



Planning Proposal

To Amend Wollondilly Local Environmental Plan 2011

Boundary Adjustment and Minimum Subdivision Lot Size for Community Title Schemes

Applies to all land in the Wollondilly Shire

August 2016

Document Register

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Introduction

This Planning Proposal brings together two (2) separate changes to Part 4 of the Wollondilly Local Environmental Plan 2011 (Wollondilly LEP 2011).

The first being the introduction of a minimum lot size for the subdivision of community title schemes. The second proposed change aims to provide flexibility to subdivision by allowing boundary adjustments with development consent on land within certain land use zones.

This planning proposal has been prepared in accordance with section 55 of the *Environmental Planning and Assessment Act 1979* and *A Guide to Preparing Planning Proposals (2012)* to explain the proposed changes to the Wollondilly LEP 2011.

It has been prepared to seek a Gateway Determination to further investigate the suitability of the proposed changes to the WLEP 2011 and was initiated by Wollondilly Shire Council.

Council resolved to support the introduction of a minimum lot size for the subdivision of community title schemes at its Ordinary Meeting of 20 July 2015 Wollondilly Shire Council as follows:

1. *That Council initiate a planning proposal to adopt Clause 4.1AA of the Standard Instrument LEP into Wollondilly LEP 2011 and forward it to the Department of Planning and Environment to seek a Gateway Determination.*

Support for the introduction of a clause to allow boundary adjustments was supported by a resolution at Council's Ordinary Meeting of 20 June 2016:

1. *That Council support the preparation of a Planning Proposal to amend Part 4 of Wollondilly Local Environmental Plan 2011 by inserting a new clause to permit boundary adjustments with consent in all rural land use zones (RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots), E4 Environmental Living and R5 Large Lot Residential.*
2. *That the Planning Proposal be forwarded to the Minister for Planning and Environment for a Gateway Determination.*
3. *That Council request the Minister to grant Council delegation to make the amendments to Wollondilly Local Environmental Plan, 2011 in accordance with Section 59 to the Environmental Planning and Assessment Act, 1979.*

A copy of the relevant Council Reports and Minutes for this planning proposal are provided in Appendix F & G.

Background Studies

It is not expected that any technical reports or specialist studies are required to inform this planning proposal.

What land does the proposal apply to?

This proposal applies to all land in the Wollondilly LEP 2011 area, being the entire local government area, where land is in a rural, residential or an E4 Environmental Living land use zone.

A **Planning Proposal** is a document which explains the changes which are proposed to an environmental planning instrument, in this case the Wollondilly Local Environmental Plan 2011 (WLEP 2011).

This explanation is provided through text and images (usually plans).

The Wollondilly Local Environmental Plan is the key statutory document at a local government level which guides and controls the development of land within the Wollondilly Shire Council area.

Part 1 – Objectives or Intended Outcomes

This planning proposal has two (2) objectives:

1. To prevent land fragmentation and inappropriate densities across the shire which result from community title schemes in inappropriate locations;
2. To enable boundary adjustments within all rural land use zones, E4 Environmental Living and R5 Large Lot Residential to provide greater flexibility to landowners.

Part 2 – Explanation of Provisions

The proposed outcome will be achieved by amending Part 4 of the Wollondilly LEP 2011 by introducing two (2) additional principal development standards as detailed below. The proposed wording is also provided at Appendix A and B.

1. Minimum subdivision lot sizes for community title schemes

An additional clause is proposed to ensure that subdivision for the purposes of community title schemes meet the minimum lot size on the Lot Size Map. This amendment would adopt clause 4.1AA of the standard instrument.

4.1AA Minimum subdivision lot size from community title schemes

(1) *The objectives of this clause are as follows:*

- a) *to ensure that community title schemes comply with Council's minimum lot sizes,*
- b) *to ensure that land is not fragmented by subdivisions that would create additional dwelling entitlements.*

(2) *This clause applies to a subdivision (being a subdivision that requires development consent) under the Community Land Development Act 1989 of land in any of the following zones:*

- (a) *Zone RU1 Primary Production*
- (b) *Zone RU2 Rural Landscape,*
- (c) *Zone RU4 Primary Production Small Lots*
- (d) *Zone R2 Low Density Residential*
- (e) *Zone R3 Medium Density Residential*
- (f) *Zone R5 Large Lot Residential*
- (g) *Zone E4 Environmental Living*

(3) *The size of any lot resulting from a subdivision of land to which this clause applies (other than any lot comprising association property within the meaning of the Community Land Development Act 1989) is not to be less than the minimum size shown on the Lot Size Map in relation to that land.*

2. Boundary adjustments in certain residential, environmental protection and rural zones

An additional clause is proposed to permit subdivision with development consent in the form of a boundary adjustment to enable minor realignment of lot boundaries.

