2017

Current Status: An altered Gateway determination was approved by the Department on 20 July 2017. Council is currently awaiting specialist studies from the proponent.

Expected timeline for completion:

Project detail	Timeframe	Timeline
Timeframe to receive and review specialist studies and make any amendments to the Planning Proposal or Specialist Studies as a result.	6 months	Late June, 2018
Commencement and completion dates for public exhibition – after amending the Planning Proposal if required, preparation of maps and DCP provisions.	4 months	October, 2018
Timeframe for consideration of submissions	1 month	November, 2018
Timeframe for consideration of a proposal post exhibition including amendments, maps and report to Council.	3 months	February, 2019
Anticipated date Council will forward Draft LEP Amendment to PC and to the Department.	Within 1 month of Council Report	March, 2019
Anticipated date the Department will finalise the LEP Amendment and it is notified on the website.	1 month	April, 2019

Requested Gateway Extension:

In view of the above, Council requests an extension until 31 April, 2019.

Council Contact: Carolyn Whitten, 4677 9551 or
carolyn.whitten@wollondilly.nsw.gov.au

6. Land Adjoining Bargo Sportsground (PP_2012_WOLLY_009_00)

Gateway Determination: February, 2013

Current Finalisation Date: 31 December, 2017

Current Status: The current Gateway Determination enables the proposal to proceed with the land use zone being amended to R2 Low Density Residential with a minimum lot size of 450 square metres across the entire site and R5 (with a minimum lot size of 1000 square metres). It was later established that Sydney Water could not provide reticulated sewer to the site.

Council resolved at its Ordinary Meeting on 16 October, 2017 to request an Altered Gateway Determination to enable the land use zone of the site to be amended to an R5 zone (with a minimum lot size of 4000 square metres) and an E2 zone over certain areas of significant vegetation on the site. A revised Planning Proposal is currently being prepared to send to the Department with the Altered Gateway request.

It is anticipated that any vegetation removal in the part of the site that is proposed to be zoned R5 large Lot Residential could now be offset under the new Biodiversity Conservation Act and Regulations which resolves this issue which was previously limiting the progression of the proposal.

Expected timeline for completion:

Project detail	Timeframe	Timeline
Altered Gateway Determination from the Department of Planning in relation to revised lot size and land use zones	3 months	March, 2018
Submission of revised studies from the proponent and review of the revised studies by Council.	3 Months	June, 2018
Commencement and completion dates for public exhibition – after amending the Planning Proposal if required, preparation of maps and DCP provisions.	3 Months	September, 2018
Timeframe for consideration of submissions.	2 months	November, 2018
Timeframe for consideration of a proposal post exhibition including amendments, maps and report to Council.	2 months	January, 2019
Anticipated date Council will forward Draft LEP Amendment to PC and to the Department.	1 month	February, 2019
Anticipated date the Department will finalise the LEP Amendment and it is notified on the website.	1 months	March, 2019

Requested Gateway Extension: In view of the above, Council requests an extension until 31 March, 2019 to complete the planning proposal.

Council Contact: Mark Ruddiman, 4677 9592 or mark.ruddiman@wollondilly.nsw.gov.au

Should you require any further information please do not hesitate to contact me directly on phone (02) 4677 9559 or via e-mail carolyn.whitten@wollondilly.nsw.gov.au

Yours faithfully



Carolyn Whitten
Acting Manager Sustainable Growth



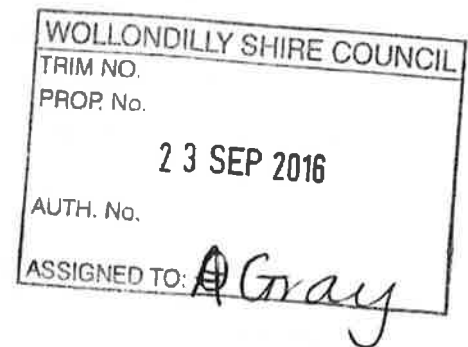
Contact: James Sellwood
Phone: (02) 9860 1559
Email: james.sellwood@planning.nsw.gov.au

Our ref.: 12/13917
Your ref.: 8767, 4985, 6497, 6454, 6585, 6814, 6842, 6969,
6895, 7236, 7654, 7842, 7884, 8055, MR:DS

Mr Luke Johnson
General Manager
Wollondilly Shire Council
PO Box 21
Picton NSW 2571

Attention: Mr David Smith, Manager Growth and Planning

Dear Mr Johnson



Extension of Gateway Timeframe for Thirteen Planning Proposals

I refer to Council's letter of 25 August 2016 seeking an extension of time for thirteen planning proposals.

