

Wollondilly Local Environmental Plan 2011- Argyle Street Business Development Lands

Proposal Title : **Wollondilly Local Environmental Plan 2011- Argyle Street Business Development Lands**

Proposal Summary : This Planning Proposal seeks to rezone land at No's 459 (Lot 212 DP 1094898), 465 (Lot 141 DP 997490), 467 (Lot 1 DP 537245), 469 (Lot 15 DP 1105675) and 475 (Lot 16 DP 979250) Argyle Street, Picton from RU2 Rural Landscape and IN2 Light Industrial to zone B5 Business Development with a maximum building height of 12 metres.

PP Number : **PP_2013_WOLLY_007_00** Dop File No : **13/08746**

Proposal Details

Date Planning Proposal Received :	06-May-2013	LGA covered :	Wollondilly
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 : **459, 465, 467, 469 and 475 Argyle Street**

Suburb : **Picton** City : **Wollondilly** Postcode : **2571**

Land Parcel : **Nos 459 (Lot 212 DP 1094898), 465 (Lot 141 DP 997490), 467 (Lot 1 DP 537245), 469 (Lot 15 DP 1105675) and 475 (Lot 16 DP 979250)**

DoP Planning Officer Contact Details

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Land Release Data

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

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MDP Number :	Not Applicable	Date of Release :	
Area of Release (Ha) :	5.07	Type of Release (eg Residential / Employment land) :	Employment Land
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	20,000.00	No of Jobs Created :	127
The NSW Government Lobbyists Code of Conduct has been complied with :	Yes		
If No, comment :	In relation to the Lobbyist Code of Conduct there are no records on the Department's Lobbyist Contact Register regarding this matter.		
Have there been meetings or communications with registered lobbyists? :	No		
If Yes, comment :			

Supporting notes

Internal Supporting Notes : **BACKGROUND:**

Wollondilly Shire Council has received a request from Precise Planning seeking an amendment to the provisions of the Wollondilly LEP 2011 to facilitate approval for business development at the site (Location map in Documents). The total area of the site is 5.065ha.

The site is located on the western side of the Argyle Street. The Henry Street light industrial area is located in the north of the site. Picton High School and residential properties are located on the eastern side of the site (aerial photo in Documents). Neighbouring properties to the south and west comprise large rural landholdings. The site is largely clear of vegetation.

Four of the properties are zoned RU2 Rural Landscape (zoning extract in Documents). Three of these four properties are used for rural residential purposes and one lot is vacant. Lot 212 DP 1094898 is currently zoned IN2 Light Industrial but is currently used for rural residential purposes.

The site is identified in the Wollondilly Growth Management Strategy (GMS) partially as a 'potential employment area-industrial' and partially as an 'Industrial zone areas – IN2, IN3'. However, the proposed zone B5 Business Development is considered to be compatible with the GMS as the proposed zone includes light industrial as a permissible land use and a wide range of land uses requiring larger portions of land and land uses that would complement the adjoining industrial and rural area. Further, as zone B5 Business Development has not been adopted by Wollondilly Council, it is considered that this zone was not envisaged by the GMS.

Council proposes to conduct the following studies:

- a. Stormwater and Water Sensitive Urban Design Management Plan
- b. On-site Waste Package Treatment Plant (should confirmation not be received from Sydney Water regarding connection to their scheme)
- c. Traffic and Transport Assessment
- d. Contamination Assessment
- e. Acoustic Impact Assessment
- f. Lighting Impact Assessment
- g. Visual Impact and Urban Design
- h. Heritage - Council has advised that no heritage items are located at the site. However,

one of the properties (Lot 1 DP 537245) has house ('Tyrone') which may have heritage value. A heritage assessment of 'Tyrone' will be undertaken to determine its heritage value.

i. An Economic Feasibility Study which assesses the influence and potential impact of such a zone on Tahmoor, Bargo, Thirlmere and Picton town centres will be undertaken. The Study will also assess whether the site would be suitable for B5 Business Development Zone.

