

## **11 SUSTAINABLE AND BALANCED GROWTH**

### **11.1 DRAFT PLANNING PROPOSAL - HERITAGE HOUSEKEEPING AMENDMENTS**

**File Number:** 10619#41

**Applicant:** Wollondilly Shire Council

**Owner:** Various

**Proposal:** Draft Planning Proposal to make heritage related 'housekeeping' amendments to the Wollondilly Local Environment Plan 2011 in relation to various properties

**Location:** Various

#### **EXECUTIVE SUMMARY**

- This report seeks Council's support to initiate a planning proposal for housekeeping amendments to Wollondilly Local Environment Plan 2011 to correct and/or update provisions as they apply to various heritage items.
- The changes are necessary to ensure adequate protection of heritage items and landscapes and also to remove unnecessary statutory burdens where there are no heritage items.
- This report recommends that:
  1. Council support the Heritage Housekeeping Planning Proposal for various sites to amend Wollondilly Local Environment Plan 2011 as follows;
    - (a) Amend Schedule 5 (various changes),
    - (b) Amend the Heritage Map (various changes), and
    - (c) Amend the Land Zoning Map to identify an additional land use annotation for 'place of public worship' to the SP2 Infrastructure zone as it applied to St Mark's Church, Picton (Lots 1 and 2 DP 1225820) and St Luke's Church, Wilton (Lot 1 DP 1236516)).
  2. The Planning Proposal be forwarded to the Greater Sydney Commission for a Gateway determination.
  3. If it is determined that any component of the Planning Proposal requires the preparation of a specialist study then that component is removed from this housekeeping amendment prior to exhibition and considered for inclusion within the comprehensive Local Environmental Plan Review process.
  4. Landowners and persons who made submissions regarding the planning proposal be notified of Council's Resolution.

#### **REPORT**

##### **Background**

Schedule 5 of the Wollondilly Local Environment Plan 2011 (WLEP) provides a comprehensive list of Heritage items (Part 1), Heritage Conservation Areas (Part 2) and Archaeological sites (Part 3) that have been identified for their heritage value across the Shire. This list provides a description of the item, the item number and the item's property identifiers which include street address, relevant lot and deposited plan number and heritage significance.

The WLEP is accompanied by a series of maps. These include a set of Heritage Map's that identify the location of heritage items listed in Schedule 5 and a set of Land Zoning Map's which nominate the location of land zones listed in the Land Use Table.

**Description of Proposal**

The draft planning proposal seeks to make a number of housekeeping amendments to the WLEP.

The amendments have been identified from a review of heritage provisions within the WLEP as they apply to specific land holdings. This review has included:

- A desktop review of the information included in Schedule 5. For example, to check property information and heritage significance listed for each heritage item is correct.
- Reviewing individual properties where notification has been received from Development Management that a change is required in response to an issued development consent; For example, where land containing a heritage item will be subdivided and a boundary needs to be amended.
- A comparison of Schedule 5 against the State Heritage Register.
- Consideration of landowner feedback.

The housekeeping amendment has been limited to minor corrections or changes where no specialist studies are considered necessary to inform the changes. No new heritage items are proposed as part of these amendments.

No changes are proposed to Part 2 of Schedule 5 which lists Heritage Conservation Areas. However, it is proposed to amend the Heritage Map to increase the Menangle Landscape Conservation Area to include all land originally identified for protection.

**Background to Menangle Landscape Conservation Area Boundary**

In 2011 MUSEcape Pty Ltd were engaged by Council to undertake a heritage assessment of the significance of the landscape around the Menangle Village Conservation Area.

The report called 'Menangle Landscape Conservation Area Assessment of Significance & Proposed Boundaries' was finalised in 2012 and recommended the creation of a Landscape Conservation Area 'to protect the historical, associational, aesthetic and other heritage values of the wider cultural landscape setting of Menangle Village'.

The area currently included within the Menangle Landscape Conservation Area is slightly smaller than the boundary recommended by the study. This is because during the statutory process to establish the landscape conservation area Council was required to remove land identified for employment purposes under the planning proposal for land in Moreton Park Road, Menangle. That planning proposal was refused by the Joint Regional Planning Panel in 2014 and never proceeded. There are no planning proposals that currently apply to this land.

A report to Council in February 2018 on proposed planning controls for the Menangle Landscape Conservation Area identified a need to consider implementing the full boundary as originally intended. It is proposed to include approximately 50 hectares of new land within the Menangle Landscape Conservation Area. The additional land proposed to be included is shown in the Attachment titled Map identifying proposed extension of Menangle Landscape Conservation Area.