As delegate of the Greater Sydney Commission, I have, under section 56(7) of the *Environmental Planning and Assessment Act 1979* (the Act), altered the Gateway determinations for twelve of the thirteen planning proposals by extending the timeframes for their completion, under section 56(2)(f) of the Act, as follows:

Planning Proposal	Extension Granted
Macquariedale Road, Appin (PP_2011_WOLLY_014_00)	10 months (now due on 30 June 2017)
Abbotsford Road, Picton (PP_2011_WOLLY_017_00)	10 months (now due on 30 June 2017)
North Silverdale (PP_2013_WOLLY_005_00)	10 months (now due on 31 October 2017)
Bulli-Appin Road, Appin (PP_2013_WOLLY_013_00)	7 months (now due on 30 June 2017)
Station Street, Menangle (PP_2013_WOLLY_011_00)	12 months (now due 30 June 2017)
Land Adjoining Oakdale Sportsfields (PP_2013_WOLLY_006_00)	10 months (now due 30 September 2017)
Stonequarry Commercial, Picton (PP_2013_WOLLY_010_00)	13 months (now due 31 December 2017)

Planning Proposal	Extension Granted
Argyle Street Business Lands, Picton (PP_2013_WOLLY_007_00)	18 months (now due 31 December 2017)
Government Road, Bargo (PP_2014_WOLLY_006_00)	10 months (now due 31 October 2017)
Heritage Housekeeping (PP_2014_WOLLY_001_00)	15 months (now due 31 July 2017)
Cross Street, Tahmoor (PP_2014_WOLLY_003_00)	11 months (now due 30 September 2017)
Land Adjacent to the Mushroom Tunnel, Picton (PP_2015_WOLLY_001_00)	13 months (now due 31 October 2017)

As noted in the Department's letter of 8 September 2016, it was considered that revisions made to the Picton East planning proposal were significant enough from the original proposal that it constituted a new planning proposal, and that should Council wish to pursue the revised planning proposal scheme for Picton East it should withdraw the original planning proposal and submit a new planning proposal to the Department for a Gateway determination.

In light of the above, the extension of timeframe requested for the Picton East planning proposal is no longer necessary and has not been granted.

If you have any questions regarding this matter, please contact Mr James Sellwood of this office on (02) 9860 1559.

Yours sincerely



19/09/16

Catherine Van Laeren
Director Sydney Region West
Planning Services

Delegate of the Greater Sydney Commission



Alteration of Gateway Determination

**Planning proposal (Department Ref: PP_2013_WOLLY_007_00):
Argyle Street Business Lands**

I, the Director Sydney Region West, at the Department of Planning and Environment, as delegate of the Greater Sydney Commission, have determined, under section 56(7) of the *Environmental Planning and Assessment Act 1979* (the Act), to alter the Gateway determination dated 29 January 2015 (as amended), for the proposed amendment to the Wollondilly Local Environmental Plan 2011 as follows:

1. Delete condition 8 and replace with a new condition 8:

"The timeframe for completing the LEP is by **31 December 2017**".

Dated 19th day of September 2016

**Catherine Van Laeren
Director Sydney Region West
Planning Services**

Delegate of the Greater Sydney Commission



Alteration of Gateway Determination

Planning proposal: PP_2013_WOLLY_007_00: Argyle Street Business Lands

I, Director, Sydney Region West at the Department of Planning and Environment as delegate of the Greater Sydney Commission, have determined under section 56(7) of the *Environmental Planning and Assessment Act 1979* ("EP&A Act") to alter the Gateway determination dated 19 September **2016** (as amended), for the proposed amendment to the Wollondilly Local Environmental Plan 2011 as follows:

1. Delete:

"condition 8"

and replace with:

a new condition 8 "The timeframe for completing the LEP is by 31 September 2018"

Dated 11th day of January 2018.