In light of above, it is considered that there is no likelihood of any adverse environmental, social or economic impacts arising from the Planning Proposal.

It is noted that Council has adopted all the mandatory objectives and land uses of the proposed new zone B5 Business Development as per the Standard Instrument – Principal Local Environmental Plan.

DELEGATION

Delegation is to be given for Council to exercise the Minister's plan making powers.

This report recommends that a Gateway determination be issued to proceed.

REFERRAL

The proposal was forwarded to the Employment Lands team on 31 May 2013 for comment (regarding the potential loss of industrial land. No objection to the rezoning was provided, but a number of issues for consideration have been noted.

External Supporting
Notes :

POLITICAL DONATIONS DISCLOSURE STATEMENT

Political donations disclosure laws commenced on 1 October 2008. The legislation requires the public disclosure of donations or gifts for certain circumstances relating to the Planning system.

"The disclosure requirements under the new legislation are triggered by the making of relevant planning applications and relevant public submissions on such applications.

The term relevant planning application means:

- A formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument..."

Planning Circular PS 08-009 specifies that a person who makes a public submission to the Minister or Director General is required to disclose all reportable political donations (if any).

Council has advised that there have not been any disclosures of political donations made in regard to this application.

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The Planning Proposal clearly identifies the objective of the proposal is to investigate the potential capabilities of the site for a range of business, particularly bulky goods premises and warehousing.

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

Is an explanation of provisions provided? Yes

Comment : The applicant has advised the proposed outcomes will be achieved by including the

following provisions:

- Amending the Wollondilly LEP 2011 Land Zoning Map for Lot 212 DP 1094898, Lot 141 DP 997490, Lot 1 DP 5372245, Lot 15 DP 1105675 and Lot 16 DP 979250 to Zone B5 Business Development; and
- Amending the Lot Size Map for Lot 212 DP 1094898, Lot 141 DP 997490, Lot 1 DP 5372245, Lot 15 DP 1105675 and Lot 16 DP 979250 to allow for no minimum lot size; and
- Amending the Height Map for Lot 212 DP 1094898, Lot 141 DP 997490, Lot 1 DP 5372245, Lot 15 DP 1105675 and Lot 16 DP 979250 to allow for a maximum building height of 12 metres, and
- Amending the Land Use Table to include a Zone B5 Business Development with inclusions outlined in the land use table (in Documents).
- The following maps are proposed to be amended:
 - a) land zoning map
 - b) lot size map
 - c) height of building map

It is noted that Council has adopted all the mandatory objectives and land uses of the proposed new zone B5 Business Development as per the Standard Instrument –Principal Local Environmental Plan.

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

1.3 Mining, Petroleum Production and Extractive Industries

2.3 Heritage Conservation

3.4 Integrating Land Use and Transport

4.2 Mine Subsidence and Unstable Land

5.2 Sydney Drinking Water Catchments

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 44—Koala Habitat Protection

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 :

1.1 BUSINESS AND INDUSTRIAL ZONES:

This direction applies as the planning proposal proposes to create a business zone and removes a very small industrial zoned lot (Lot 212 DP 1094898) (s117-1.1(4)(d)).

Council has advised that the proposal is not a result of any strategic study. However, it is considered that the inconsistency is of minor nature as:

- the reduction in industrial zoned land is very insignificant;
- the draft LEP will create more jobs;
- the proposal is consistent with Wollondilly Growth Management Strategy.

Notwithstanding the above, the approval of the Director General's delegate is required to be considered once an appropriate study (ie, economic feasibility study has been completed and considered) which is addressed later in this report.

1.2 RURAL ZONES

The objective of this direction is to protect the agriculture production value of rural land.

Clause 4 of this Direction states that a planning proposal must not rezone land from a rural zone to a residential, business, industrial or tourist zone.

