

**Menangle Landscape Conservation Area (revised proposal)**

Proposal Title : **Menangle Landscape Conservation Area (revised proposal)**

Proposal Summary : **To apply a Landscape Conservation Area to land around the existing Menangle Heritage Conservation Area.**

PP Number : **PP\_2012\_WOLLY\_007\_00**      Dop File No : **11/13040**

**Proposal Details**

Date Planning Proposal Received : **28-Sep-2012**      LGA covered : **Wollondilly**

Region : **Sydney Region West**      RPA : **Wollondilly Shire Council**

State Electorate : **WOLLONDILLY**      Section of the Act : **55 - Planning Proposal**

LEP Type : **Precinct**

**Location Details**

Street :  
Suburb :      City :      Postcode :  
Land Parcel : **All land within a radius of between approximately 400m to 1200m around the existing Menangle Heritage Conservation Area, which applies to Menangle Village.**

**DoP Planning Officer Contact Details**

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**RPA Contact Details**

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**DoP Project Manager Contact Details**

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**Land Release Data**

Growth Centre : **N/A**      Release Area Name : **N/A**  
Regional / Sub Regional Strategy : **Metro South West subregion**      Consistent with Strategy : **Yes**

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

### Supporting notes

Internal Supporting Notes : **BACKGROUND**

The planning proposal ('Council's Original Proposal') was previously considered by the Gateway on 29 August 2011 but was not allowed to proceed as the supporting heritage assessment was insufficient. Council has now submitted a revised planning proposal ('Council's Revised Proposal') with a supporting, formal heritage study and an amended boundary, for reconsideration. Copies of the Gateway determination and Council's Revised Proposal are provided in the Documents section of this report. Copies of the Gateway determination and Council's Revised Proposal are provided in the Documents section of this report.

Council's Original Proposal was prepared in response to the Minister's decision to take planning control of a major development proposal at Menangle by Elton Consulting. In December 2009, Elton Consulting, on behalf of Menangle Pastoral, submitted a planning proposal (i.e. 'Elton's Proposal') to Wollondilly Shire Council for a large employment area to the south of Menangle. Elton's Proposal also included some residential development and a new neighbourhood centre adjacent to Menangle village. Elton's Proposal is shown on the map in the Documents section of this report.

In January 2011, after delays by Council in progressing Elton's Proposal, the former Minister appointed the Sydney West Region Joint Planning Panel ('the JRPP') to be the Relevant Planning Authority for Elton's Proposal. The Minister formed the view that Elton's Proposal related to a matter of regional environmental planning significance.

Menangle Village is currently identified as a heritage conservation area ('Menangle Heritage Conservation Area') under Wollondilly Local Environmental Plan 2011 ('Wollondilly LEP 2011'). Council's proposal is intended to protect the views surrounding the Village. Maps showing the existing Menangle Heritage Conservation Area and the previously and currently proposed Menangle Landscape Conservation Area are shown on pages 7-8 of Council's Revised Proposal.

The JRPP has not yet considered Elton's proposal and the Department is currently finalising its submission to the JRPP. The Urban Assessments Branch, which is preparing the submission, was notified of Council's Original Proposal for its information on 25 July 2011. On 28 July 2011, the Urban Assessments Branch advised that, in its view, the LEP

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Review Panel should be made aware of the Department's detailed comments and position on Elton's proposal, which was expected shortly, before considering Council's proposal. On 17 October 2012, the Urban Assessments Branch advised that the Department's proposed submission to the JRPP on Elton's Proposal was receiving consideration by the Director General.

The employment area proposed under Elton's Proposal is located along Moreton Park Road, Menangle, which follows the M5 Freeway. The draft South West Subregional Strategy ('SRS') notes that Moreton Park Road, Menangle, was identified in the Macarthur South Regional Environmental Study ('RES') as a potential location for high quality employment land. While noting the isolation of the area from any workforce and lack of public transport access, the draft SRS indicates that the RES also proposed a major transport link in this locality with growth areas at Appin. The draft SRS considers that development should have regard to the principles in the State Plan of providing jobs close to residential areas and with good public transport access. An extract from the draft SRS is provided in the Documents section of this report.

### Comment

Under Council's Revised (and its Original) Proposal, the proposed Menangle Landscape Conservation Area extends onto part of the employment area identified under Elton's Proposal. In this regard, Council's Revised Proposal is inconsistent with the draft SRS. However, the proposed Menangle Landscape Conservation Area, if implemented, would not necessarily preclude development and would apply 5.10 Heritage Conservation of Wollondilly LEP 2011 to development proposals. However, Council's Revised Proposal considers that land within the proposed Menangle Landscape Conservation Area is unsuitable for future employment growth and identifies a suitable area on less visually sensitive land outside the proposed Menangle Landscape Conservation Area, which coincides with part of Elton's Proposal.

