

Planning Services

Plan finalisation report

Local government area: Wollondilly

PP number: PP_2013_WOLLY_011_00

1. NAME OF DRAFT LEP

Wollondilly Local Environmental Plan 2011 (Amendment No 28). The draft written instrument is at **Attachment LEP**.

2. SITE DESCRIPTION

The planning proposal applies to land at 45 Stevens Road, 15 Menangle Road and 1370 Moreton Park Road, Menangle, referred to as Station Street, Menangle. The site is approximately 38ha in area and comprises the allotments identified in the table below. See Figure 1 for the location of the site.

Table 1: Site address and lot descriptions

Address	Lot description
45 Stevens Road, Menangle	Lot 21 DP 581462
15 Menangle Road, Menangle	Lot 201 DP 590247
1370 Moreton Park Road, Menangle	Lot 202 DP 590247



Figure 1: Subject site (highlighted in light green).

The site comprises several heritage items associated with the dairy industry (Figure 2):

- the former Camden Park Estate Central Creamery;
- a dilapidated 1950s milking shed known as the Camden Park Rotolactor; and
- a 20th-century farmstead cottage.

The Menangle Railway Station is also listed as a State heritage item. However, this item does not form part of the proposal.

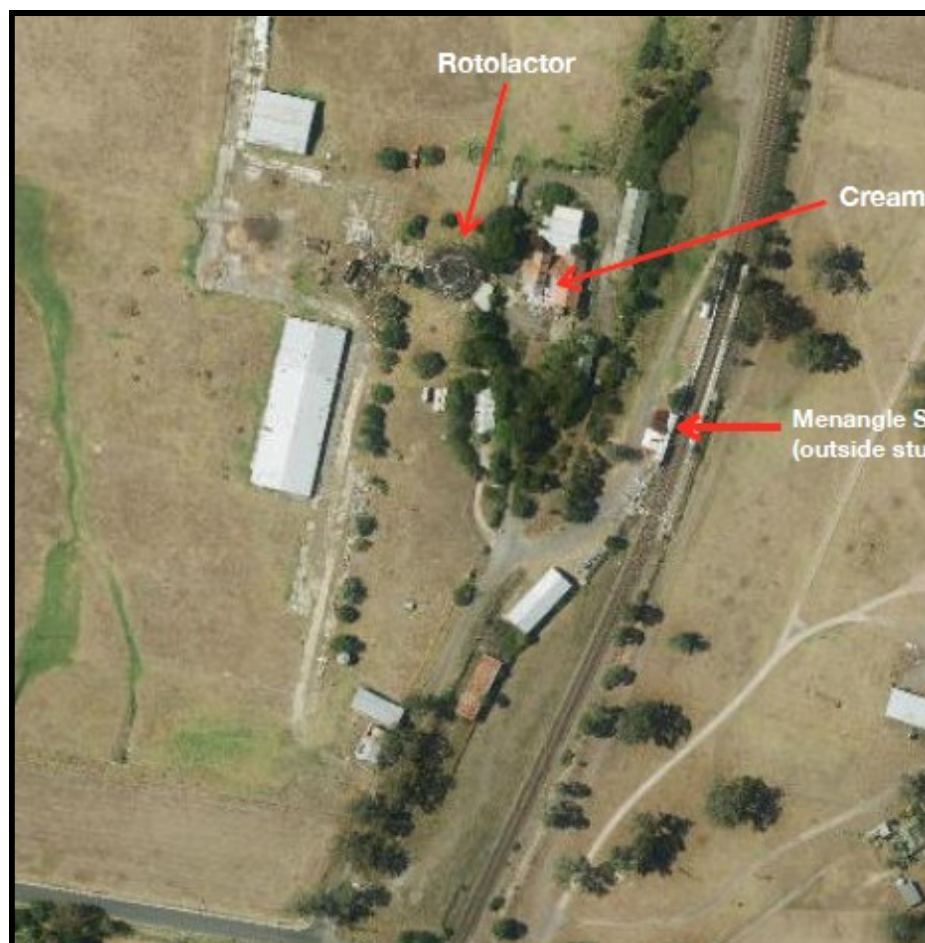


Figure 2: Site showing listed historic features.

3. PURPOSE OF PLAN

The draft LEP aims to enable the redevelopment of the site for residential development, open space and a neighbourhood centre. The existing and proposed zones are illustrated in figures 3 and 4 (next page). The draft LEP seeks to amend the Wollondilly Local Environmental Plan (LEP) 2011 as follows:

Map amendments

- Amend land zoning maps (LZN_010B and LZN_011D) – rezone the site from RU1 Primary Production to part R2 Low Density Residential, part B1 Neighbourhood Centre and part RE1 Public Recreation (figures 3 and 4, next page).
- Amend height of building maps (HOB_10B and HOB_011D) – apply a maximum building height of 6.8m and 9m for R2 Low Density Residential land. No building height is proposed for land to be zoned B1 Neighbourhood Centre or RE1 Public Recreation.
- Amend lot size maps (LSZ_10B and LSZ_011D) – apply a minimum lot size of 250m², 450m² and 500m² for R2 Low Density Residential-zoned land. No minimum lot size is proposed for the land zoned B1 Neighbourhood Centre or RE1 Public Recreation.