**Need for Amendments**

It is acknowledged that Council is commencing a review of the WLEP in response to the recent release of the Greater Sydney Region Plan and Western City District Plan by the Greater Sydney Commission.

However, a significant number of minor corrections and updates are considered necessary to Schedule 5 as soon as possible as the current planning controls have a number of implications for land owners;

- In some case landowners are unnecessarily burdened because their land is affected by heritage provisions where there are no heritage items;

- In some cases heritage is not currently being adequately protected and there is an immediate risk to conserving heritage items and landscapes, and
- In a couple of cases, the current land zoning presents barriers to the orderly development of land containing a heritage item.

## **Consultation**

### **Formal consultation with Council staff that provide specialist comment**

Council's Heritage Advisor has been consulted regarding the proposed amendments to Schedule 5 (Parts 1 and 3) of the WLEP and associated mapping and has supported all changes.

Planning staff have been encouraged to identify and provide advice on heritage items requiring an update in Schedule 5 or the associated Heritage Map series.

Given the Planning Proposal relates to administrative corrections and maintenance of planning instruments only, there is not considered to be a need to consult more broadly at this stage.

### **Consultation with Public Agencies**

Consultation with public agencies usually occurs after a Gateway Determination is issued and it has been established that a proposal has strategic planning merit.

Should the proposal be supported by Council, any subsequent Gateway Determination will outline the consultation requirements with government agencies.

### **Community Consultation**

An open community consultation period has not been held as part of the preparation of the proposed amendments. However, a letter has been sent to the owner(s) of each affected property for proposed changes to Part 1 Heritage items and Part 3 Archaeological sites to inform them of the proposed changes that will affect their property and inviting them to provide feedback. The letters were sent in June 2017 and February 2018. Council staff received a number of phone enquiries in response. In general, land owners were seeking to better understand the process, implications, and in some cases questioned the merit of the heritage listing. The scope of this heritage review has been to identify corrections and not to reassess the merit of heritage listing except where the heritage item has been legally demolished.

Only one written submission has been received in response to landowner consultation. This submission was received on behalf of Anglican Church Property Trust.

The submission raises no objections to the proposed amendment to apply the correct property address for the heritage item associated with St Mark's Anglican Church in Picton.

However, the submission has requested consideration to include an additional change within the housekeeping amendment to make corrections to the Land Zoning Map as it applies to St Mark's Anglican Church in Picton and also St Luke's Anglican Church in Wilton. Both of which, are heritage items under the local environmental plan.

At present, both of these land holdings are zoned SP2 Infrastructure with "Cemetery" as the annotated land use on the Land Zoning Map. However, both of these sites are currently being used as a Place of Public Worship as well as a cemetery.

It is not clear why the annotated land use for these sites has been restricted to a cemetery. From a quick review of other active churches around the shire with cemeteries there does not appear to have been a consistent approach applied in moving to the Standard Instrument format back in 2011.

The use of the infrastructure zone is appropriate given the presence of a cemetery. However, both of these locations now rely on existing use rights for the church component of the land use which is

not ideal, particularly as it limits flexibility. This issue could be rectified by including an additional land use annotation for 'Place of Public Worship' on the Land Zoning Map for these two sites.

It is considered reasonable to incorporate the submitter's request into this planning proposal given the sites are both heritage items and the change would reflect the current use of these heritage items.

In a second separate consultation, landowners within the area of the proposed extension to the Menangle Landscape Conservation Area were notified and invited to provide feedback during September 2018. One submission was received in objection to the proposed changes.

The submitter provided the following comments:

- There has not been enough justification provided as to why the proposed boundary relates to their property; and
- Their property is not of visual value or importance due to a hilltop and road visually separating it from the Menangle village.

According to the MUSEcape Pty Ltd report published in 2012, the northern section of the property in question is located within a rural landscape view corridor and can be seen from various points in the Menangle village and surrounding areas. It is important that the recommendations of the report are followed to ensure that the historic vista and hills of Menangle are preserved under one consistent boundary.

It is anticipated that consultation with the broader public will be undertaken if a Gateway Determination is issued for the Planning Proposal to proceed. It is considered that as part of any broader community consultation the following stakeholders should also be invited to provide comments:

- Tourism and Heritage Community Advisory Committee(s),
- Appin Historical Society,
- The Oaks Historical Society, and
- Picton & District Historical and Family History Society.

### **Preparation of a Planning Proposal**

Should Council resolve to support the outlined changes, a planning proposal will be prepared in accordance with Section 3.33 (formerly Section 55) of the *Environmental Planning & Assessment Act 1979* and guidelines published by the Department of Planning & Environment. The planning proposal is then forwarded to the Greater Sydney Commission for a Gateway Determination.