This direction applies to four parcels of land which are currently zoned RU2 Rural

Landscape. The inconsistency is considered to be justified in this instance, as:

- Council has advised that the Planning Proposal affects an area of 3.788ha, which is not prime agricultural land.

In view of the above, it is considered that the provisions of the planning proposal that are inconsistent with the direction are of minor nature. The approval of the Director-General is recommended in this report, to satisfy the Direction.

1.3 MINING, PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES

This Direction may apply as the subject land has previously experienced mining and, therefore, the potential remains that such activity to occur in the future. It is considered that Council should be required to consult with the Department of Trade & Investment, Regional Infrastructure & Services to establish the applicability of, and, if necessary, consistency with, the Direction.

2.3 HERITAGE CONSERVATION

This Direction applies when a planning proposal contains any item of heritage significance.

The site does not contain any listed heritage items of local, state or national heritage significance. Council has advised that a heritage assessment would be required to under taken for a potential heritage item ('Tyrone' which is located on Lot 1 537245) within the site.

3.4 INTEGRATED LAND USE AND TRANSPORT:

The direction applies to a planning proposal that creates, alters or removes a zone or provision relating to 'urban land' including land zoned for residential, business, industrial, village or tourist purposes.

The proposal is considered not to be inconsistent with the direction as the proposal does not conflict with the aims, objectives and principles of:

- (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001) and
- (b) The right Place for Business and Services – Planning Policy (DUAP 2001).

The proposal is consistent with the Wollondilly Growth Management Strategy.

4.2 MINE SUBSIDENCE AND UNSTABLE LAND:

The subject land is within a proclaimed mine subsidence district (Bargo). Accordingly, must consult with the Mine Subsidence Board and subsequent demonstrate consistency with the Direction. It is considered that this should be made a formal requirement as a condition of the Gateway determination.

5.2 SYDNEY DRINKING WATER CATCHMENTS

This Direction applies as the subject land falls within the Sydney Drinking Water Catchment area. Council did not address the inconsistency in the proposal in Appendix 4 of the Planning Proposal

This Direction requires the proposal to protect the water quality within the Sydney Drinking Water Catchment area and to comply with related specific principles.

Any future development of the subject land would be subject to the provisions of Clause 10 of the Water Catchment SEPP in that all development must have a neutral or beneficial impact on water quality. The proposal should be amended to address the issue.

7.1 IMPLEMENTATION OF THE METROPOLITAN STRATEGY:

The Planning Proposal is considered not to be generally inconsistent with the Metropolitan Strategy and the draft South West Subregional Strategy.

SEPPs/SREPS and DEEMED SEPPs/SREPs

SEPP 44 – KOALA HABITAT PROTECTION

Council has advised that there are no potential koala habitats on the site.

SEPP 55 – REMEDIATION OF LAND

The SEPP applies due to the former use of the subject land for agricultural purposes. The SEPP requires Council to obtain a preliminary investigation into whether the land is contaminated, before it can be rezoned. Council proposes to arrange for an investigation and it is considered that this should be formally required as a condition of the Gateway determination.

SREP 20 – HAWKESBURY –NEPEAN RIVER (No. 2 – 1997)

SEPP 20 applies to the proposal and requires Council to give consideration to various general and specific planning matters and related recommended strategies. Council has advised that the proposal includes a consideration of the above requirements and proposes various environmental studies.

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

If No, explain : **There are some unresolved inconsistencies at this stage (outlined above) which will be readdressed post exhibition.**

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **Council has provided an indicative proposed zoning map for the subject site. The lot size map and height of building map have not been provided. Council has indicated that such maps will be prepared and made available at exhibition stage following Gateway determination.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has advised that the Planning Proposal will be placed on public exhibition for a minimum of 28 days. This is supported.**

It is noted that Council notified the Planning Proposal to the adjoining and nearby residents for a period of 48 days from 10 December 2012 to 28 January 2013. A total of five submissions were received. The main issues raised in the submissions relate to the potential heritage significance of a property (467 Argyle Street) within the subject site, traffic, safety, noise, air quality, loss of privacy and inappropriate proposed land use.