- New additional permitted uses map (APU_10B) – identify the portions of the site subject to 'Schedule 1 Additional permitted uses' as numbers 10 and 11. Identify land within 200m of the coal seam gas well as number 12.



Figure 3: Existing zone map

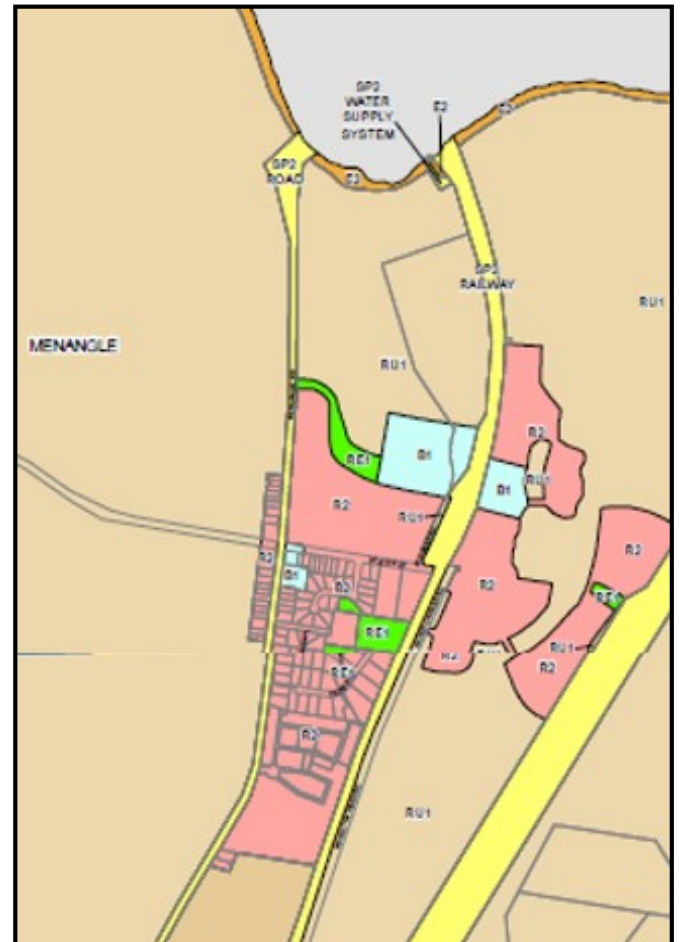


Figure 4: Proposed zone map

Written amendments

- Introduce 'Clause 7.7 Development near coal seam gas well at Menangle' to permit with consent:
 - development within 200m of a coal seam gas well, only if the consent authority has considered the proximity of the well and whether that proximity poses any risk to the health and safety of any person and the impact of the development of the operation of the coal seam gas well. This clause does not apply to development for the purposes of drainage, earthworks or roads.
- Amend 'Schedule 1 Additional permitted uses' to permit with consent:
 - subdivision that results in a lot less than the minimum lot size on land zoned RU1 Primary Production, but only if the subdivision facilitates development on the R2 Low Density Residential, B1 Neighbourhood Centre or RE1 Public Recreation-zoned land; and
 - attached dwellings on the 250m² lots in the R2 Low Density Residential-zoned land adjacent to the B1 zone, identified as '10' on the additional permitted uses map; and,
 - a function centre in the B1 Neighbourhood Centre zone, identified as 11 on the additional permitted uses map.

The draft LEP will enable the provision of approximately 350 additional dwellings.

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Wollondilly Electorate. Mr Jai Rowell MP is the State Member for Wollondilly.

The site falls within the Hume Federal Electorate. The Hon Angus Taylor MP is the Federal Member for Hume.

To the regional planning team's knowledge, neither MP has made any written representations regarding the planning proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this planning proposal.

NSW Government reportable political donation: There are no known donations or gifts to disclose and a political donation disclosure is not required.

5. GATEWAY DETERMINATION AND ALTERATIONS

Planning proposal authority

The planning proposal was subject to a pre-Gateway review, which determined the proposal should proceed to the Gateway process. The former Sydney West Joint Regional Planning Panel, now the Sydney Western City Planning Panel, was appointed as the relevant planning authority for this matter, as Wollondilly Shire Council did not support the proposal.

Gateway determination and alterations

The Gateway determination issued on 9 December 2013 (**Attachment C**) determined the proposal should proceed subject to conditions.

A Gateway alteration (**Attachment D1**) was issued on 11 June 2015. This involved amending the proposal description, inserting a new clause requiring consultation with the Office of Coal Seam Gas and the Office of Environment and Heritage, and extending the completion time frame by 12 months.

A second Gateway alteration (**Attachment D2**) was issued on 16 August 2017 for an extension to the completion time frame by nine months.

