

Rezoning of part of 136-154 Menangle Street, Picton

Proposal Title : **Rezoning of part of 136-154 Menangle Street, Picton**

Proposal Summary : **To rezone part of 136-154 Menangle Street, Picton, for residential development.**

PP Number : **PP_2012_WOLLY_001_00**

Dop File No :

12/05398

Proposal Details

Date Planning : **08-Mar-2012**

LGA covered :

Wollondilly

Proposal Received :

Region : **Sydney Region West**

RPA :

Wollondilly Shire Council

State Electorate : **WOLLONDILLY**

Section of the Act :

55 - Planning Proposal

LEP Type : **Spot Rezoning**

Location Details

Street : **Part of 136-154 Menangle Street**

Suburb : **Picton**

City :

Sydney

Postcode : **2571**

Land Parcel : **Part of Lot 12 in DP 1126525**

DoP Planning Officer Contact Details

Contact Name : **Mato Prskalo**

Contact Number : **0298738568**

Contact Email : **mato.prskalo@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Kitty Carter**

Contact Number : **0246778230**

Contact Email : **kitty.carter@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 :

N/A

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

Consistent with Strategy :

Yes

Regional Strategy :

Rezoning of part of 136-154 Menangle Street, Picton

MDP Number :

Date of Release :

Area of Release (Ha)
:

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 17

No. of Dwellings 17
(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

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

If No, comment : The Department's register of lobbyist contacts was examined on 23 March and there are no records of any contacts related to this Planning Proposal.

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

If Yes, comment : To the best of the regional team's knowledge, there has been no meetings or communications with registered lobbyists.

Supporting notes

Internal Supporting Notes : The Planning Proposal and Council report are located in the 'Documents' section.

External Supporting
Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The Proposal will rezone 2.32 ha of a large rural allotment (34.84ha) on the south eastern edge of the Picton urban area for residential development (17 allotments).

The rezoning will allow the land to be jointly developed with an adjoining, small part (0.47ha) of the same allotment, that is vacant and already zoned for residential development (with the potential to create 4 additional allotments).

A concept plan is shown on page 15 of the Proposal document (refer to 'Documents' section).

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

Is an explanation of provisions provided? Yes

Comment : The Proposal seeks to:
- rezone land from Zone RU2 Rural Landscape to Zone R2 Low Density Residential, and
- apply a minimum lot size of 700sqm and a building height limit of 9m to that land.

The proposed zoning is shown on page 14 of the Proposal document (refer to 'Documents' section).

The Proposal will result in a residue of 32ha of land zoned RU2 Rural Landscape, for which the minimum permissible lot size is currently 100ha. To enable subdivision of the split-zoned allotment (i.e. by avoiding the creation of a significantly undersized rural allotment), the Proposal seeks to apply an appropriate minimum permissible lot size to the

residual land but does not specify a size. It is considered that the minimum permissible lot size for the residual land (i.e. the 'residual allotment') should be 30 hectares. Council officers were consulted and have agreed to this figure.

The rezoning is proposed to be facilitated by amending the following maps forming part of Wollondilly Local Environmental Plan 2011:

- Land Zoning Map - Sheet LZN_008G,
- Lot Size Map - Sheet LSZ_008G, and
- Height of Buildings Map - Sheet HOB_008G.

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

* May need the Director General's agreement

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.4 Integrating Land Use and Transport

4.2 Mine Subsidence and Unstable Land

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

7.1 Implementation of the Metropolitan Plan for Sydney 2036

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

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

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

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

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

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

SECTION 117 DIRECTIONS

DIRECTION 1.2 RURAL ZONES

This Direction applies to the Proposal as it rezones land from a rural zone (RU2 Rural Landscape) to a residential zone (R1 Low Density Residential) and, therefore, the Proposal is inconsistent with the Direction, requiring justification. It is considered that the inconsistency is justified on the basis of being of minor significance. The approval of the Director General to the inconsistency will be required pursuant to clause 5(d) of the Direction.

The residual allotment is proposed to remain zoned RU2 Rural Landscape, which permits a range of rural land uses. It is understood that the land was previously used for dairy farming but it is not known whether future agricultural use of the land is intended. Notwithstanding this, the indicative subdivision layout (on page 15 of the Proposal document) shows that the residual allotment will be accessed through a proposed residential cul-de-sac. While this may increase the potential for land use conflicts, it is considered that such issues can be adequately managed through the development assessment and control process. Therefore, no change to the current RU2 Rural Landscape zoning is required for the residual allotment.