Council also advised that if this Planning Proposal progresses, further community consultation opportunities will occur as part of the preparation and exhibition of the Planning Proposal and specific studies will be undertaken in accordance with the Gateway process.

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 : **Apart from appropriate amending maps to be provided and specific studies to be undertaken, the proposal meets the adequacy criteria.**

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Wollondilly principal plan was made in 2011. This Planning Proposal seeks to amend Wollondilly Local Environmental Plan 2011.**

Assessment Criteria

Need for planning proposal :	A planning proposal is the only means of facilitating the rezoning of the land. Council has advised that the planning proposal is not the result of any strategic study or report although the site is identified in the Wollondilly Growth Management Strategy (GMS) partially as a 'potential employment area-industrial' and partially as an 'Industrial zone areas – IN2, IN3'. However, the proposed zone B5 Business Development is considered to be compatible with the GMS as the proposed zone includes light industrial as a permissible land use and a wide range of land uses requiring larger portions of land and land uses that would complement the adjoining industrial and rural area. Hence, the proposed land use is considered to be most suitable land use for the site. Council also advised that there is no zone B5 Business Development Land in Wollondilly Shire. A previous recent Planning Proposal 'Tahmoor South Business Development Lands' also proposes the B5 Business Development Zone. Further assessment of the proposed provisions in this zone will be undertaken to ensure that it meets the objectives for both this and the previous planning proposal and that the permissible uses will not potentially adversely affect the economic viability of existing town centres located nearby.
Consistency with strategic planning framework :	The Planning Proposal is not inconsistent with the aims of both the draft South West Subregional Strategy and the draft Metropolitan Strategy for Sydney 2031 as it will provide land for business purposes with the potential for job creation and additional employment opportunities for the local community.
Environmental social economic impacts :	Environmental Impacts Council proposes to conduct the following studies: - Stormwater and Water Sensitive Urban Design Management Plan - On-site Waste Package Treatment Plant (should confirmation not be received from Sydney Water regarding connection to their scheme) - Traffic and Transport Assessment - Contamination Assessment - Acoustic Impact Assessment - Lighting Impact Assessment - Visual Impact and Urban Design Social Impacts - Heritage – Council has advised that no heritage items are located at the site. However, one of the properties (Lot 1 DP 537245) has house ('Tyrone') which may have heritage value. A heritage assessment of 'Tyrone' will be undertaken to determine its heritage value.

Economic Impact

As stated before, the proposed B5 Business Development Zone is not currently one of the land uses permissible within Wollondilly Shire and was not considered from a strategic viewpoint in the context of the preparation of the Wollondilly Local Environmental Plan 2011. Therefore an Economic Feasibility Study which assesses the influence and potential impact of such a zone on Tahmoor, Bargo, Thirlmere and Picton town centres will be undertaken. The Study will also assess whether the site would be suitable for B5 Business Development Zone.

Further, the proposal was forwarded to Employment Lands team for comment. It was noted (in summary) that

- the proposal would result in the rezoning of 1.28 ha of IN2 land on the edge of the Picton employment land precinct (which had 29 ha of zoned employment land in total in Jan 2012) to B5, as well as a further adjoining 3.2 ha of RU2 to B5, resulting in a total of 5 ha of B5 zoned land.

- generally, the rezoning of the IN 2 parcel to B5 does not represent a significant loss of industrial land for the following reasons:

- *The land does not accommodate any existing industrial uses and does not appear on the ELDP;

- *The land only constitutes 0.6% of the LGA's total zoned employment land stocks;

- *The land is located on the edge of the Picton employment land precinct so is not likely to create land use conflicts with the rest of the precinct;

- *The provision of B5 zoned land could create further opportunities for industrial uses as the zone permits these.