The current finalisation date is 5 June 2018. As the proposal was lodged with the Department for finalisation prior to this date, a further Gateway alteration is not required.

6. PUBLIC EXHIBITION

In accordance with the Gateway determination, community consultation was undertaken by the panel from 1 July to 28 July 2015.

The panel received 38 community submissions, three submissions from Wollondilly Shire Council, one submission from Campbelltown City Council, 22 submissions from public authorities and three submissions on behalf of the proponent during the exhibition period. Submissions are summarised in the submissions report at **Attachment K**.

Community submissions

The community submissions largely raised the same issues as the public agency submissions, which include: consideration of heritage matters; visual impacts of the proposed development; the provision of infrastructure and transport; and the impacts of coal seam gas. These issues are addressed as follows:

- Heritage: Objections were raised in relation to altering the 'village' character of Menangle and the use of the historic Rotolactor paddock for housing.

- Visual impact: Concerns were raised in relation to altering the cultural landscape and curtilage, by placing housing on the Rotolactor paddock between the village and the Rotolactor.
- Infrastructure and transport: Submissions raised concerns about traffic impacts, the inadequacy of the current road access to the south, the infrequency of train services and the need to update the road bridge in Station Street.
- Environmental impacts: Environmental concerns included the potential impact on buffer areas to 'endangered habitats and woodlands', the potential effects of land filling on local flood levels and the removal of natural habitat.
- Coal seam gas: Concerns were raised about land-use conflicts arising from the proximity of the proposed new housing to coal seam gas operations, and any associated risks.
- Strategic planning and lack of 'social infrastructure': Matters of concern related to the lack of a local school and recreation facilities to cater for the proposed increase in the population.

Issues identified by the community and public authorities, such as heritage, visual impacts, infrastructure and transport, environmental impacts and coal seam gas are addressed in detail in section 7 of this report.

Regarding the provision of social infrastructure, the planning proposal and draft voluntary planning agreement include provisions for a network of shared pathways contained within the road and public reserves, and the proposal has been amended to include two areas of RE1 Public Open Space to serve the development.

The panel sought clarification that every child may reasonably be able to access an education facility and the panel is satisfied that satisfactory arrangements can be made.

7. ADVICE FROM PUBLIC AUTHORITIES

The panel consulted with public agencies in accordance with the Gateway determination. The panel received 22 submissions from the following public agencies: Sydney Water; Endeavour Energy; Campbelltown City Council; Wollondilly Shire Council; Australian Rail Track Corporation Ltd; Office of Water; Transport for NSW; NSW Health; Roads and Maritime Services; Department of Education; Department of Primary Industries (Agriculture; Fisheries; Water); NSW Rural Fire Service; Mine Subsidence Board; Office of Environment and Heritage, including the Heritage Division; NSW Trade and Investment – Mineral Resources and Energy; NSW Office of Coal Seam Gas; Environment Protection Authority; AGL Energy; and Greater Sydney Local Land Services.

Public agency submissions

The public agency submissions raised the following issues:

- conflict with gas and mine exploration;
- flood management;
- the protection of environment and heritage; and
- infrastructure provision.

Mining

Subsidence Advisory NSW (formerly the Mine Subsidence Board) and the Department's Division of Resources and Geoscience (formerly the Department of

Industry Division of Resources and Energy) raised concerns over mine subsidence and potential damage to life and property.

The subject site is within the South Campbelltown Mine Subsidence District. South32 holds the development consent for underground mining rights within the vicinity of the subject site. South32 and the proponent negotiated an agreement, whereby South32 has agreed to cancel the mining lease and to not carry out any mining activities on the subject site, negating the need for a coexistence framework and removing subsidence concerns (**Attachment E**).

Subsidence Advisory NSW (**Attachment E1**) and the Division of Resources and Geoscience (**Attachment E2**) raised no objections to the proposed amendment.

The Department is satisfied that the subject site will not be adversely affected by mine subsidence.

Coal seam gas wells

Coal seam gas well EM17 is within 200m of the north-west portion of the subject site (Figure 5). Menangle Road is between the coal seam gas well EM17 and the subject site.