DIRECTION 2.1 - ENVIRONMENT PROTECTION ZONES

This Direction applies to the Proposal as it contains environmentally sensitive land,

being Cumberland Plain Woodland (CPW) and steeply sloped land.

The land proposed for residential development is largely cleared and contains only small areas of CPW (combined with weed species), which are not the more significant Priority Conservation Land CPW. The Proposal seeks to retain mature remnant trees and incorporate them into the residential development. It is considered that, despite the limited occurrence of CPW on the site, a flora and fauna study should be carried out because of the CPW's 'endangered' status.

Cumberland Plain Shale Woodland Forest is subject to the Federal Government's Environment Protection and Biodiversity Conservation Act 1999. Accordingly, Council will need to consult with the Federal Department of Sustainability, Environment, Water, Population and Communities. Council will also need to consider Section 34A consultation with the Director-General of the Office of Environment and Heritage (OEH).

Council should be required to demonstrate consistency with the Direction prior to undertaking community consultation.

DIRECTION 2.3 – HERITAGE CONSERVATION

This Direction requires the Proposal to facilitate heritage conservation. While there are currently no listed heritage items on the site, the part of the site which is already zoned for residential purposes is located within the Picton Heritage Conservation Area (HCA), as listed in the heritage schedule under Camden LEP 2010. In addition, the site itself may raise heritage matters as it has a long farming history. Aboriginal archaeological issues may also be present.

Therefore, Council should undertake a heritage study and consult the Heritage Branch of the Office of Environment and Heritage. The study should include consideration of potential visual impacts of the proposed development on the Picton HCA, given the encroachment of proposed residential development onto visually prominent land. Council should be required to demonstrate consistency with the Direction prior to undertaking community consultation.

DIRECTION 3.1 - RESIDENTIAL ZONES

This Direction applies to the Proposal as it seeks to rezone land for residential development. The Proposal is consistent with the Direction in so far as it will broaden the choice of housing locations locally and will contribute to the housing target identified for Picton under Council's Wollondilly Growth Management Strategy 2011. The site is also identified as a potential residential growth area under that Strategy.

Infrastructure and services, including reticulated water and sewer, are located in the vicinity of the site and would need to be extended to the site. The Proposal indicates that this would be funded by the developer at no cost to Government. Sydney Water is currently seeking Ministerial approval to modify the servicing boundary for the Picton Sewerage Treatment Plant. However, the site is located immediately outside the boundary, therefore, separate negotiations would be required with Sydney Water in relation to servicing. Consultation is also required with all other main utility providers, including Roads and Maritime Services (the proposal will rely on the creation of a new access point to a State road (i.e. Menangle Street)).

The proposed minimum lot size for the residential development is 700m². It is noted that clause 4.1(5) of Wollondilly LEP 2011 prevents the creation of lots less than 975sqm in Zone R2 Low Density Residential if they are not serviced by a reticulated sewerage scheme. A third of the proposed lots are over 975sqm, as shown on the indicative subdivision layout on page 15 of the Proposal document. The variation in proposed lot sizes may lead to disorderly development if reticulated sewer cannot be provided in a

timely manner, particularly as the four proposed lots that do not form part of the Proposal (i.e. fronting Menangle Street) are located within Sydney Water's existing servicing boundary and can be serviced from existing infrastructure. Therefore, it is considered that Council, as part of its consultation with Sydney Water, should investigate all appropriate means for ensuring a strategic approach to sewer servicing, including the possibility of servicing the site from current spare capacity at the STP.

It is noted that proposed Lot 21, as shown on the indicative subdivision layout, is 3067sqm in size. The layout shows that the majority of the allotment is considered to be unsuitable for building due to steeply sloping land. The constrained land may create expectations of re-subdivision due to its size and proposed residential zoning. However, although Wollondilly LEP 2011 does not include mapping of constraints, clause 4.1(c) of the LEP requires the subdivision of land to be compatible with the landscape and environmental constraints of the land. Nevertheless, it is considered to be preferable for the constrained land to be zoned more appropriately. Therefore, it is considered that Council should consider an alternative zoning for the constrained land.

DIRECTION 3.4 - INTEGRATING LAND USE AND TRANSPORT

This Direction applies to the Proposal as it rezones land for urban purposes. The Direction requires the Proposal to be consistent with:

- 'Improving Transport Choice - Guidelines for planning and development (DUAP 2001)', and
- 'The Right Place for Business and Services - Planning Policy (DUAP 2001)'.

