

# Planning Proposal

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To Amend Wollondilly Local Environmental Plan 2011

## Heritage Housekeeping Amendment Corrections to Schedule 5

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To amend Wollondilly Local Environmental Plan 2011 to correct and/or update provisions as they apply to individual heritage items in Schedule 5.

**February 2020**

# Document Register

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# Introduction

Schedule 5 of the *Wollondilly Local Environment Plan 2011* (WLEP 2011) 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, heritage significance and the item's property identifiers which include street address, relevant lot and deposited plan number.

The WLEP 2011 is accompanied by a series of maps that outline which controls relate to each and every property in Wollondilly. One set of maps, the Heritage Maps (HER), identify the location of heritage items listed in Schedule 5.

A thorough review of the Schedule 5 Heritage List and its related maps was undertaken as part of this planning proposal in order to identify the mistakes and inaccuracies that were present in both.

This review identified:

- That 105 heritage items require amendments in WLEP Schedule 5 and that 35 of these require mapping changes as well.
- A separate change to the heritage map to enable the increase of the Menangle Landscape Conservation Area to include all of the land originally identified for protection.
- Two changes to the Land Zoning maps in WLEP 2011 to better identify the operations of two churches in Appin and Wilton.

Once made, these changes will ensure that our heritage schedule and map is as accurate as possible and will provide greater clarification and protection for our heritage buildings and landscapes.

A list of the proposed changes and corrections is included in Attachment B of this document.

The draft planning proposal was addressed at the Local Planning Panel meeting held on 26 July 2018. The panel recommended that the draft proposal be supported, with conditions. These conditions outlined the need for consultation with landowners located within the Menangle Landscape Conservation Area and several amendments to the table of changes.

Consultation with people affected by the extension of the Menangle Landscape Conservation Area was subsequently undertaken, with no submissions received, and suggested amendments were made to the table of changes.

The report was then forwarded to the 15 October 2018 Ordinary Council Meeting, however the item was deferred due to an error found in the notification letter sent landowners and previous submitters.

This meeting's report and minutes are provided in Attachment E of this document.

The report was subsequently reported to the 19 November 2018 Ordinary Council Meeting, where council supported the proposal without alterations.

This meeting's report and minutes are provided in Attachment F of this document.

## Part 1 – Objectives or Intended Outcomes

The objective of this Planning Proposal is to correct a large number of errors found in the Schedule 5 heritage list and related Heritage (HER) maps located in *Wollondilly Local Environmental Plan 2011* (WLEP2011).

The Planning Proposal seeks to ensure that Wollondilly's heritage items are correctly identified and protected in WLEP 2011, so as to maintain the character of Wollondilly's towns and villages.

## Part 2 – Explanation of Provisions

The proposed outcome will be achieved by amending the Wollondilly LEP 2011 in the following manner:

- Amending Schedule 5 Environmental Heritage (Part 1 and Part 3); to correct/update either the item name, property description, property address, and/or heritage significance
- Amending the Heritage Map to correct/update the area identified on the Heritage Map for each item listed in Schedule 5
- Amend the Heritage Map to expand the Menangle Landscape Conservation Area to include all land originally identified for protection, and
- Amending the Land Zoning Map to include an additional land use annotation on land zoned SP2 Infrastructure to accurately reflect the current land use on the land for two heritage items.

The amendments have been identified from a review of heritage provisions within the Wollondilly Local Environmental Plan 2011 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 Department 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 curtilage needs to be amended
- Investigation into the changed circumstances of items that have been demolished
- A comparison on Schedule 5 against the State Heritage Register
- Consideration of landowner feedback.

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

### Changes to land uses

Further changes were sought following initial consultation with the public, whereby two anomalies on the Land Use Maps were identified for two churches in Picton and Wilton. These churches are St Luke's Anglican Church, located at 1096-1099 Argyle Street, Wilton and St Mark's Anglican Church, located at 7-9 Menangle Street West, Picton.

It is proposed that these churches are shown as 'SP2 Place of Public Worship' rather than 'SP2 Cemetery' on the land use map to better identify the operations of both churches.

### Menangle Landscape Conservation Area Extension

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 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, a portion of the area was subject to a planning proposal and was removed on this basis. The planning proposal was eventually refused by the Joint Regional Planning Panel (JRPP) 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. This would involve the inclusion of approximately 50 hectares of new land within the Menangle Landscape Conservation Area and would include an amendment to the Heritage (HER) Map in WLEP.