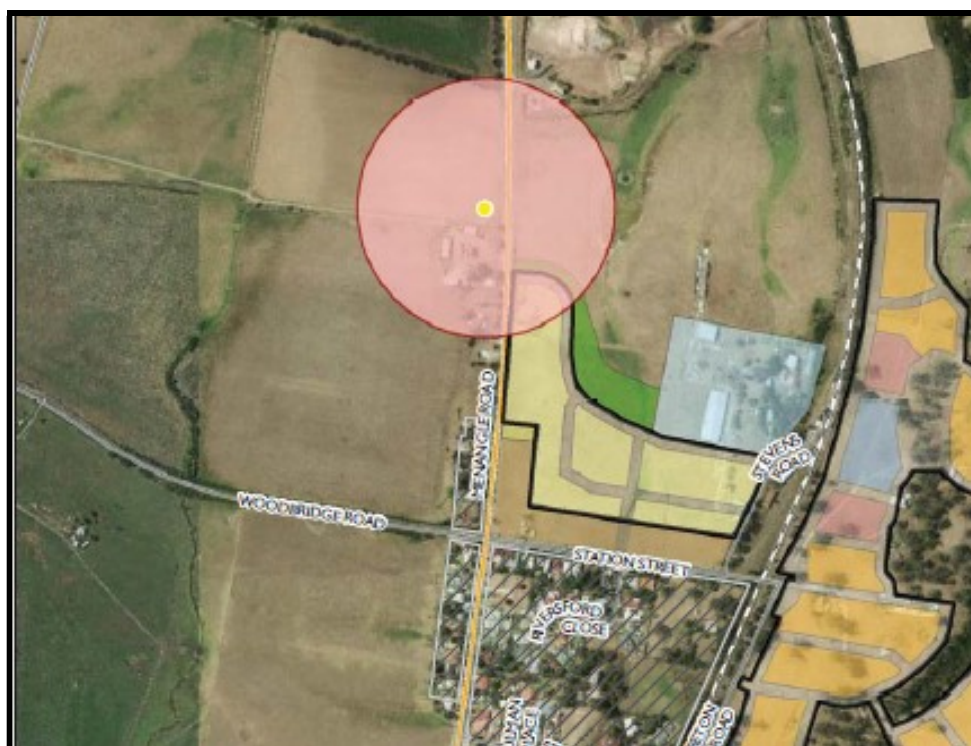


Figure 5: Location of the site in relation to the gas well.

The NSW Department of Industry's Office of Coal Seam Gas provided a submission suggesting consideration be given to land-use conflicts such as noise and traffic, health and safety issues and the potential sterilisation of gas resources in the area. It also recommended a risk assessment be undertaken (**Attachment P**).

In response to this advice, the panel requested a risk assessment be undertaken, considering the potential risks to any proposed residential development within 200m of the gas well and to determine if residential development should proceed on this land.

EMM provided a risk assessment relating to the coexistence of coal seam gas activities and urban development in south-west Sydney (**Attachment F**). The report noted inconsistencies between government documents on recommended distances between coal seam gas wells and development. The report concluded that additional investigations were not required to assess risk from coal seam gas activities. The site

can readily coexist with the existing coal seam gas activities, particularly as the coal seam gas wells are temporary land uses.

The Environment Protection Authority was provided with a copy of the risk assessment for comment. It provided broad advice but stated it is unable to comment on the risks assessment method **(Attachment Q)**.

The Department reviewed the EMM assessment and the various provisions surrounding buffer zones and coal seam gas wells and noted the conflicting recommended exclusion distances in government documents between coal seam gas wells and development.

Of relevance is 'Development in the Vicinity of Operating Coal Seam Methane Wells' **(Attachment R)**, where the maximum separation distance for sensitive land uses is 20m, and the Greater Macarthur Land Release Investigation, Preliminary Strategy and Action Plan **(Attachment R1)**, which states that urban development can only occur on land within 200m of coal seam gas operations once the well has closed down.

The panel's decision of 30 November 2017 **(Attachment G)** determined that the proposed instrument should be made, subject to the proposal being changed to exclude any land from rezoning within 200m of active coal seam gas wells.

The Department, however, recommends that the land within the 200m buffer not be excluded and be partly rezoned for residential purposes as proposed in the planning proposal.

The panel's Secretariat was consulted on this approach and did not raise any objections **(Attachment O)**.

The Department has taken this position as:

- AGL has advised the coal seam gas well will be decommissioned by 2023 **(Attachment H)**;
- conflicting recommended exclusion distances in government documents range between 20m and 200m; and
- exclusion would entail an unnecessary need for a future planning proposal.

It is accordingly recommended to ensure any impacts associated with development within 200m of the coal seam gas well have been considered, that a heads of consideration clause be included the plan. This clause requires the consent authority to consider the proximity of future development to the well and risks to health or safety and impacts of the development on the operations of the coal seam gas well. The clause is as follows:

7.7 Development near coal gas well at Menangle

(1) Development consent must not be granted to development on the land identified

as '12' on the Additional Permitted Uses Map, being land within a 200 metre radius of a coal seam gas well, unless the consent authority considers the following matters:

(a) the proximity of the development to the coal seam gas well, and whether

that proximity poses any risks to the health or safety of any person,

(b) the impact of the development on the operations of the coal seam gas well.

(2) Subclause (1) does not apply to development for the purposes of drainage, earthworks or roads.

The applicant has agreed to defer development within the 200m buffer until the well has been decommissioned (**Attachment I, page 6**).

The applicant requested that development for the purposes of drainage, earthworks or roads be permitted without clause 7.7(1) applying within this buffer zone to allow infrastructure to be delivered across the whole residentially zoned part of the site.

AGL, the agency responsible for the coal seam gas well, has advised that it has no objections to potential future works for the purposes of drainage, earthworks or roads within the 200m buffer and confirmed that these works do not pose any risk in respect to interaction between AGL activities and these development activities (**Attachment H2**).