The Proposal is considered to be generally consistent with the Improving Transport Choice guideline, and hence this Direction, as the site is located on the edge of the Picton urban area and is within 550m walking distance of the town centre. The site is also close to Picton Railway Station.

DIRECTION 4.2 – MINE SUBSIDENCE AND UNSTABLE LAND

This Direction applies to the Proposal as it is located within a proclaimed Mine Subsidence District (i.e. Picton). The Direction requires Council to consult with the Mine Subsidence Board and notify the Department of the results prior to undertaking community consultation. Following consultation, Council is required to demonstrate the Proposal's consistency with the Direction.

DIRECTION 4.3 – FLOOD PRONE LAND

The Proposal indicates that the site adjoins flood prone land but is not flood prone itself. However, the Council report notes that a small part of the site is prone to flooding. In addition, there are stormwater and drainage issues affecting the proposed residential land as it is surrounded by steeply sloping land. Therefore, this Direction applies to the Proposal as it rezones flood prone land.

As the Proposal does not identify the precise location of the flood prone land and its proposed zoning, the consistency of the Proposal with the Direction cannot be determined at this time. Therefore, Council should be required to address this matter and demonstrate consistency before undertaking community consultation.

DIRECTION 4.4 – PLANNING FOR BUSHFIRE PROTECTION

This Direction applies to the Proposal as the site contains bush fire prone land. Pursuant to section 4 of the Direction, Council will be required to consult with the Commissioner of the NSW Rural Fire Service following receipt of the Gateway Determination and prior

Rezoning of part of 136-154 Menangle Street, Picton

to undertaking community consultation, and take into account any comments made. A determination of the consistency of the Proposal with the Direction will be made once the above steps have been completed.

DIRECTION 7.1 IMPLEMENTATION OF THE METROPOLITAN PLAN FOR SYDNEY 2036

This Direction requires the Proposal to be consistent with the Metropolitan Plan for Sydney 2036. The Proposal is generally consistent with this Plan, particularly as it provides additional housing opportunities in an appropriate location.

SEPPs AND REPs

SYDNEY REGIONAL ENVIRONMENTAL PLAN No. 20 – HAWKESBURY-NEPEAN RIVER (No. 2 – 1997) ('SREP 20')

The provisions of SREP 20 apply to the Proposal and require Council to give consideration to general planning considerations, specific planning policies, recommended strategies and specific development controls.

STATE ENVIRONMENTAL PLANNING POLICY No. 55 – REMEDIATION OF LAND

This SEPP requires Council to consider whether land that is proposed for rezoning is contaminated and can be remediated. Council proposes to undertake a contamination study in view of the past agricultural use of the land. It is considered that the study should be made a Gateway requirement.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council proposes to exhibit the Proposal for a period of 28 days.**

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 Principal LEP, Wollondilly LEP 2011, was made in February 2011.**

Assessment Criteria

Need for planning proposal :	A Planning Proposal is required to rezone the land.
Consistency with strategic planning framework :	The Proposal is consistent with the general direction of the Metropolitan Plan for Sydney 2036 and the draft Southwest Subregional Strategy as it provides additional housing opportunities in a generally appropriate location. As indicated previously, the Proposal is also consistent, in principle, with Council's Wollondilly Growth Management Strategy 2011. Council has submitted the Strategy to the Department for endorsement. The Department has delayed its consideration of the Strategy until the completion of the Government's Review of Potential Housing Opportunities on Landowner Nominated Sites. However, it is considered that, in principle, the Proposal has merit.
Environmental social economic impacts :	The undertaking of various studies that are recommended in this report will determine the existence of environmental, social and economic impacts and whether they can be managed. However, it is anticipated that there will be few issues and that these will be manageable.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	28 Days
Timeframe to make LEP :	12 Month	Delegation :	DG
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage Mine Subsidence Board NSW Rural Fire Service Transport for NSW - Roads and Maritime Services Sydney Water Telstra Transgrid		
Is Public Hearing by the PAC required?	No		
(2)(a) Should the matter proceed ?	Yes		
If no, provide reasons :	Council should be required to amend the Proposal to clarify that it applies to 'part' of Lot 12, DP 1126525, and not the whole allotment.		
Resubmission - s56(2)(b) :	No		
If Yes, reasons :			
Identify any additional studies, if required. :			
Flora			
Fauna			
Heritage			
Bushfire			
Flooding			
If Other, provide reasons :			
As indicated previously, a traffic and transport study is also required.			
Due to the site's landform, a geotechnical and engineering study is required to confirm the extent of the area suitable for residential development and any other issues.			