4.2B Boundary adjustment in certain rural, residential and environment protection zones

- (1) The objective of this clause is to facilitate boundary adjustments between lots if one or more lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land and the objectives of the relevant zone can be achieved.*
- (2) This clause applies to the following land use zones:*
 - (a) Zone RU1 Primary Production,*
 - (b) Zone RU2 Rural Landscape*
 - (c) Zone RU4 Primary Production Small Lots,*
 - (d) Zone R5 Large Lot Residential*
 - (e) Zone E4 Environmental Living*
- (3) Despite clause 4.1 (3), development consent may be granted to subdivide the land by adjusting the boundary between adjoining lots if one or more do not meet the minimum lot size shown on the Lot Size Map in relation to that land, if the boundary adjustment will not result in:*
 - (a) an increase in the number of lots, or*
 - (b) an increase in the number of dwellings on or dwellings that may be erected on any of the lots.*
- (4) Before determining a development application under this clause, the consent authority must ensure that the boundary adjustment:*
 - (a) is appropriate and has regard to the natural and physical constraints affecting the land, and*
 - (b) will not adversely affect the provision of existing services on a lot, and*
 - (c) will not result in an increased fire risk to existing buildings, and*
 - (d) will not adversely impact the curtilage of a heritage item,*
 - (e) will not affect threatened species, ecological endangered communities, vegetation or require its removal*
- (5) This clause does not apply:*
 - (a) In relation to the subdivision of individual lots in a strata plan or a community title scheme, or*
 - (b) If the subdivision would create a lot that can itself be subdivided in accordance with clause 4.1.*

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?

The planning proposal is not the result of any strategic study or report. However the need for the proposed amendments has been identified from both community and internal staff feedback.

Minimum subdivision lot sizes for community title schemes

The planning proposal seeks to introduce Clause- 4.1AA from the standard instrument so that the size of lots under a community title scheme can be controlled through the minimum Lot size map.

Clause – 4.1AA was introduced as an optional clause to the standard instrument after the Wollondilly LEP 2011 was finalised and so was not included. At present there is no minimum lot size for community title subdivision within Wollondilly and this has the potential to fragment rural land and a loophole that can lead to urban development at a higher density than would otherwise be permitted or planned for.

The addition of Clause 4.1AA will give greater clarity to the appropriate use of community title subdivision across the Shire.

Boundary adjustments in certain residential, environmental protection and rural zones

The second proposed change to part 4 of the WLEP 2011 is to introduce a clause to allow for a more flexible option for boundary adjustments to mostly rural zoned land (RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots) but also the R5 Large Lot Residential and E4 Environmental Living land use zones.

The intention of this proposal is not to enable a 'boundary change' (i.e any change) but rather a 'boundary adjustment' in the form of a minor realignment of lot boundaries.

There are a number of benefits to boundary adjustments, including:

- to facilitate improved land management outcomes,
- to address issues when a property is sold,
- rectifying encroachments,
- to enable larger agricultural production units;
- enabling the creation of more logical property boundaries,
- reducing land conflict,
- consolidation of lots.

Currently, there are three (3) potential mechanisms available to land owners to carry out a boundary adjustment in Wollondilly and these are not suitable to most rural land holders.

These mechanisms and associated issues are summarised below:

Exempt Development - Boundary adjustment is permissible under **State Environmental Planning Policy (Exempt Complying Development Codes) 2008** as exempt development (i.e. without the need for development consent) so long as the boundary adjustment does not result in any lot that is smaller than the minimum lot size.

However, as there are a significant number of rural lots in the Wollondilly Shire that are smaller than the minimum lot size specified in the WLEP 2011 prior to a boundary adjustment, the exempt development provisions under the SEPP are not applicable to most rural zoned land in the Shire as the resulting lots would remain smaller than the minimum lot size.