Flood management

The Office of Environment and Heritage (OEH) submission indicates that the flood, hydrology, riparian and WSUD assessment submitted with the proposal “is considered to be inadequate from a floodplain risk management perspective” and that “OEH does not support filling within high hazard flood storage areas”.

In response to OEH’s comments, a flood impact assessment was undertaken by the proponent and subsequently reviewed by OEH. OEH advised that the assessment appears to follow accepted floodplain risk management practice and satisfactorily addresses OEH’s previous concerns regarding flooding and the site is suitable for redevelopment (**Attachment J**).

Ecology

OEH advised that the ecological assessment provided with the proposal is not considered to have sufficiently described or assessed the vegetation within the area. OEH recommended the assessment be updated to verify the vegetation community present and consider any constraint posed by a threatened ecological community.

A revised ecological assessment was provided by the proponent and subsequently reviewed by OEH. OEH advised that the revised assessment satisfactorily address most of its concerns regarding ecology. The outstanding ecology matters relating to the potential loss of hollow-bearing trees and the potential impact on vegetation immediately east of the previously proposed pumping station can be addressed at the development application stage (**Attachment J**). The Department is satisfied that ecological concerns on the site have been satisfactorily addressed.

Heritage

The Heritage Council of NSW raised concerns that the unimpeded views between state heritage item the Menangle Railway Station Group and local heritage item Central Creamery were not being retained. It advised placing housing on the Rotolactor paddock between the existing village and the Rotolactor will impact on views between the heritage items altering the cultural landscape and curtilage. It recommended land within this visual catchment be retained as RU1 Primary Production or proposed RE1 Public Recreation rather than residential development.

OEH recommended a report on European archaeology be prepared prior to exhibition.

A report on European archaeology was prepared and exhibited. The proposal was amended, in part, in response to heritage constraints.

The expansion of the B1 Neighbourhood Centre in the western precinct was made to better manage development and its relationship with the Camden Park Estate Central Creamery and the Rotolactor.

Land proposed for residential development in the western precinct was also reconfigured by relocating proposed residential development to the eastern side of the railway line (Figures 6 and 7). This portion of the site has low external visibility and was considered more suitable for residential development.

Relocating the residential development to the east and the expansion of the B1 Neighbourhood Centre zone in the eastern precinct ensures the visual links between the items of heritage value are retained.

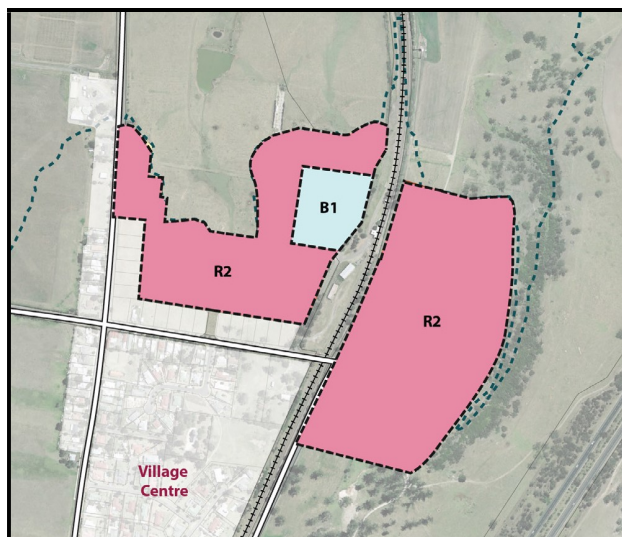


Figure 6: Original zoning layout.

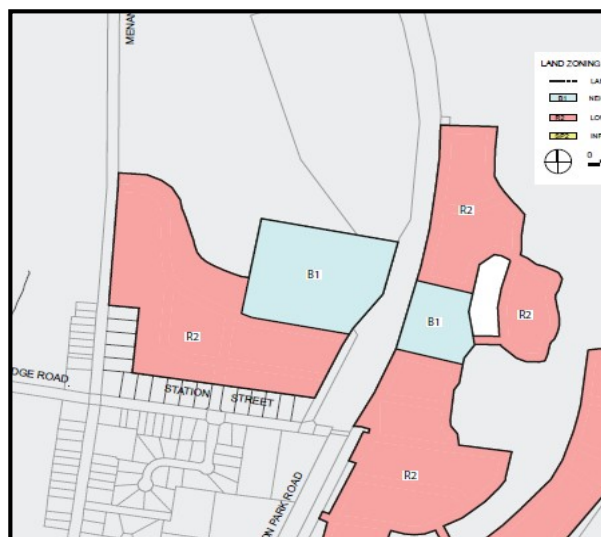


Figure 7: Reconfigured zoning layout.

The heritage assessment report noted it was unlikely that a viable reuse would be found for the former Camden Park Estate Central Creamery or the Camden Park Rotolactor while the site retains its current rural zoning. The Heritage Council of NSW advised, in principle, the inclusion of the heritage items in a new neighbourhood centre would facilitate opportunities for their adaptive reuse and ongoing conservation **(Attachment S, page 2)**.