Rezoning of part of 136-154 Menangle Street, Picton

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **Yes**

If Yes, reasons : **The Proposal indicates that the land owner will fund the extension of infrastructure and services to the site. Consultation should be undertaken with relevant key relevant infrastructure and service providers prior to exhibition to determine delivery timeframes and likely costs.**

Documents

Document File Name	DocumentType Name	Is Public
Council_covering_letter.pdf	Proposal Covering Letter	Yes
Planning_proposal_-_Part_1.pdf	Proposal	Yes
Planning_proposal_-_Part_2.pdf	Proposal	Yes
Council_report.pdf	Study	Yes

Planning Team Recommendation

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

S.117 directions: **1.2 Rural Zones
2.1 Environment Protection Zones
2.3 Heritage Conservation
3.1 Residential Zones
3.4 Integrating Land Use and Transport
4.2 Mine Subsidence and Unstable Land
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
7.1 Implementation of the Metropolitan Plan for Sydney 2036**

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

- 1. The Director General approves the inconsistency with section 117 Direction 1.2 – Rural Zones on the basis that it is of minor significance;**
- 2. Community consultation is required under sections 56(2)(c) and 57 of the EP&A Act 1979 for a period of 28 days;**
- 3. The timeframe for completing the local environmental plan is to be 12 months from the week following the date of the Gateway Determination;**
- 4. The description of the land to which the Proposal applies should be amended to clarify that it applies to 'Part' Lot 12, DP 1126525 (rather than the whole of the allotment),**
- 5. A minimum permissible lot size of 30 hectares should apply to the rural residue land;**
- 6. Consideration by Council should be given to an alternative proposed zoning for the part of proposed Lot 21 affected by environmental constraints;**

The following conditions should be met, and their compliance endorsed by the Sydney West Regional Branch, prior to community consultation:

7. A flora and fauna study is required. The Director-General of the Office of Environment and Heritage should be consulted on the proposed rezoning. Consultation may also be required with that Office under section 34A of the Environmental Planning and Assessment Act 1979, in relation to the Cumberland Plain Woodland. The Federal Department of Sustainability, Environment, Water, Population and Communities should be consulted in relation to the Cumberland Plain Woodland. Consistency with section 117 Direction 2.1 Environment Protection Zones should subsequently be demonstrated by

Rezoning of part of 136-154 Menangle Street, Picton

Council;

8. A heritage study should be undertaken and the Heritage Branch of the Office of Environment and Heritage consulted. The heritage study should include an assessment of both the subject land and potential impacts on the Picton Heritage Conservation Area. Consistency with section 117 Direction 2.1 Environment Protection Zones should subsequently be demonstrated by Council;

9. Consultation is required with relevant key infrastructure and services providers in relation to the availability and costs of infrastructure and service provision. In particular, consultation with Sydney Water should explore means to service the site expeditiously to ensure orderly development (i.e. to deter on-site sewage disposal for larger residential lots). A traffic study is required and the Roads and Maritime Services should be consulted regarding potential traffic impacts. Consistency with section 117 Direction 3.1 Residential Zones should subsequently be demonstrated by Council;

10. Consultation is required with the Mine Subsidence Board pursuant to section 117 Direction 4.2 Mine Subsidence and Unstable Land. Consistency with the Direction should subsequently be demonstrated by Council;

11. A flood study is required and consistency of the Proposal with section 117 Direction 4.3 – Flood Prone Land subsequently demonstrated by Council;

12. Consultation is required with the Commissioner of the NSW Rural Fire Service pursuant to section 117 Direction 4.4 – Planning for Bushfire Protection. Consistency with the Direction should subsequently be demonstrated by Council;

13. Compliance with State Environmental Planning Policy No. 55 – Remediation of Land should be demonstrated by Council and, if necessary, a contamination study carried out; and

14. A geotechnical and engineering study should be undertaken by Council in relation to landform constraints and risks.

Supporting Reasons :

The Proposal will provide additional housing opportunities in a generally suitable location.

Signature:



Printed Name:

T DORAN

Date:

23/3/12