These changes would be contained to the heritage map only and would not include any amendments to Part 2 of Schedule 5 of the WLEP 2011.

# Part 3 – Justification

## Section A – Need for the planning proposal

### A 3.1 Is the planning proposal a result of any strategic study or report?

This Planning Proposal, for the most part, is not a result of any strategic study or report. The proposal is in response to a number of errors found in Schedule 5 of the Wollondilly Local Environmental Plan 2011 (WLEP 2011) and related maps following the undertaking of a desktop study across the shire.

The changes relating to the extension of Menangle Landscape Conservation Area are as a result of a report undertaken by MUSEcape in 2012 to identify an appropriate location for a landscape conservation area in and around Menangle. This report is provided at Attachment D.

### A 3.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The proposal involves an amendment to Wollondilly Shire Council's Local Environmental Plan 2011 and therefore, a Planning Proposal is the best means of achieving the objectives and outcomes of the amendment.

## Section B – Relationship to strategic planning framework

### B 3.3 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

#### Western City District Plan

The proposal is consistent with the requirements of the Western City District Plan. The proposal is especially consistent because it is proposing to provide clearer and in some cases enhanced protections for items of heritage significance across the shire.

### B 3.4 Is the planning proposal consistent with a council's local strategy or other local strategic plan?

The two key local strategies are:

- Wollondilly Community Strategic Plan 2033
- Wollondilly Growth Management Strategy 2011

#### Wollondilly Community Strategic Plan

The Wollondilly Community Strategic Plan 2033 (WCSP), adopted by Council on 17 June 2013, is Council's highest level long term plan and sets out the long term strategic planning aspirations of the community for Wollondilly over a 20 year period up to 2033.

It is based on a vision of rural living for Wollondilly Shire and is focussed around five themes:

- Looking after the Community
- Accountable and Transparent Governance
- Caring for the Environment
- Building a strong local Economy
- Management and provision of Infrastructure

Each theme is supported by identified outcomes and strategies which express in broad terms what is to be achieved and how. These themes are, in part, delivered through a number of key supporting strategies, plans and policies which have been prepared by the Council, such as WLEP2011 and the Wollondilly Growth Management Strategy.

The following WCSP strategies are relevant to the Planning Proposal as described below.

### **Strategy GR2 – Built Environment**

*Manage land use and development to achieve a high quality built environment and innovative planning outcomes, while protecting our agriculture and rural landscape.*

Comment: This Planning Proposal will ensure that heritage items and landscapes are better protected under the Wollondilly Local Environmental Plan 2011.

### **Strategy GR4 – Liveable Communities**

*Plan for and enhance Wollondilly's liveability by encouraging great places to live with communities that are resilient, safe, affordable, healthy, well connected and retain their unique characters.*

Comment: The Planning Proposal would ensure that Wollondilly's towns and villages retain their character through better clarified protections of heritage items and landscapes.

### **Wollondilly Growth Management Strategy 2011**

The Growth Management Strategy (GMS) was adopted by Council on 21 February 2011. It contains Key Policy Directions and Assessment Guidelines for the evaluation of planning proposals and Council decisions on growth. The subject Planning Proposal is seeking to correct errors found in the Heritage maps and in Schedule 5 of the WLEP2011 and does not impact on growth decisions.

Notwithstanding this, all Planning Proposals within Wollondilly must be assessed against the key policy directions within the GMS. Appendix A sets out the GMS Key Policy Directions and Assessment Criteria as they relate to this proposal.

#### **B 3.5 Is the planning proposal consistent with applicable state environmental planning policies?**

The Planning proposal is consistent with all of the relevant State Environmental Planning Policies.

#### **B 3.6 Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?**

##### **Ministerial Direction 2.3 Heritage Conservation**

This Ministerial Direction requires that a planning proposal to which this direction applies must include provisions that facilitate the conservation of:

- (a) Items, place, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,*
- (b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and*
- (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.*

This planning proposal relates to the correction of errors found in the Wollondilly Local Environmental Plan 2011. As such, it is not proposing to add any new items to the Schedule 5 heritage list, but will provide clarification and therefore better protections for existing heritage items and landscapes.

## **Section C – Environmental, social and economic impact**

#### **C 3.7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The proposal would not have any adverse impacts on threatened species, populations or ecological communities.



**C 3.8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

There are unlikely to be any other environmental effects as a result of the Planning Proposal.

**C 3.9 Has the planning proposal adequately addressed any social and economic effects?**

No adverse economic or social impact is anticipated.