To ensure restoration, the Gateway determination required specific restoration and mechanisms to ensure these works are adequately financed.

Conservation works schedules and a maintenance plan were submitted for the former Camden Park Creamery, Moreton Park Road Cottage and the Rotolactor detailing the mechanisms for the proposed conservation works.

The Department is satisfied that the heritage values associated with the site have been adequately addressed.

Infrastructure provision

Endeavour Energy has advised it has capacity to service the entire site and Sydney Water has agreed to be the service provider for water and wastewater. The proponent provided Sydney Water with a preferred water and wastewater servicing strategy, which Sydney Water has endorsed.

The Department considers satisfactory arrangements have been made for the provision of water and electricity.

Voluntary planning agreement

The proponent submitted a draft local voluntary planning agreement (VPA) and an irrevocable offer to Council, valid until 12 November 2018 **(Attachments T–T1)** indicating the proponent's commitment to the provision of infrastructure. The

irrevocable offer date of acceptance was extended by six months until 8 May 2019 (**Attachment T2**). The VPA includes the provision of a 2m-wide pedestrian/cycleway bridge adjoining the north side of the railway bridge. The public agency responsible for this land, the Australian Rail Track Corporation, has agreed in principle to the bridge.

The VPA also includes the provision of road upgrades, including relocation of an intersection and the provision of two roundabouts, satisfying concerns regarding infrastructure and transport. While the VPA is not yet finalised, the irrevocable offer demonstrates certainty for the provision of infrastructure.

The public agency submissions are discussed in more detail under **Appendix 1** of this report. It is considered that the matters raised by submissions received from the community and public agencies have been appropriately addressed and should not preclude finalisation of the plan.

On 30 November 2017, the panel resolved to proceed with the planning proposal with several post-exhibition changes (**Attachment G**).

8. POST-EXHIBITION CHANGES

Removal of SP2 Infrastructure-zoned land

A small portion of the northern part of the subject site was proposed to be zoned SP2 Infrastructure (Sewerage Treatment Plant) to accommodate development on the site. However, Sydney Water has agreed to be the service provider for wastewater and, as a result, a wastewater treatment plant is no longer required.

The portion of land proposed to be zoned SP2 Infrastructure will now contain a wastewater pumping station. Wastewater pumping stations are permissible in RU1 Primary Production zones under State Environmental Planning Policy (Infrastructure) 2007 and the SP2 zone is no longer required.

Removal of urban release area map

Gateway determination condition 4 required consideration to be given to whether the site was identified as being in an urban release area and, if so, the site should be included under 'Part 6 Urban Release Areas' of the Wollondilly LEP 2011 and included on the urban release area map.

In response to condition 4, the proposal was amended to include the site on the urban release area map and subject to 'Part 6 Urban Release Areas' of the Wollondilly LEP 2011.

However, the subject land is not identified as being located within the Greater Macarthur urban release area and is therefore not required to be included on the urban release area map. Further, no state infrastructure needs have been identified, necessitating the need for a state VPA.

Accordingly, this map is not required and has been removed from the amending plan's supporting maps.

No minimum lot size provision for RE1 Public Recreation-zoned land

The exhibited map applying to the land proposed to be zoned RE1 Public Recreation includes a minimum lot size for the proposed RE1 land.

Under the Wollondilly LEP 2011, land zoned RE1 Public Recreation does not have a minimum lot size. To ensure consistency, the minimum lot size applying to the RE1 land on the corresponding minimum lot size map has been removed.

9. ASSESSMENT

Section 9.1 Directions

At the time of the determination (**Attachment C**), the Secretary's delegate agreed that the planning proposal be updated to consider consistency with the following section

9.1 Directions: 2.1 Environment Protection Zones; 2.3 Heritage Conservation; 3.1 Residential Zones; 4.1 Acid Sulfate Soils; 4.2 Mine Subsidence and Unstable Land; 4.3 Flood Prone Land; and 4.4 Planning for Bushfire Protection.

The proposal was updated and is consistent with the Directions as follows:

Direction 2.1 Environment Protection Zones

The objective of this Direction is to protect and conserve environmentally sensitive areas.

The Natural Resources – Water Map under the Wollondilly LEP 2011 identifies a creek on the eastern side of the railway line as sensitive land, requiring a 10m riparian buffer each side of the creek measured from the top of the bank. The concept plan includes a 50m-wide riparian corridor buffer and the riparian corridor will remain zoned RU1 Primary Production.

OEH was not satisfied with the initial ecological assessment and requested a revised assessment that adequately verified the vegetation community present on the site and considered any constraints posed by a threatened ecological community.

A revised ecological assessment was reviewed by OEH, which advised that most of its concerns had been addressed (**Attachment J**). OEH had several remaining concerns, including impacts on vegetation to the east of the extensive fill needed for the pumping station and the insufficient observation of hollow-bearing trees. However, OEH advised that these issues could be addressed at the development application stage.

The proposal is considered consistent with this Direction.