### Recommendation

While the proposed Menangle Landscape Conservation Area appears to have merit in-principle, it would be inappropriate for it to extend to regionally significant potential future employment land as it may hinder its development. Accordingly, it is recommended that Council's Revised Proposal proceed in an amended form which excludes land that is the subject of Elton's Proposal.

External Supporting  
Notes :

The Planning Proposal is a revision of an earlier planning proposal, which was refused by the Gateway on 29 August 2011, due to inadequate supporting information. The current Planning proposal has been revised and is accompanied by a more detailed heritage study.

## Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The objective is to protect the rural character of the landscape surrounding the Menangle Heritage Conservation Area through the creation of a separate, supporting conservation area.

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

Is an explanation of provisions provided? Yes

Comment : The objective will be facilitated by:

1. Amending Schedule 5 (Environmental heritage), Part 2 (Heritage conservation areas), of Wollondilly Local Environmental Plan 2011, to include the Menangle Landscape Conservation Area as item no. C6 and describing it as the 'Area shown by vertical green hatching on the Heritage Map', and

2. Amending the Heritage Map, sheets HER\_01B and HER\_011D, to show certain land surrounding the Menangle village as a 'Conservation Area - Landscape', identified by green vertical hatching.

The proposed conservation area is shown on page 15 of Council's Revised Proposal.

**Justification - s55 (2)(c)**

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

b) S.117 directions identified by RPA :

**1.1 Business and Industrial Zones**

\* May need the Director General's agreement

**1.2 Rural Zones**

**2.3 Heritage Conservation**

**3.1 Residential Zones**

**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?

**N/A**

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

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

If No, explain :

**SECTION 117 DIRECTIONS**

**DIRECTION 1.1 BUSINESS AND INDUSTRIAL ZONES**

This Direction applies where a planning proposal affects land within an existing or proposed business or industrial zone. The proposed Menangle Landscape Conservation Area affects land identified for employment uses under Elton's Proposal.

Therefore, Council's Revised Proposal is inconsistent with the Direction as it partly applies to regionally significant potential future employment land and may hinder its development.

It is recommended that Council be required to amend its revised proposal to exclude land to which Elton's Proposal applies.

**DIRECTION 1.2 RURAL ZONES**

This Direction applies to Council's Revised Proposal as it affects land within rural zones, i.e. Zone RU1 Primary Production and Zone RU2 Rural Landscape. The Proposal is consistent with this Direction as it does not rezone the land or increase its permissible density.

**DIRECTION 2.3 HERITAGE CONSERVATION**

This Direction applies to Council's Revised Proposal as it seeks to conserve an area of environmental heritage significance. The Proposal is consistent with the Direction as it strengthens the conservation of the existing Menangle Heritage Conservation Area (applying to the Menangle village) through the conservation of the surrounding landscape.

The Gateway determination for Council's Previous Proposal considered that a more

detailed heritage study should be undertaken to further assess the heritage value of the subject land. Specifically, the Gateway determination provided the following reason for refusal:

"The initial heritage assessment is considered insufficient as it does not provide satisfactory consideration of the heritage significance of the proposed landscape conservation area and the values and heritage characteristics of the land to justify the progression of the proposal at this stage. Council should prepare a detailed heritage study, which identifies the heritage values (including visual corridors and views, rural landscape setting and the historical significance) of the area and how Council intends to preserve these values. In doing so, the study should refine the boundary of the proposed conservation area having consideration to landscape value identified by the heritage study".

A detailed heritage study has been prepared to support Council's Revised Proposal and is provided in the Documents section of this report. The study addresses the specific matters outlined in the Gateway determination and the Proposal has been revised by Council accordingly to refine the boundary of the proposed conservation area. The refined boundary includes the heritage-listed property of "Gilbulla" to the south-east of the village as shown on the map on page 7 of the Proposal document. The heritage study appears to justify the proposed conservation area in principle.

The proposed conservation area is identified under Council's Wollondilly Growth Management Strategy 2011 for further investigation. 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.

It is noted that the existing Menangle Heritage Conservation Area contains an item listed on the State Heritage Register (i.e. the "Menangle Railway Station Group"). As such, Council should be required to consult the Heritage Branch of the Office of Environment and Heritage (OEH) for its views on the proposal. Council should also be required to demonstrate consistency with the Direction following the completion of consultation with OEH and prior to exhibition.

### S117 DIRECTION 3.1 RESIDENTIAL ZONES

This Direction applies to the Proposal as it affects land within Zone R2 Low Density Residential and a proposed residential area (under Elton's Proposal).