In addition to this, there are two clauses in the WLEP 2011 that could apply to a boundary adjustment:

Clause 4.1 Minimum subdivision lot size - subdivision under this clause can only be permitted where both lots, after subdivision, would be not less than the minimum lot size.

As discussed above there is an issue in Wollondilly with most rural lots being under the minimum lot size and so due to this provision, this clause cannot be applied to most rural zoned lots in the Shire.

Clause 4.2 Rural subdivision - this clause provides flexibility by allowing rural zoned land to be subdivided to create lots that are smaller than the minimum lot size only when the subdivision is for the purpose of primary production. This clause does not allow for an existing dwelling, as a result of the subdivision, to be situated on the lot.

Clause 4.2 is not seen as an effective mechanism for boundary adjustment as it does not allow rural landholders who wish to legitimately realign lot boundaries, to retain their dwelling entitlements.

The lack of a suitable mechanism to carry out boundary adjustment has led to some frustration for rural land holders since the commencement of the WLEP and is not viewed as being supportive of rural land uses across the Shire.

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

Amending the Wollondilly Local Environmental Plan 2011 is the best means of achieving the objectives of the planning proposal.

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 (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The following regional and sub-regional strategies are relevant:

- A Plan for Growing Sydney

A Plan for Growing Sydney (December 2014)

A *Plan for Growing Sydney* was released on 14 December 2014 and provides an action plan to guide land use planning decisions for the next 20 years in the Sydney Metropolitan Area. The Plan seeks to influence how people move about, where they live, growing the economy and safeguarding the environment.

It consists of a number of directions and actions focussed around four (4) goals:

- **ECONOMY**; a competitive economy with world class services and transport;
- **HOUSING**; a city of housing choice with homes that meets our needs and lifestyles;
- **LIVEABILITY**; a great place to live with communities that are strong, healthy and well connected; and
- **ENVIRONMENT**; a sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources.

The proposed changes are not inconsistent with A Plan for Growing Sydney.

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

The following Local Strategies are relevant to this Planning Proposal:

- Growth Management Strategy 2011
- Wollondilly Community Strategic Plan 2033

Wollondilly Community Strategic Plan 2033

The planning proposal is consistent with the themes and outcomes of the Wollondilly Community Strategic Plan 2033.

The Wollondilly Community Strategic Plan 2033 (WCSP) was adopted by Council 17 June 2013 and is the Council's overarching long term plan. The WCSP sets out the long term strategic aspirations of the Wollondilly community for 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 that have been prepared by the Council. Particularly relevant to Planning Proposals are the Wollondilly Local Environmental Plan and the Growth Management Strategy.

The WCSP strategies that are relevant to this Planning Proposal are discussed below.

CO4 – Engagement and Communication

Implement excellence in our community engagement by listening to and responding to the needs and concerns of our residents.

Comment:

Consultation with the community and other stakeholders will be undertaken during a formal public exhibition period if the planning proposal is supported by a Gateway Determination.

EN2 – Growth Management

Apply best practice environmental principles to the management of future growth.

Comment:

The application of both proposed amendments will trigger a merit based assessment prior to approval and so potential impacts on biodiversity and riparian areas will be considered through the Development Application process.

EN3 – Development Assessment

Apply best practice environmental principles to the assessment of development and planning proposals.

Comment:

The proposed changes to the WLEP will apply to land across the Shire and will not be site specific. Consequently there is no strategic likelihood of adverse impacts on the environment.

Issues may arise on a site by site basis but it would be impracticable to consider all potential implications at a strategic policy level and so these matters will be adequately dealt with as part of the development assessment process when a development application is lodged.

EC3 – Manage Growth

Encourage and manage growth to ensure that it contributes to economic well-being.

Comment:

The introduction of a minimum lot size to community title will support managed growth and help to ensure appropriate services and facilities are available as the community grows. This will also allow Council to more accurately anticipate growth and plan accordingly.

Additionally, the introduction of a clause for boundary adjustment to rural land will better enable lot consolidation, the development of larger agricultural production units and act to reduce land use conflict. This may help also help to support the economic viability of some agricultural uses in the Shire.

Wollondilly Growth Management Strategy 2011 (GMS)

A key land use planning issue for Wollondilly is to manage pressures for growth against the context of a broad community desire to keep the Shire rural. This is a challenging balancing act and an inevitable consequence of being a rural area on the fringe of a major metropolis.