Direction 2.3 Heritage Conservation

The aim of this Direction is to conserve items, areas, objects and places of environmental and Indigenous heritage significance.

The proposal seeks to restore and reuse the former Camden Park Estate Central Creamery and the Camden Park Rotolactor. Aboriginal and European heritage assessments have been provided. These include conservation works schedules with specification for restoration works and the mechanism for ensuring the works are adequately financed.

The concept plan was also revised to preserve the views to and between heritage items, including views between the site and Menangle Village and the train station, by relocating some of the residential development from the western precinct to the eastern precinct. This retains the view corridor between Menangle Village and the Creamery Precinct. The eastern precinct has low external visibility due to the topography of the site.

The proposal will ensure the adaptive reuse and ongoing conservation of heritage items and appropriately addresses associated view corridors between the items. It is considered that the proposal is consistent this Direction.

Direction 3.1 Residential Zones

This Direction seeks to ensure a variety of housing types with appropriate infrastructure and services is provided for existing and future housing needs.

The proposal will provide housing opportunities and choice through the provision of a mix of lot sizes ranging from 250m² to 450m² and 500m² that are well serviced, as follows:

- Sydney Water has agreed to be the service provider for water and wastewater;
- Endeavour Energy has advised it has capacity to provide electricity to the proposed development;
- the VPA includes details on road upgrades, including the provision of an intersection, two roundabouts and a new pedestrian bridge over the railway line, connecting the east and west precincts of the proposed development; and

- the site adjoins a railway station and there is a local bus service. Although the frequency of this service is low, it provides access to nearby Campbelltown and beyond.

The proposal is considered to be consistent with this Direction.

Direction 4.1 Acid Sulfate Soils

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that contains acid sulfate soil.

A geotechnical assessment was provided. The report did not identify any significant geotechnical constraints and found the site suitable for the proposed development.

The proposal is considered to be consistent with this Direction.

Direction 4.2 Mine Subsidence and Unstable Land

This objective aims to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.

The subject site is located within the South Campbelltown Mine Subsidence District. South32, the mining leaseholder, and the proponent negotiated an agreement, whereby South32 agreed on 30 March 2017 to cancel the mining lease and any mining activities on the subject site, removing subsidence issues (**Attachment E**).

Subsidence Advisory NSW and the Department's Division of Resources and Geoscience were advised of the agreement and have no objections to the proposed amendment (**Attachments E1–E2**).

The proposal is considered to be consistent with this Direction.

Direction 4.3 Flood Prone Land

This Direction seeks to ensure development of flood-prone land is consistent with relevant NSW Government policies and guidelines.

The northern half of the subject site is identified as being flood prone. To ensure consistency with this Direction, a revised flood impact assessment was provided by the proponent. OEH advised that the proposal appears to follow accepted floodplain risk management practice and has addressed OEH's concerns (**Attachment J**).

The planning proposal is considered to be consistent with this Direction.

Direction 4.4 Planning for Bushfire Protection

This Direction seeks to protect life, property and the environment from bushfire hazards by discouraging the establishment of incompatible land uses in bushfire-prone areas.

The NSW Rural Fire Service (RFS) was consulted and advised that part of the site is identified as bushfire prone. As a result, future development will be subject to bushfire planning controls and the NSW RFS document *Planning for Bush Fire Protection 2006*. RFS did not object to the progression of the planning proposal.

The proposal is considered to be consistent with this Direction.

State environmental planning policies

State Environmental Planning Policy No 55 – Remediation of Land

SEPP 55 aims to promote the remediation of contaminated land to reduce risk to human health or any other aspect of the environment. Planning authorities must consider the likelihood of land contamination, if the land is contaminated and, if so, if the land in its contaminated state is suitable for the proposed land use.

An environmental investigation services report was provided with the proposal, which considered contamination on the subject site. The report concludes that the site is suitable for the proposed residential and commercial land uses.

Greater Sydney Region Plan

The planning proposal is consistent with the Greater Sydney Region Plan as it will provide greater housing supply (Objective 10) and diversify housing choice in the vicinity (Objective 11). The proposal also seeks to conserve and enhance environmental heritage (Objective 13).

Western City District Plan

The site is within the Western City District and the Western City District Plan applies to the site. While the planning proposal predates the release of both the draft and current district plan, the proposal is generally consistent with the relevant planning priorities under the Western City District Plan, except for the principles regarding the metropolitan rural area (MRA). The plan seeks to protect, maintain or enhance the values of the MRA. However, growth may be considered where there is no adverse impact on the local area and the development provides incentives to maintain and enhance the environmental, social and economic values of the MRA.

The planning proposal, supporting documentation, pre-Gateway review and Gateway determination documents have considered the proposal against the relevant previous and current strategic planning documents, including the Draft Metropolitan Strategy for Sydney to 2031, the Metropolitan Plan 2036, the Draft NSW South West Sub Regional Strategy, A Plan for Growing Sydney, the Draft South West Sydney District Plan, the draft Greater Sydney Region Plan, the Revised Draft Western City District Plan and the Western City District Plan.