The Gateway determination for Council's Previous Proposal made the following note:

"Following completion of the heritage study, further consideration is to be given to address and justify the inconsistencies of the proposal against section 117 Direction 3.1 Residential Zones. In doing so, particular attention is to be given to the impact of the landscape conservation area on potential future residential growth such as land adjoining Menangle village to the north, which has been identified as potential residential growth under Council's Wollondilly Growth Management Strategy 2011".

Council's Revised Proposal is not expected to have a significant impact on the development potential of land currently in Zone R2 Low Density Residential as it is already largely developed.

Council's Revised Proposal identifies two potential future residential areas within the proposed conservation area (refer to the map on page 11 of the Proposal document). Both of these generally accord with the residential areas proposed under Elton's Proposal. However, while one of these proposed residential areas is located within the Menangle Heritage Conservation Area, the other is not and would be subject to clause 5.10 Heritage Conservation of Wollondilly LEP 2011 if Council's Revised Proposal

proceeds.

In view of the above, the Proposal is inconsistent with the Direction as the Proposal may limit potential future residential growth. However the inconsistency is considered to be of minor significance as the proposed residential area that is located outside the existing conservation area is not identified by either the draft South West Subregional Strategy or the Wollondilly Growth Management Strategy 2011.

It is recommended that the Director General (or his delegate) approve the inconsistency with the Direction.

#### **DIRECTION 4.3 FLOOD PRONE LAND**

This Direction applies as Council's Revised Proposal includes flood prone land. However, the Proposal is consistent with the Direction as the Proposal does not propose development which would increase the flood risk of the subject land.

#### **DIRECTION 4.4 PLANNING FOR BUSHFIRE PROTECTION**

This Direction applies as Council's Revised Proposal includes bush fire prone land. The Direction requires, in part, Council to consult with the Commissioner of the NSW Rural Fire Service prior to exhibition. It is considered that Council should be required to demonstrate consistency with the Direction prior to exhibition.

#### **DIRECTION 7.1 IMPLEMENTATION OF THE METROPOLITAN PLAN FOR SYDNEY 2036**

This Direction applies and requires Council's Revised Proposal to be consistent with the Metropolitan Plan for Sydney 2036. The Proposal is consistent with Action H4.1 of the Metropolitan Plan, which requires the identification of heritage landscapes and the development of appropriate responses to plan for their protection and interpretation in the preparation of Subregional Strategies and LEPS. Therefore, the Proposal is consistent with the Direction.

#### **RELEVANT SEPPS**

##### **SEPP (INFRASTRUCTURE) 2007**

Council's Revised Proposal affects land zoned SP2 Infrastructure - Water Supply System, SP2 Infrastructure - Railway and SP2 Infrastructure - Road. These zonings relate to the Southern Highlands Railway Line, the Hume Highway and land associated with the Menangle Weir respectively.

Clause 14 of SEPP (Infrastructure) 2007 applies to development that is carried out by or on behalf of a public authority, which may be carried out without consent under the SEPP and which is likely to have an impact that is not minor or inconsequential on a heritage conservation area. The clause requires the proponent to prepare an assessment of the impact, consult the local council and take the council's response into consideration before carrying out the development.

In view of the above, it is considered that, Council should be required to consult with CityRail/State Rail/RailCorp, Roads and Maritime Services and the Sydney Catchment Authority, prior to exhibition, specifically regarding this matter.

##### **SEPP (EXEMPT AND COMPLYING DEVELOPMENT CODES) 2008**

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Council's Revised Proposal affects land currently zoned R2 Low Density Residential, RU1 Primary Production and RU2 Rural Landscape. SEPP (Exempt and Complying Development Codes) 2008 excludes development specified for the General Housing Code and the Rural Housing Code from the complying development provisions of the SEPP if it is located in a heritage conservation area. Therefore, the Proposal will have the effect of requiring full development assessment for housing and related development on land affected by the Proposal.

### 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 publicly exhibit its revised proposal for a minimum 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 : **Wollondilly Local Environmental Plan 2011 was notified on 25 February 2011.**

### Assessment Criteria

|                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Need for planning proposal :                    | <b>Council's Revised Proposal is supported by a heritage study.</b><br><br><b>It is agreed with Council that a planning proposal is the best means of achieving the proposed conservation area.</b>                                                                                                                                                                                                                                                              |
| Consistency with strategic planning framework : | <b>DRAFT SOUTHWEST SUBREGIONAL STRATEGY AND METROPOLITAN PLAN FOR SYDNEY 2036</b><br><br><b>While Council's Revised Proposal is not inconsistent with the heritage conservation objectives contained in the draft South West Subregional Strategy (the draft SRS) and the Metropolitan Plan for Sydney 2036, it is inconsistent with the draft SRS's identification of future employment land with potential regional significance in the Menangle locality.</b> |
| Environmental social economic impacts :         | <b>ENVIRONMENTAL IMPACTS</b><br><br><b>Council's Revised Proposal may have a positive environmental impact by limiting the amount of potential future development on land surrounding Menangle Village.</b><br><br><b>ECONOMIC IMPACTS</b>                                                                                                                                                                                                                       |

Council's Revised Proposal may have an impact on the future development proposed under Elton's Proposed. While the merits of Elton's Proposal have not yet been considered by the JRPP, the elevation of Elton's Proposal to the JRPP reaffirms its potential regional significance.