A handwritten signature in black ink, appearing to read 'Catherine Van Laeren'.

**Catherine Van Laeren
Director, Sydney Region West
Planning Services
Department of Planning and Environment**

Delegate of the Greater Sydney Commission

11.3 PLANNING PROPOSAL - ARGYLE STREET BUSINESS LANDS**File Number: 10619#609**

Lot & DP – Subject Site: Lot 212 DP1094898, Lot 141 DP997490, Lot 1 DP 537245, Lot 15 DP 1105675, Lot 16 DP 979250 - DPP - Argyle Street Business Lands

Proposal: Rezone the land to enable the development of the site for business purposes

Applicant: Precise Planning – Jeff Bulfin

Owners: JJM & T Arcuri Pty Ltd, Khoury Bare Co Pty Ltd, Amanda Michelle Dench, Frank Romeo, Irene Khoury

Notification: Preliminary notification completed

Submissions: Four community and three public agencies responses received

**EXECUTIVE SUMMARY**

- The purpose of this report is to seek Council support to no longer proceed with the Argyle Street Business Lands Planning Proposal as there is insufficient information for the proposal to proceed.
- To facilitate this position a request to the NSW Department of Planning and Environment (DPE) is required for an alteration to the gateway determination to specify that the planning proposal should not proceed.
- The Planning Proposal relates to No. 459-475 Argyle Street, Picton (Lot 212 DP 1094898, Lot 141 DP 997490, Lot 1 DP 537245, Lot 15 DP 1105675 and Lot 16 DP 979250) and seeks to rezone the land to enable the development of the site for business purposes.

- Council originally supported the proposal in March 2013 and a Gateway determination was issued by DPE on 20 June 2013. A number of specialist studies are required to inform the planning proposal but have not been provided by the proponent to date. Further, there has been no formal correspondence from the proponent since 2016.
- This report recommends that:
 1. Council no longer support the Argyle Street Business Lands Planning Proposal;
 2. Council request the NSW Department of Planning & Environment for an alteration the Gateway determination to specify that the planning proposal should no longer proceed;
 3. the applicant and submitters be notified of Council's decision.

REPORT

Background

This Proposal was initially submitted to Council in November 2012. Council originally supported the proposal at its Ordinary Meeting in March 2013 and resolved to forward the proposal to the NSW Department of Planning & Environment (DPE) for a Gateway determination.

A Gateway determination for the Planning Proposal was issued by DPE on 20 June 2013 which supported the Proposal and indicated a number of specialist studies that needed to be undertaken. The initial Gateway Determination specified a finalisation timeframe of 18 months from the week following the date of the Gateway Determination (being 27 December 2014). A copy of the Gateway determination is provided at Attachment 1.

Since the initial Gateway determination was issued, four timeframe extensions requests have been granted by DPE. The most recent timeframe extension expired on 31 May, 2019.

The purpose of the four previous extensions to the Determination timeframe were to allow time for the required specialist studies to be undertaken and for the Proposal to progress accordingly. Unfortunately, Council has not received any of the required specialist studies and therefore has not been able to progress the Proposal.

Throughout 2016 correspondence was made with the proponent advising them of the steps that they needed to take in order to progress the Planning Proposal. The advice was provided in February and August 2016 and advised that briefs detailing the scope of works for the preparation of the necessary specialist studies were required in order to progress the proposal. Council has not received any correspondence from the proponent on this proposal since this time.

The proponent was requested to provide an update on the status of the preparation of these studies on 3 January 2019 and 31 January 2019. No response was received.

Council then wrote to the proponent on 26 March 2019 outlining concerns with the lack of progress on this proposal and stated the following:

Our records show that the most recent correspondence with you regarding this proposal and the preparation of the specialist studies was in August 2016. It is also noted that Council requested an update from you on the status of the specialist studies by email on 3 January 2019 and 31 January 2019. Unfortunately, Council has not yet received a response to these emails and the status of the preparation of these studies remains unclear.

Given that the most recent gateway determination deadline has expired, and Council has not yet received any of the required studies, Council will seek a final gateway extension from DPE of three (3) months so that the matter can be reported to Council with a recommendation to not proceed with this Planning Proposal.