- a more significant issue would be potential impact of a 5ha B5 zone on surrounding existing or planned centres, as this will permit bulky good retail. This point is raised in council's PP who require an economic impact feasibility assessment and further assessment of proposed permitted uses within the B5 zone

In light of above, an economic feasibility study is appropriate.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	28 Days
Timeframe to make LEP :	24 Month	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	Sydney Catchment Authority Office of Environment and Heritage NSW Department of Primary Industries - Minerals and Petroleum Department of Trade and Investment Mine Subsidence Board Transport for NSW - Roads and Maritime Services Sydney Water		

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

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

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

Heritage

Economic

Other - provide details below

If Other, provide reasons :

- a. **Stormwater and Water Sensitive Urban Design Management Plan**
- b. **On-site Waste Package Treatment Plant (should confirmation not be received from Sydney Water regarding connection to their scheme)**
- c. **Traffic and Transport Assessment**
- d. **Contamination Assessment**
- e. **Acoustic Impact Assessment**
- f. **Lighting Impact Assessment**
- g. **Visual Impact and Urban Design**

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 : **The planning proposal was however forwarded to the Infrastructure & Planning Coordination team for information. Business zoning falls outside of the scope of the Government's current contribution policy.**

The proposal was also forwarded to Employment Lands Team for information as noted in the report.

Documents

Document File Name	DocumentType Name	Is Public
Council's letter.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
Council's Report.pdf	Determination Document	Yes
Council's resolution.pdf	Determination Document	Yes
Evaluation criteria for the delegation of plan making functions.pdf	Determination Document	No
Location Map.pdf	Map	Yes
Current Zoning Map.pdf	Map	Yes
Aerial Photograph.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**
 - 1.3 Mining, Petroleum Production and Extractive Industries**
 - 2.3 Heritage Conservation**
 - 3.4 Integrating Land Use and Transport**
 - 4.2 Mine Subsidence and Unstable Land**
 - 5.2 Sydney Drinking Water Catchments**

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:

1. Exhibited for 28 days.
 2. The timeframe for completing the Local Environmental Plan is to be 24 months from the week following the date of the Gateway determination.
 3. Delegation is to be given for Council to exercise the Minister's plan making powers.
 4. Council is undertake the specific studies as proposed in the Planning Proposal including: Stormwater and Water Sensitive Urban Design Management Plan, On Site Waste Package Treatment Plant, Traffic and Transport Assessment, Contamination Assessment, Acoustic Impact Assessment, Lighting Impact Assessment, Visual Impact and Urban Design, Heritage and Economic Feasibility.
 5. Council is to demonstrate consistency with section 117 Direction 2.3 Heritage Conservation after conducting relevant heritage studies.
 6. Council is to consult with:
 - a. The Department of Trade & Investment and subsequently demonstrate consistency with section 117 Direction 1.3 Mining, Petroleum and Extractive Industries; and
 - b. Mine Subsidence Board and subsequently demonstrate consistency with section 117 Direction 4.2 Mine Subsidence and Unstable Land.
 7. Council is to amend the Planning Proposal to ensure that:
 - a. the application of section 117 Direction 5.2 Sydney Drinking Water Catchments is to be acknowledged and addressed; and
 - b. the application of deemed SEPP 55 – Remediation of Land is acknowledged and addressed.
 8. Council is to consult the following additional agencies:
Office of Environment and Heritage,
Transport for NSW – Road and Maritime Services and
Sydney Water
Sydney Catchment Authority
 9. The proposal is to be amended prior to exhibition to include Land Zoning, Height of Building and Minimum lot size maps; and any other maps that need to be amended as a result of the studies conducted.
 10. The Director General agrees to the inconsistency with s.117 Direction 1.2 Rural Zones.
- Supporting Reasons : The Planning Proposal will provide business choice in a generally appropriate location. The proposal will also provide employment opportunities for the local community and may support an area which may experience high residential growth over the next 25 years.

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Signature:



Printed Name:

STEPHEN GARDINER

Date:

7/06/13