

GR3 – Planning Proposal – 55 Government Road Bargo

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Planning Proposal – 55 Government Road Bargo
282663

TRIM 7654

Applicant: Precise Planning
Owner: Mr D B Madgwick, Mr A J McCulloch & Ms J P McCulloch

Growth



LOCATION MAP ↑ N

Stage	Completed
Preliminary notification	25 June 2014
Gateway Determination	26 November 2014
Consultation with Public Agencies	4 February 2015
Specialist Studies	February 2017
Public exhibition/community consultation	Not yet completed
Referred to Minister for Publication	Not yet completed

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EXECUTIVE SUMMARY

- This report seeks Council support to amend the Planning Proposal for 55 Government Rd, Bargo and to request an alteration to the Gateway Determination.
- The proposed amendments involve changing the land zoning within the planning proposal for the purpose of further environmental land preservation and protection from future development.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extends to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended that Council support the recommended changes outlined in this report and that a request for an altered Gateway Determination be forwarded to the Greater Sydney Commission.

REPORT

1.1 SITE DESCRIPTION

The site is a large 11.21 hectare rural allotment located in Bargo. The site is an irregular shape with a slight deviation along the south-western boundary and another on the lower-western boundary to show the indentation of an existing allotment excluded from this Planning Proposal.

The site has a 480m frontage to Government Road and the smallest section of boundary on the east has a frontage of approximately 170m onto an unformed road that provides limited access to the property. The property has a slight gradual sloping from the western boundary towards the eastern boundary.

There is currently a small structure on the property in an aged and deteriorating condition amongst the dense vegetation.

The north to north-west portion of the site is largely cleared of vegetation and the south to south-west portion contains significant vegetation. A small dam is located on the site which is connected by a water course that covers a small section along the site's southern boundary.

1.2 CURRENT PROPOSAL & PROPOSED CHANGES

This report seeks Council support to make a minor amendment to the Planning Proposal to strengthen provisions to protect environmentally sensitive land.

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The amendments seek to apply a higher order environmental protection zone to a portion of the site and to identify land on the Natural Resources Biodiversity Map which forms part of the Wollondilly Local Environmental Plan (WLEP) 2011.

The need for the changes is in response to the findings of the Flora & Fauna Assessment that identified a portion of land more suitably meeting the criteria of the E2 Environmental Conservation zone.

This report seeks to request an Altered Gateway Determination to enable the Planning Proposal to progress in the following amended manner:

- Amend the land use zoning from RU1 Primary Production to E2 Environmental Conservation and E4 Environmental Living;
- Amend the minimum lot size to 2ha over the entire site covering both proposed zones;
- Include land on the Natural Resources Biodiversity Map layer.

A table of the proposed amendments is provided below:

	Current Arrangement	Current Planning Proposal	Proposed amendments
Land Use Zoning	RU1 Primary Production	E4 Environmental Living	E4 Environmental Living and E2 Environmental Conservation
Minimum Lot Size	20 hectares	2 hectares	2 hectares
Maximum Height of Building	No Maximum Building Height Specified	No Maximum Building Height	No Maximum Building Height
Natural Resources Biodiversity Map	No land identified	No land identified	Land to be determined

1.3 GATEWAY DETERMINATION & BACKGROUND

A Draft Proposal was submitted to Council on 19 July 2013. Preliminary consultation was carried out 31 July to 2 September 2013. Council supported the Draft Planning Proposal in its Ordinary Meeting of September 2014 in the following form:



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- Amend the land use zoning of the site from RU1 Primary Production to E4 Environmental Living
- Amend the minimum lot size from an existing 20 hectares to 2 hectares over the entire site.

A Gateway Determination was issued by the Department of Planning and Environment (DPE) on the 26 November 2014. The Gateway Determination permitted the planning proposal to proceed but in a manner different to that supported by Council. It amended the minimum lot sizes to 3ha from Council's preferred 2ha but was otherwise consistent with the other proposed amendments supported by Council the other proposed amendments as resolved by Council.

An Alteration of the Gateway Determination was then issued on the 21 January 2015 where the minimum lot sizes were amended to reduce the minimum lot sizes from 3 hectares to 2 hectares as originally supported by Council. The alteration also issued Council delegation to make the changes to WLEP 2011, this delegation was not previously issued.

PROPOSED AMENDMENTS TO PLANNING PROPOSAL

Upon receiving specialist studies for the proposal and reviews by Council staff, it has considered that a higher order environmental protection is required to a portion of the site. It was established that the incorporation of the E2 Environmental Conservation land use zone to cover the highly vegetated areas of the site leaving the rest as E4 Environmental Living was a suitable direction to follow. This approach is believed to better maintain the biodiversity of the site restricting development to areas away from significant vegetation. It is now recommended that the proposal proceed based on the land use zone of the site amended to E2 Environmental Conservation and E4 Environmental Living with a minimum allotment size of 2 hectares covering the entire lot with a portion of land included on the Natural Resources Biodiversity Map layer.