Council's options are:

1. Resolve to support the changes and prepare a Planning Proposal accordingly, or
2. Resolve not to support a Planning Proposal for these changes.

Option **1** is the recommendation of this report.

### **Final form of planning proposal**

#### **Wollondilly Local Environment Plan, 2011**

Following consideration of responses from initial consultation and notification and preliminary investigation of all items listed in Schedule 5, it is considered that the planning proposal should take the form detailed below.

The planning proposal seeks the following amendments to WLEP:

- Amend Schedule 5 Environmental Heritage to update information under Part 1 Heritage Items and Part 3 Archaeological sites as outlined in Attachment 1,
- Amend the relevant Heritage Maps as outlined in Attachment 1 of this report to correctly identify individual heritage items and archaeological sites.
- Amend the Heritage Map for the Menangle Landscape Conservation Area to include all the area shown at Attachment 2.
- Amend the Land Zoning Map to include an additional land use annotation for 'place of public worship' to the SP2 Infrastructure land use zone for land associated with St Marks Church Picton (Lots 1 and 2 in DP 1225820) and St Luke's Church Wilton (Lot 1 in DP 1236516).

Some of the proposed changes apply to land either in Council's ownership or at least under Council maintenance. For this reason it is not considered appropriate for Council to request delegation to make the amendments.

### **Wollondilly Local Planning Panel advice**

The Draft planning proposal was reported to the Local Planning Panel meeting held on 26 July 2018. A copy of the Panel's advice is attached to this report. The Panel's recommendations are listed below along with the steps taken to address them:

1. *That the landowners in the Menangle Landscape Conservation Area (MLCA) extension area be advised of the preparation of the planning proposal prior to the reporting of the matter to Council, to ensure that all landowners are given the same opportunity to comment.*

The relevant landowners have been contacted.

2. *That all landowners of land proposed to be included in the Draft Planning Proposal be notified and invited to attend when this item is listed at a Council Community Forum prior to being reported to Council.*

The relevant landowners of all properties affected by these changes were notified of the Council Community Forum to be held on 8 October 2018.

3. *That the Table of Changes to Schedule 5 (Attachment 1 in report) be reviewed to ensure:*
  - (a) *Where the places of public worship listed in this table have a special use zone, the correct land use description has been used.*
  - (b) *The reference to curtilage in Item 187 be removed and replaced with a more descriptive reference.*

The table listing changes to Schedule 5 has been updated based on the advice provided above. The updated table is provided at Attachment 1.




The Panel also provided an Advisory Note related to the protection of Aboriginal Cultural Heritage. However, it was directed to the Local Environmental Plan review and not this draft planning proposal specifically.

### **Financial Implications**

Funding for the maintenance of Planning Instruments is part of the ongoing operational budget for Strategic Planning and no additional funding source.

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

## ATTACHMENTS

1. **Table Summarising Proposed changes to Schedule 5 of Wollondilly Local Environmental Plan 2011** 
2. **Map identifying proposed extension of Menangle Landscape Conservation Area** 
3. **Local Planning Panel Minutes from 26 July 2018 for Heritage Housekeeping Amendments Draft Planning Proposal** 

## RECOMMENDATION

1. That Council support the Heritage Housekeeping Planning Proposal for various sites to amend Wollondilly Local Environment Plan 2011 as follows:
  - (a) Amend Schedule 5 (various changes),
  - (b) Amend the Heritage Map (various changes), and
  - (c) Amend the Land Zoning Map to identify an additional land use annotation for 'place of public worship' to the SP2 Infrastructure zone as it applied to St Mark's Church, Picton (Lots 1 and 2 DP 1225820) and St Luke's Church, Wilton (Lot 1 DP 1236516)).
2. That the Planning Proposal be forwarded to the Greater Sydney Commission for a Gateway Determination.
3. That if it is determined that any component of the Planning Proposal requires the preparation of a specialist study then that component is removed from this housekeeping amendment prior to exhibition and considered for inclusion within the comprehensive Local Environmental Plan Review instead.
4. That landowners and persons who made submissions regarding the Planning Proposal be notified of Council's Resolution.

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At 7:20 pm, Cr Blair Briggs and Cr Matthew Deeth left the meeting due to a previously declared Conflict of Interest.

#### RESOLUTION 39/2018

Moved: Mayor Judith Hannan

Seconded: Cr Matthew Gould

***That this item be deferred.***

On being put to the meeting the motion was declared **CARRIED**. 6/0

In Favour: Crs Judith Hannan, Robert Khan, Michael Banasik, Matthew Gould, Simon Landow and Noel Lowry

Against: Nil