If you would like to withdraw your Planning Proposal, please advise us within seven (7) days of the date of this letter. If the planning proposal is not withdrawn then the matter will be considered at the May Ordinary Meeting of Council.

No response was provided by the proponent indicating that they wish to withdraw the proposal and accordingly, it is considered that Council should now request a Gateway Alteration from DPE so that the proposal does not proceed, as Council has now requested four separate extensions to the Gateway determination timeframe and there has been little progress on the matter since the initial Gateway Determination was issued. DPE have indicated verbally that an extension to the gateway determination timeframe beyond current request to 31 May 2019 is unlikely to be granted due to the inability to demonstrate progression of this proposal.

This report was originally presented to Council at the May Ordinary Meeting held 21 May 2019, but was deferred to allow appropriate time for Council staff to meet with the owners of 469 Argyle Street, who had some concerns around the processes associated with this Planning Proposal. Council staff met with the owners of 469 Argyle St on 22 May 2019 and explained Council's process, along with providing details around the history of the proposal and current timeframe constraints. At the end of this meeting, Council staff were reasonably satisfied that the owners of 469 Argyle St had an understanding of the Council's processes and concerns around the lack of progress of this Planning Proposal.

It is also of note that Council is coming under increasing pressure from DPE to complete its longstanding Planning Proposals within a reasonable timeframe and it is unclear at this point as to when the studies will be provided and the proposal will be able to progress.

It is therefore more appropriate for Council not to proceed with this proposal at this time and for the proponent to resubmit the proposal with the required studies upfront should they wish to pursue the matter in the future. The provision of upfront studies would be consistent with the approach in Council's recently adopted Planning Proposal Policy which requires studies to be provided at the time of lodgement of the proposal in order to reduce determination times and enable a more comprehensive assessment earlier in the process.

Description of Site and Surrounding Area

The Planning Proposal comprises five lots with a total area of approximately 5 hectares as detailed in the table below:

Address	Lot/DP	Size (ha)
459 Argyle Street	212/1094898	1.277
465 Argyle Street	141/997490	1.085
467 Argyle Street	1/537245	0.198
469 Argyle Street	15/1105675	1.230
475 Argyle Street	16/979250	1.275
<i>Total</i>		<i>5.065</i>

The land at 459 Argyle Street is zoned IN2 Light Industrial while the remainder of the site is zoned RU2 Rural Landscape under WLEP 2011. This site sits across the road from Picton High School and abuts the Stilton Road Planning Proposal site.

Description of Proposal

The Planning Proposal seeks to amend the provisions of Wollondilly Local Environmental Plan 2011 (WLEP 2011) to enable the site to be developed for business purposes.

The proposal intends to achieve this by amending WLEP 2011 in the following manner:

- Amending the Land Zoning Map from Zone RU2 Rural Landscape to Zone B5 Business Development for Lots 141 DP 997490, Lot 1 DP 537245, Lot 15 DP 1105675 and Lot 16 DP 979250
- Amend the Land Zoning Map from Zone IN2 Light Industrial to Zone B5 Business Development for Lot 212 DP 1094898
- Amend the Height of Building Map to impose a height limit of 12 metres
- Amend the Lot Size Map by removing the 16 ha minimum lot size and having no minimum lot size.

Consultation

Community Consultation

In December of 2012 and January of 2013 preliminary community consultation was undertaken with adjoining and potentially affected properties.

In response four submissions were received objecting to the proposed LEP amendment:

- Local European Heritage – nearby “Tyrone House” has significant heritage value that could be impacted on by the proposed change in local environment
- Increased risk to local students from a larger volume of more diverse traffic
- An increase in noise and lighting impacting on local residents
- A decrease in local air quality
- Loss of privacy to nearby residents
- The area not being appropriate for industrial zoning given its proximity to residential housing
- Loss of value of local residential properties.

A comprehensive assessment of the planning proposal, including consideration of the matters raised during the preliminary consultation, is not possible in the absence of the specialist studies.

Consultation with public agencies

In accordance with the Gateway Determination issued by the Department of Planning on the 20 June 2013, Council was required to consult with a number of public agencies including the Department of Trade and Investment and the Mine Subsidence Board. Although this typically occurs during the formal public exhibition of the proposal, Council undertook an initial consultation with government agencies on this proposal where there could be threshold issues.