BACKGROUND TO VEGETATION ISSUES

The Flora & Fauna assessments provided to Council have identified the presence of Shale Sandstone Transition Forest (SSTF), a Threatened Ecological Community listed as critically endangered under the *Biodiversity Conservation Act*. The remainder of the land is identified as exotic pasture & pines with a dam.

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The site is in a preserved condition in the areas where the proposed E2 Environmental Protection zone is located as the intention of the zoning is to protect and maintain the current state of the vegetation in the area. The area identified to be zoned E2 Environmental Conservation is approximately 4 hectares along the south-eastern section of the site identified as a corridor of existing vegetation. The rest of the site proposed to be zoned E4 Environmental Living consists of land previously used for grazing with no significant vegetation. In the areas within the E4 Environmental Living zone containing the minimal presence of SSTF, the zone requirements will enable existing vegetation to be conserved by means of choosing suitable locations for building envelopes and access locations.

It is proposed to maintain the vegetation identified as SSTF by implementing the E2 Environmental Protection land use zone to ensure the preservation and protection of the vegetation through future development of the site. The pockets of sensitive vegetation across the site not covered by the E2 Environmental Conservation zone will be identified in the Natural Resources Biodiversity Map and will be addressed at the Development Assessment stage of residential development through design and location controls.

CONSULTATION

2.1 FORMAL CONSULTATION WITH COUNCIL STAFF THAT PROVIDE SPECIALIST COMMENT

The following comments on the Planning Proposal were received from Council Environmental Outcomes Section:

- The E4 Environmental Living zoning is a more appropriate option than the E3 Environmental Management zoning
- The current proposed location of the E2 Environmental Conservation and E4 Environmental Living is appropriate and has been developed off previous comments/recommendations from initial Environmental feedback
- The implementation of the Natural Resources Biodiversity layer in the Wollondilly LEP 2011 is justifiable over suitable areas of the site.

2.2 CONSULTATION WITH PUBLIC AGENCIES RELEVANT TO PROPOSED CHANGES

The Gateway Determination required consultation with the following Public Agencies:

- Mine Subsidence Board
- Office of Water
- Sydney Water
- NSW Rural Fire Service
- Greater Sydney Local Land Services
- Office of Environment and Heritage (OEH)
- Department of Trade and Investment, Mineral Resources and Energy.

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Consultation with the relevant public agencies listed above were contacted in February 2015 following the issuing of an Altered Gateway Determination for the Proposal. Two government agencies raised their concerns with focus on biodiversity and heritage impacts resulting from the Planning Proposal.

A summary of the matters addressed by the government agencies are outlined below:

GREATER SYDNEY LOCAL LAND SERVICES

The Greater Sydney Local Land Services (GSLLS) provided feedback addressing concerns towards the impact of vegetation resulting from this proposal and provided the following comments:

- Identifies that there is remnant Shale Sandstone Transition Forest (SSTF) located to the east of the site in addition to the potential of threatened species located on site.
- Any area determined to be SSTF is listed as an Endangered Ecological Community (EEC) and remnants of the vegetation community should be protected.
- Supports the recommendation for a Flora & Fauna Assessment to determine the specific species present on the site.

Comment: The LLS raised concerns with native vegetation being located within the site that could be affected as a result from this Planning Proposal and suggest that the Flora & Fauna Assessment may assist in progressing the proposal. Upon receiving the Assessment, Council have determined the areas of native vegetation that are to be protected and preserved through the implementation of appropriate land use zoning in combination with indicative building envelopes demonstrated to avoid potential clearing of native vegetation within the site.

OFFICE OF ENVIRONMENT AND HERITAGE

The Office of Environment and Heritage (OEH) provided feedback relating to the requirements of the Flora & Fauna Assessment with concerns on the zoning and minimum lot sizes proposed that may negatively impact the protection of SSTF critically endangered ecological community (CEEC) areas within the site. The following points outline the nature of the submission from OEH:

- Recommends that the final determination of zoning and minimum lot sizes should be based on the outcomes and results from the Flora & Fauna Assessment. OEH also suggested that including either E2 Environmental Conservation or E3 Environmental Management zones in addition to altering the minimum lot sizes may be appropriate.

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- Further comment is raised to the required increased consideration to zoning and lot sizes relative to the findings of SSTF areas within the site to enable suitable protection.
- Suggests that in addition to environmental protection zones and appropriate location of future development, consideration of split zoning within the site to separate the areas for development and the areas for environmental preservation.

Comment: Upon completion and submission of the Flora & Fauna Assessment to Council, a further revision of the study was required by Council in order to satisfy the requirements and issues previously raised. The Assessment has now addressed the locations within the site that contain SSTF vegetation and threatened species habitat.

The suggestion to incorporate E2 or E3 zoning has now been implemented into the planning proposal with the E4 Environmental Living zone affecting the north western portion of the site and E2 Environmental Conservation zoning to the south-east of the site to provide enhanced protection to the SSTF and threatened species habitats.

2.3 COMMUNITY CONSULTATION

Formal community consultation will be undertaken at a later stage of the Planning Proposal.