Each of the previous draft and current district plans and the region plan have identified the site as forming part of the Macarthur South Investigation Area, an area flagged for future housing and job provision. These plans have all noted that smaller land releases, outside any mapped priority precinct or growth centre, will continue to be considered for residential development subject to meeting specific requirements, including infrastructure provision and site constraints (matters that have been addressed through the subject planning proposal process).

The amendment has demonstrated consistency with the relevant strategic documents, it has site-specific merit and seeks to enhance the environmental heritage on the site. Accordingly, any inconsistency with the Western City District Plan is minor and the Department supports the plan proceeding to finalisation.

10. MAPPING

There are four maps and seven map tiles associated with this planning proposal (**Attachment Maps**), which have been produced by the Department's GIS staff and meet the technical requirements.

11. CONSULTATION WITH PLANNING PROPOSAL AUTHORITY

As Council did not support the planning proposal, it was subject to a pre-Gateway review. At its 10 July 2013 meeting, the panel recommended an amended planning proposal should proceed to the Gateway process. On 3 October 2013, the former Sydney West Joint Regional Planning Panel (now the Sydney Western City Planning Panel) was appointed as the relevant planning authority (now planning proposal authority) for this matter.

As discussed in Section 7, on 30 November 2017 (**Attachment G**) the panel determined that the proposed instrument should be made, subject to the proposal

being amended to exclude any land from rezoning within 200m of active coal seam gas wells.

Under section 3.36(1) of the *Environmental Planning and Assessment Act 1979*, the panel was consulted on the terms of the draft instrument (**Attachment N**).

The panel confirmed on 4 September 2018 that it supported the draft plan including the amendments made to the plan. This included agreement on an alternative approach to incorporating a site-specific provision rather than excluding land in close proximity to the active coal seam gas well (**Attachment O**).

12. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument and raised the following concerns (**Attachment L**):

Minimum lot size on RU1-zoned land

Council's preference was to amend the minimum lot size map for the land zoned RU1, consistent with the minimum lot size approach taken across the LGA. Council was also concerned that a site-specific clause may result in undesirable development outcomes on the site.

The Department considers the creation of lots for the dedication of land for public recreation and detention basins highlighted the need for a mechanism to allow the RU1 Primary Production-zoned land, with a 100ha minimum lot size, to be subdivided below the standard.

The Department considered a minimum lot size map amendment to achieve this outcome. However, due to ongoing negotiations between Council and the proponent, the size and location of the future lots remain undetermined.

To enable the RU1 Primary Production-zoned land to be subdivided below the minimum lot size and to progress the plan-making process, a local site-specific clause, is considered the most appropriate way forward.

Under the clause, Council may grant development consent below the minimum lot size on land zoned RU1 Primary Production, but only if it facilitates the urban development on the subject site. Further, any other proposed development must demonstrate consistency with the objectives of the rural zone.

Development within 200m of the coal seam gas well

Council officers have requested this clause be removed due to insufficient evidence that the matter could be satisfactorily addressed at the development application stage. Further, Council officers consider that it is not the intent of the additional permitted uses map to provide for such a clause.

As discussed in section 7 of this report, the Department recommends the land within the 200m buffer not be excluded but recognises that a precautionary approach should be taken. Therefore, a heads of consideration clause has been included in the draft plan.

This clause requires the consent authority to consider the proximity of future development to the well and risks to health or safety, as well as impacts of the development on the operations of the coal seam gas well.

The land within 200m of the coal seam gas well is shown on the additional permitted uses map as a mechanism to identify the site. Parliamentary Counsel has advised these provisions can be legally made.

Deferment of notification

Council officers have requested that the commencement of the amending plan be deferred until the associated development control plan (DCP) and infrastructure delivery arrangements have been finalised.

In November 2017, Council requested a deferral of the gazettal for the amending plan until June 2018 to allow time for the DCP and infrastructure delivery arrangements to be finalised (**Attachment M**). The DCP has been public exhibited. Council deferred endorsing the DCP pending further work and this is expected to go to Council before the end of 2018.

The Department notes that Council has now had over 12 months to finalise the DCP and to secure the delivery of supporting local infrastructure. The applicant has made an irrevocable offer to Council ensuring that supporting local infrastructure will be provided (**Attachment T**).

Further, it is considered that Council will be able to finalise the DCP, prior to the determination of any development application.

13. PARLIAMENTARY COUNSEL OPINION

On 7 September 2018, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

14. RECOMMENDATION

It is recommended that the Minister for Planning's delegate determine to make the draft LEP as it will provide a variety of additional dwellings in Menangle while conserving the heritage values of the former Camden Park Estate Creamery and Rotolactor through the adaptive reuse of these buildings as part of the proposed neighbourhood centre.



10/12/2018

Terry Doran
Team Leader, Sydney Region West



11/12/2018

Ann-Maree Carruthers
Director Regions, Sydney Region
West
Planning Services

Assessment officer: Alicia Hall
Planning Officer, Sydney Region West
Phone: 9860 1587