Department of Trade and Investment (DTI)

The Resources and Energy Division of the Department of Trade and Investment (DT&I) provided two submissions on this Proposal. The initial submission from 2013 stated that as the site is located above an approved long wall mining project area and there is potential for future subsidence in this location the DTI did not support the Planning Proposal until mining in this area has been completed. The second, revised in 2015, submission provided by the now named Geological Survey NSW indicated support for the Proposal.

Mine Subsidence Authority

In July 2013, the Mine Subsidence Authority (MSA) advised that the site had not been undermined in the past and would be undermined by Tahmoor Colliery in approximately five years time. The MSA advised that as mining is to occur in the near future and due to possible subsidence and associated risk to the Mine Compensation Fund then surface development should be staged around mining. In

terms of compensation, the MSA is financially responsible for compensating for any structural problems that may arise in buildings due to subsidence. They are concerned both about the scale of building and type of business use that may be developed in the business development zone which would allow for both light industrial and other types of warehouse and commercial development. The alternative should development proceed in advance of mining would be for the MSA to consider the application design and engineering details based on a set of predicted subsidence parameters. In discussions held with MSA they indicated that this is not their preferred option because the undermining will be occurring in the near future. However, in consultation with Tahmoor Colliery, they concluded that their operations in the area were anticipated to be completed by 2019.

Sydney Water

Council undertook consultation with Sydney Water immediately following the receipt of the Gateway Determination for this Planning Proposal. The following advice was received by Sydney Water on 23 July 2013 which advised the following:

- The proposed development can be serviced only if the current Picton Sewerage Scheme boundary modification submission is approved by the Department of Planning and Environment. The developer would need to carry out capacity assessment to ensure that flows from future connections would be less than the approved scheme capacity of the plant and farm and that the schemes environmental protection license conditions can be met.
- Council recently received correspondence from Sydney Water in regards to the Picton East Planning Proposal. This advice stated that there is currently not enough capacity to support the proposal and the development would need to provide for its own wastewater system if the rezoning and development are to proceed.
- At meetings held with Sydney Water on 13 December 2018 and on 6 February 2019, it was confirmed that the Sydney Water wastewater treatment plant has no spare capacity and is currently breaching its EPA licensing conditions. This is expected to have implications for other Planning Proposals in the Picton Area including this site and updated advice has been sought from Sydney Water to confirm the impacts for the overall Picton Area.

Moving Forward

Council's options are:

1. Resolve to no longer support the planning proposal. With this option a request will be made to the NSW Department of Planning and Environment for an alteration to the Gateway determination to specify that the planning proposal should not proceed. Although the Gateway timeframe extension has expired, if Council resolve not to proceed with the Planning Proposal it is unlikely that further extensions will be required.
2. Resolve to request a further extension to the Gateway determination timeframe. However, with this option Council will need to satisfactorily demonstrate how the planning proposal will be progressed. This would be difficult given the proponent is not responding to correspondence and funding is not available to fund the preparation of the necessary studies.

Option 1 is the recommendation of this report.

Financial Implications

This matter has no financial impact on Council's adopted budget or forward estimates.

ATTACHMENTS

1. **Gateway Determination - Argyle Street Planning Proposal**

RECOMMENDATION

1. That Council no longer support the Argyle Street Business Lands Planning Proposal.
2. That a request is made to the NSW Department of Planning & Environment for an alteration to the Gateway determination to specify that the planning proposal should no longer proceed.
3. That the applicant and submitters be notified of Council's decision.

11.3 PLANNING PROPOSAL - ARGYLE STREET BUSINESS LANDS

RESOLUTION 166/2019

Moved: Cr Blair Briggs

Seconded: Cr Matthew Gould

- 1. That Council no longer support the Argyle Street Business Lands Planning Proposal.**
- 2. That a request is made to the NSW Department of Planning & Environment for an alteration to the Gateway determination to specify that the planning proposal should no longer proceed.**
- 3. That the applicant and submitters be notified of Council's decision.**

On being put to the meeting the motion was declared **CARRIED 7/0**

In Favour: Crs Michael Banasik, Blair Briggs, Matthew Deeth, Matthew Gould, Simon Landow, Noel Lowry and Matt Smith

Against: Nil