**Section D – State and Commonwealth interests**

**D3.10. Is there adequate public infrastructure for the planning proposal?**

This consideration is not applicable to the Planning Proposal.

**D3.11 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

State and Commonwealth public authorities who own heritage items that were identified for corrections were contacted as part of the preliminary consultation period and were given the opportunity to comment on proposed changes. No submissions were received during this period.

## Part 4 – Mapping

There are 35 mapping changes proposed to the heritage (HER) maps and 2 mapping changes proposed to the land zoning (LZN) maps located in Wollondilly Local Environmental Plan 2011.

All of the proposed mapping changes are outlined in Attachment G of this report.

## Part 5 – Community Consultation

In accordance with the Department of Planning, Industry and Environment's *Guide to Preparing Planning Proposals* the Planning Proposal will be exhibited for a period of 28 days. It is expected that this could be undertaken following the receipt of a Gateway Determination for the Proposal.

## Part 6 – Project Timeline

Project detail	Timeframe	Timeline
Consideration of Planning Proposal and issue of Gateway Determination by Department of Planning	1 month	March 2020
Commencement and completion dates for public exhibition period – after amending the planning proposal if required, preparation of maps and special DCP provisions	3 months	August 2020
Timeframe for consideration of submissions	2 weeks	Mid-August, 2020
Timeframe for the consideration of a proposal post exhibition including amendments and maps and report to Council	3 months	Mid-November, 2020
Anticipated date RPA will forward to PC and Department of Planning for finalisation	6 weeks	December, 2020
Finalisation	2 Months	February, 2021

# Appendices

## **A. Assessment against Wollondilly GMS**

Table indicating compliance with relevant Key Policy Directions within Wollondilly Growth Management Strategy (GMS) 2011

## **B. Table listing the proposed changes to Schedule 5 heritage list in the Wollondilly Local Environmental Plan 2011**

Comparison of number of additional dual occupancy dwellings that could be constructed under the Low Rise Medium Density Housing Code compared to Council's current planning controls

## **C. Proposed extent of the Menangle Landscape Conservation Area**

Table indicating the number of Dual Occupancy approvals by zoning and locality between 1 January 2013 and 31 December 2017

## **D. MUSEcape Menangle Landscape Conservation Area report 2012**

Table indicating the number of Dual Occupancy approvals by zoning and locality in 2018, as of 26 September 2018

## **E. Council's Report and Minutes from 15 October 2018**

Extract from Agenda containing the Report to Wollondilly Shire and its Planning and Economy to the Ordinary meeting of Council held on Monday 15 October 2018.

## **F. Council's Report and Minutes from 19 November 2018**

Extract from Agenda containing the Report to Wollondilly Shire and its Planning and Economy to the Ordinary meeting of Council held on Monday 19 November 2018.

## **G. Proposed amendments to the WLEP 2011 heritage map**

Extract from Agenda containing the Report to Wollondilly Shire and its Planning and Economy to the Ordinary meeting of Council held on Monday 18 June 2018.

# Appendix A

## Assessment against Wollondilly GMS

Wollondilly Growth Management Strategy (GMS) was adopted by Council in February 2011 and sets directions for accommodating growth in the Shire for the next 25 years. All planning proposals which are submitted to/initiated by Council are required to be assessed against the Key Policy Directions within the GMS to determine whether they should or should not proceed.

The following table sets out the planning proposal's compliance with relevant Key Policy Directions within the GMS:

Key Policy Direction	Comment
<b>General Policies</b>	
<b>P1</b> All land use proposals need to be consistent with the key Policy Directions and Assessment Criteria contained within the GMS in order to be supported by Council.	Not applicable.
<b>P2</b> All land use proposals need to be compatible with the concept and vision of 'Rural Living' (defined in Chapter 2 of the GMS).	Not applicable.
<b>P3</b> All Council decisions on land use proposals shall consider the outcomes of community engagement.	Community engagement will be carried out following the issue of a Gateway Determination for the Planning Proposal and the outcomes of this consultation will inform the final outcome of the proposal.
<b>P4</b> The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.	The personal financial circumstances of individual landowners have not been given consideration through the preliminary assessment of this Planning Proposal.
<b>P5</b> Council is committed to the principle of appropriate growth for each of our towns and villages. Each of our settlements has differing characteristics and differing capacities to accommodate different levels and types of growth (due to locational attributes, infrastructure limitations, geophysical constraints, market forces etc.)	Not applicable.
<b>Housing Policies</b>	
<b>P6</b> Council will plan for adequate housing to accommodate the Shire's natural growth forecast.	Not applicable.
<b>P8</b> Council will support the delivery of a mix of housing types to assist housing diversity and affordability so that Wollondilly can better accommodate the housing needs of its different community members and household types.	Not applicable.
<b>P9</b> Dwelling densities, where possible and environmentally acceptable, should be higher in proximity to centres and lower on the edges of towns (on the "rural fringe").	Not applicable.
<b>P10</b> Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.	Not applicable.
<b>Macarthur South Policies</b>	
<b>P11</b> Council does not support major urban release within the Macarthur South area at this stage.	Not applicable.