2.4 PREPARATION OF A PLANNING PROPOSAL

The Planning Proposal has been revised from the version previously considered by Council at its September 2014 Ordinary Council Meeting due to consultation with internal staff and external agencies.

Council's options are:

1. Resolve to support the Planning Proposal in its current form. If this option was chosen the Planning Proposal would not be changed and a public exhibition would be held.
2. Resolve to support amending the Planning Proposal in the form as outlined in Section 1.2 of this report. This will require a request to the NSW Department of Planning & Environment for an Altered Gateway Determination prior to commencing the public exhibition.
3. Resolve to support the Planning Proposal in another form. In the event of this option being chosen, an altered Gateway Determination may be required which reflect the amendments requested.

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4. Resolve not to support the Planning Proposal. If this option was chosen, Council would then need to request an altered Gateway Determination stating that the proposal will not proceed. The applicant can then choose to submit a new Planning Proposal. There are no appeal rights through the Land and Environment Court against Council's refusal to support the Planning Proposal at this stage of the process.

Option 2 is the recommendation of this report.

2.5 A PLAN FOR GROWING SYDNEY (2014)

The proposed amendments to the Planning Proposal are not inconsistent with A Plan for Growing Sydney.

2.6 DRAFT WESTERN CITY DISTRICT PLAN

The proposed amendments to the Planning Proposal are consistent with relevant planning priorities and actions within the Draft Western City District Plan.

2.7 SECTION 117 MINISTERIAL DIRECTIONS

The Planning Proposal is consistent with the Environmental Protection Zones Ministerial Direction 2.1 as the amendments seek to strengthen provisions within the proposal to protect environmentally sensitive land.

2.8 STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

Amending the Planning Proposal as outlined in this report will not create any inconsistencies with relevant SEPPs.

2.9 WOLLONDILLY GROWTH MANAGEMENT STRATEGY

The Planning Proposal is located within close proximity to the 'potential residential growth areas' as identified in the Bargo Structure Plan within Council's GMS. Although the site is not directly identified as a potential residential growth area, it was supported by Council in its September 2014 Ordinary Meeting. It then progressed through to receiving a Gateway Determination based on the proposal meeting all of the key policy directions in the GMS.

2.10 CREATE WOLLONDILLY COMMUNITY STRATEGIC PLAN 2033

The Create Wollondilly Community Strategic Plan 2033 is the highest level of long term plan adopted by Council. It was developed largely by feedback received from the community of the Wollondilly region. The document identifies 5 key themes important to the future of Wollondilly and they are as follows with a brief assessment:

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The proposed amendments to the Planning Proposal are considered to be consistent with the key themes of the Community Strategic Plan. In particular the proposed amendments of this report achieves the themes of ‘*caring for the environment*’ and ‘*sustainable and balanced growth*’ by increasing the protection of the environmentally sensitive land.

2.11 FINAL FORM OF PLANNING PROPOSAL

2.11.1 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP 2011)

It is recommended that a revised Gateway Determination be sought from the Greater Sydney Commission to enable the Planning Proposal to proceed in an amended form and make the following amendments to Wollondilly Local Environmental Plan 2011 as they apply to the site:

- Amend the land use zoning from RU1 Primary Production to E2 Environmental Conservation and E4 Environmental Living;
- Amend the minimum lot size to 2ha over the entire site covering both proposed zones;
- Include land on the Natural Resources Biodiversity Map layer.

2.11.2 WOLLONDILLY DEVELOPMENT CONTROL PLAN, 2011 (WDPC, 2011)

It is likely that site specific DCP controls will be implemented in relation to Aboriginal heritage, vegetation management and the constraints of the lots containing the private burial sites. The controls will require drafting prior to the finalisation of the Planning Proposal.

FINANCIAL IMPLICATIONS

Funding for this project to date has been achieved through the adopted Planning Proposal fees and charges.

Council has experienced a record increase in the number of Planning Proposals submitted in addition to the Wilton Junction project. Note that the Wilton Junction project is not a planning proposal but has had significant impact on Strategic Planning resources. All proposals which result in an increased intensity of land use within the Shire shall also lead to increased demand for Council services and facilities over time. Council will need to consider this in the adopted budget and forward estimates.

ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET

1. Proposed Land Use Zoning Map to amend the Planning Proposal

Sustainable and Balanced Growth
Report to the Ordinary Meeting of Council held on Monday 19 March 2018

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RECOMMENDATION

1. That Council support amending the Planning Proposal located at 55 Government Road Bargo to allow the proposal to proceed in the following manner:
 - Amend the Land Use Zoning Map from RU1 Primary Production to E2 Environmental Conservation and E4 Environmental Living
 - Amend the minimum Lot Size Map to 2ha over the entire site covering both proposed zones
 - Include land on the Natural Resources Biodiversity Map layer.
2. That the Planning Proposal be forwarded to the Greater Sydney Commission for a revised Gateway Determination to reflect the above changes.
3. That following the receipt of the Altered Gateway Determination the Planning Proposal commence public exhibition.
4. That the applicant and submitters be notified of Council's resolution.