The Growth Management Strategy 2011 (GMS) was prepared to provide a strategic plan led response to this issue, and does so by providing:

- clear policy directions on growth issues;
- a strategic framework against which to consider Planning Proposals;
- a long-term sound and sustainable approach to how the Shire develops and changes into the future;
- a basis to inform Council decisions and priorities regarding service delivery and infrastructure provisions;
- direction and leadership to the community on growth matters;
- advocating for better infrastructure and services;
- a strategy/response for how the Council sees the State Government's Metropolitan and subregional planning strategies being implemented at the local level.

The [Growth Management Strategy](#)¹ is available on the Council's website.

The GMS was prepared in consultation with and was partially funded by the Department of Planning and Infrastructure. However the finalised document has not been endorsed by the Director-General.

Notwithstanding this, the GMS was adopted by the Council on 21 February 2011 and is consistently applied in the assessment of Planning Proposals for new growth throughout the Shire.

All Planning Proposals within Wollondilly must be assessed against the Key Policy Directions within the GMS. A table showing the Planning Proposals consideration against these directions is included at Appendix E to this Planning Proposal.

At present there is no minimum lot size for community title subdivision within Wollondilly which means that in principle land across the shire can be subdivided for residential estates so long as they have development consent. Historically this has resulted in a number of estates in rural areas with mixed success. These types of estates fragment rural land and tend to be in isolated locations away from existing towns and villages, services and infrastructure. There have also been instances in urban locations where this type of subdivision has been used as a loophole to seek approval for subdivision at higher densities than would otherwise be permitted under the Wollondilly LEP 2011.

The proposed adoption of the standard instrument clause 4.1AA (i.e. to introduce a minimum lot size for community title schemes) will effectively prevent ad hoc growth and the fragmentation of land and is considered to be consistent with the GMS.

The proposed boundary adjustment clause (i.e. Clause 4.2B) prevents development consent being granted for this type of subdivision if there will be an increase in the number of lots or an increase in the number of dwellings on or dwellings that may be erected on a lot. Subsequently the introduction of the proposed boundary adjustment clause is not considered to have any implications for growth and is consistent with the GMS.

¹ <http://www.wollondilly.nsw.gov.au/planning-wollondillycd/strategic-planning-wollondilly/1161026-wollondilly-growth-management-strategy-gms>

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

A preliminary assessment of the Planning Proposal's consistency with all State Environmental Planning Policies is provided at Appendix C.

The planning proposal is considered to be consistent with all applicable State Environmental Planning Policies.

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

The Minister for Planning, under section 117(2) of the EP&A Act issues directions that relevant planning authorities, in this case Wollondilly Shire Council, must follow when preparing planning proposals for new Local Environmental plans. The directions cover the following broad categories:

- employment and resources
- environment and heritage
- housing, infrastructure and urban development
- hazard and risk
- metropolitan planning

The following Ministerial Directions (S.117 Directions) are relevant to the Planning Proposal:

- Direction 1.2 Rural Zones
- Direction 1.3 Mining, Petroleum and Extractive Industries
- Direction 2.1 Environmental Protection Zones
- Direction 2.3 Heritage Conservation
- Direction 3.1 Residential Zones
- Direction 3.4 Integrating Land Use and Transport
- Direction 4.2 Mine Subsidence and Unstable Land
- Direction 4.3 Flood Prone Land
- Direction 4.4 Planning for Bushfire Protection
- Direction 5.2 Sydney Drinking Water Catchments

A preliminary assessment of the Planning Proposal's consistency against all s.117 directions is provided at Appendix D.

This planning proposal seeks to facilitate a shire wide policy change by allowing boundary adjustments within rural zones and applying the minimum lot size map to community title scheme subdivision. Therefore the proposal does not relate to a particular parcel of land. This means that the planning proposal does not contain specific provisions that will protect or preserve land that may be relevant under these Directions.

The planning proposal in and of itself will not lead to any strategic adverse impacts as any development application on land, which is for example environmentally sensitive or bushfire prone, would be subject to an assessment under existing statutory provisions on a site by site basis. This is considered to be satisfactory to safeguard the environment and resources.

Consequently, the planning proposal is either consistent with Ministerial Directions or any inconsistencies are of minor significance.