Key Policy Direction	Comment
<p><b>P12</b> Council considers that in order to achieve sound long-term orderly planning for the eventual development of Macarthur South an overall master plan is required.</p>	Not applicable.
<p><b>P13</b> Council will not support further significant new housing releases in Macarthur South beyond those which have already been approved. Small scale residential development in and adjacent to the existing towns and villages within Macarthur South will be considered on its merits.</p>	Not applicable.
<p><b>P14</b> Council will consider proposals for employment land developments in Macarthur South provided they:</p> <ul style="list-style-type: none"> <li>▪ Are environmentally acceptable;</li> <li>▪ Can provide significant local and/or subregional employment benefits;</li> <li>▪ Do not potentially compromise the future orderly master planning of the Macarthur South area;</li> <li>▪ Provide for the timely delivery of necessary infrastructure;</li> <li>▪ Are especially suited to the particular attributes of the Macarthur South area AND can be demonstrated as being unsuitable or unable to be located in alternative locations closer to established urban areas;</li> <li>▪ Do not depend on the approval of any substantial new housing development proposal in order to proceed (Employment land proposals which necessitate some limited ancillary or incidental housing may be considered on their merits).</li> </ul>	Not applicable.
<b>Employment Policies</b>	
<p><b>P15</b> Council will plan for new employment lands and other employment generating initiatives in order to deliver positive local and regional employment outcomes.</p>	Not applicable.
<p><b>P16</b> Council will plan for different types of employment lands to be in different locations in recognition of the need to create employment opportunities in different sectors of the economy in appropriate areas.</p>	Not applicable.
<b>Integrating Growth and Infrastructure</b>	
<p><b>P17</b> Council will not support residential and employment lands growth unless increased infrastructure and servicing demands can be clearly demonstrated as being able to be delivered in a timely manner without imposing unsustainable burdens on Council or the Shire's existing and future community.</p>	Not applicable.
<p><b>P18</b> Council will encourage sustainable growth which supports our existing towns and villages, and makes the provision of services and infrastructure</p>	Not applicable.

Key Policy Direction	Comment
more efficient and viable – this means a greater emphasis on concentrating new housing in and around our existing population centres.	
<b>P19</b> Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.	Not applicable.
<b>P20</b> The focus for population growth will be in two key growth centres, being the Picton/Thirlmere/Tahmoor Area (PTT) area and the Bargo Area. Appropriate smaller growth opportunities are identified for other towns.	Not applicable.
<b>Rural and Resource Lands</b>	
<b>P21</b> Council acknowledges and seeks to protect the special economic, environmental and cultural values of the Shire's lands which comprise waterways, drinking water catchments, biodiversity, mineral resources, agricultural lands, aboriginal heritage and European rural landscapes.	This Draft Planning Proposal would correct errors and provide clarification for several heritage items across the shire. This will ensure greater protections to existing items and landscapes.
<b>P22</b> Council does not support incremental growth involving increased dwelling entitlements and/or rural lands fragmentation in dispersed rural areas. Council is however committed to maintaining where possible practicable, existing dwelling and subdivision entitlements in rural areas.	Not applicable.



# Appendix B

Table listing the proposed changes to Schedule 5 heritage list in the Wollondilly Local Environmental Plan 2011

*Our Reference: CM 8738#170*

## Appendix C

### Proposed extent of the Menangle Landscape Conservation Area

*Our Reference: CM 8738#171*

## Appendix D

# MUSEcape Menangle Landscape Conservation Area Report 2012

*Our Reference: CM 8738#172*

## Appendix E

### Council Report and Minutes from 15 October 2018

*Our Reference: CM 8738#173*

# Appendix F

## Council Report and Minutes from 19 November 2018

*Our Reference: CM 8738#174*