Although only a portion of Elton's employment proposal is located within Council's proposed conservation area, it is noted that clause 5.10(5) of Wollondilly LEP 2011 allows the consent authority to require the preparation of a heritage management document for development within the vicinity of a heritage conservation area, thereby, potentially affecting the whole of the proposed employment area.

Council's Revised Proposal may also hold economic impacts for rural landowners within the proposed conservation area, who would be prevented from carrying out complying development. However, such impacts would be minor due to the limited number of rural properties. The economic impacts would be more significant for residential properties but, similarly, would affect a limited number of existing and potential future residential properties.

#### **SOCIAL IMPACTS**

Council's Revised Proposal may have a broader positive social impact by protecting an established heritage conservation area which has potential State significance.

#### **Assessment Process**

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

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

Public Authority Consultation - 56(2)(d) : **Office of Environment and Heritage  
NSW Rural Fire Service  
Transport for NSW - RailCorp  
Transport for NSW - Roads and Maritime Services  
Adjoining LGAs**

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

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

If no, provide reasons : **Wollondilly Shire Council should be required to consult with Campbelltown City Council as the proposed conservation area extends to the border with that adjoining local government area.**

Resubmission - s56(2)(b) :

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

**No internal consultation required**

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

If Yes, reasons :

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### Documents

| Document File Name                                            | DocumentType Name        | Is Public |
|---------------------------------------------------------------|--------------------------|-----------|
| Cover_Letter.pdf                                              | Proposal Covering Letter | Yes       |
| Planning_Proposal.pdf                                         | Proposal                 | Yes       |
| Appendices_A-D.pdf                                            | Proposal                 | Yes       |
| Appendix_E_-_Heritage_Study.pdf                               | Study                    | Yes       |
| Appendix_F_-_Report_to_Council.pdf                            | Proposal                 | Yes       |
| Appendix_G_-_Resolution_of_Council.pdf                        | Proposal                 | Yes       |
| Gateway_determination_for_original_planning_proposal.pdf      | Determination Document   | Yes       |
| Extract_from_draft_Southwest_Subregional_Strategy.pdf         | Study                    | Yes       |
| Clause_5.10_Heritage_Conservation_of_Wollondilly_LEP_2011.pdf | Study                    | Yes       |
| Map_of_Elton's_Proposal.pdf                                   | Map                      | Yes       |

### Planning Team Recommendation

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

S.117 directions:

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 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 Planning Proposal proceed subject to the following conditions:

Council is required to, before exhibition:

1. Amend the planning proposal to exclude land which is the identified for employment uses under the planning proposal prepared by Elton Consulting for land in Moreton Park Road, Menangle;

2. Comply with the requirements of section 117 Direction 4.4 - Planning for Bushfire Protection and demonstrate consistency with the Direction;

Other conditions:

3. Council be required to consult with the Heritage Office of the Office of Environment and Heritage and demonstrate consistency with section 117 Direction 2.3 Heritage Conservation;

4. Council be required to consult with CityRail/State Rail/RailCorp, Roads and Maritime Services and Sydney Catchment Authority, specifically regarding the implications for their properties under the heritage provisions of State Environmental Planning Policy (Infrastructure) 2007;

5. Council be required to consult with the adjoining council, i.e. Campbelltown City Council;

6. The Director-General (or his delegate) approves the inconsistency with section 117 Direction 3.1 Residential Zones on the basis that the inconsistency is of minor significance;

7. Community consultation is required under sections 56(2)(c) and 57 of the Environmental

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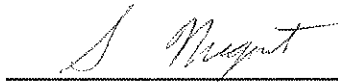
Planning and Assessment Act 1979 ("EP&A Act") for a period of 28 days; and

8. The timeframe for completing the local environmental plan is to be 9 months from the week following the date of the Gateway determination.

Supporting Reasons :

The proposed Menangle Landscape Conservation Area will support the existing Menangle Heritage Conservation Area but should be amended to exclude land which has been identified as regionally significant potential future employment land.

Signature:



Printed Name:

SHANE NUGENT

Date:

19/10/12

A/G TEAM LEADER