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 changes sought to the *Wollondilly Local Environmental Plan 2011* would apply to land across the shire and are not site specific. Given the strategic nature of the proposal it is not considered to pose any adverse impact on the critical habitat or threatened species, populations of ecological communities or their habitats.

On a site by site basis, there may be issues dependent on the context and characteristics of any given site (for example where vegetation would need to be removed to enable development) but it would be impracticable to consider the potential implications at this policy level and these matters can adequately be dealt with as part of the development assessment process when a development application is lodged.

Minimum subdivision lot sizes for community title schemes

At present community title schemes are not subject to minimum subdivision lot size provisions. This in effect means that land in environmentally sensitive areas can potentially be subdivided even where a minimum lot size has been determined based on the capability of the land for development.

The introduction of this clause will require the size of any lot resulting from a community title scheme, under this clause, to be no less than the minimum lot size shown on the Lot Size Map in relation to that land.

Boundary adjustments in certain residential, environmental protection and rural zones

The proposed boundary adjustment clause will require a consent authority to ensure, amongst other things, that a boundary adjustment will not affect *threatened species, ecological communities, vegetation or require its removal*.

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?

Same as for Section C 3.7 above.

Boundary adjustments in certain residential, environmental protection and rural zones

The proposed wording for the boundary adjustment clause includes a list of matters a consent authority must consider before a decision is made on a development application for a boundary adjustment. These are to manage the potential for adverse effects on the environment and are noted in the table below:

Environmental Consideration	What must the consent authority consider?
Other site constraints such as flooding, slope, etc)	That the boundary adjustment is appropriate and has regard to the natural and physical constraints affecting the land (i.e. proposed clause 4.2B(4)(a)).
Water Quality	That the boundary adjustment will not adversely affect the provision of existing services on a lot (i.e. proposed clause 4.2B(4)(b)).
Bushfire Hazard	That the boundary adjustment will not result in an increased fire risk to existing buildings (i.e. proposed clause 4.2B(4)(c)).
Heritage	That the boundary adjustment will not adversely impact the curtilage of a heritage item (i.e. proposed clause 4.2B(4)(d)).
Biodiversity	That the boundary adjustment will not affect threatened species, ecological endangered communities, vegetation or requires its removal (i.e. proposed clause 4.2B(4)(e)).

The need for controls within the Development Control Plan to provide further guidance to support this planning control in the Wollondilly LEP 2011 is being considered at present.

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

No significant adverse economic or social impacts are anticipated.

However enabling greater flexibility for boundary adjustments has potential positive impacts such as:

- to encourage sustainability by facilitating improved land management outcomes;
- to remove barriers to and reduce costs when land is sold by providing a mechanism to address issues (such as rectifying encroachments and enabling the creation of more logical property boundaries);
- increasing the economic viability for agriculture by enabling larger agricultural production units;
- reducing land conflict and the associated stress this can create for residents and landowners.

Section D – State and Commonwealth interests

D 3.10 Is there adequate public infrastructure for the planning proposal?

The changes sought in this proposal would apply to land across the shire and are not site specific, therefore any specific requirements for public infrastructure as a result of the proposed changes to the WLEP 2011 will be addressed through the development application process.

D 3.11 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

There has been no consultation with State and Commonwealth public authorities to date as no Gateway Determination has been issued as yet.

Part 4 – Mapping

Not Applicable as there are no mapping changes required as part of this planning proposal.

Part 5 – Community Consultation

This Planning Proposal is considered to be a low impact proposal when considered against the criteria provided for community consultation in *A Guide to Preparing Local Environmental Plans* and therefore it is anticipated that the public exhibition period of 14 days will apply, rather than 28 days.

The table below provides a summary of the community engagement proposed as part of the consideration of the planning proposal:

What will happen?	When will it happen?	Has it happened yet?	What was the outcome?
Public Exhibition Community Consultation will be undertaken in accordance with sections 56(a)(c) and 57 of the EP&A Act 1979 as follows: - The Planning Proposal will be made publicly available for 14 days; and - The Planning Proposal will be placed on Public Exhibition	After a Gateway Determination has been issued.	No	It hasn't happened yet

Public exhibition of the planning proposal will be undertaken in the following manner:

- Notification in all local newspapers (Wollondilly Advertiser and The District Reporter)
- Notification on Council's website.
- Post on Council's Facebook page
- Publicise through the local press (for example a press release)

It is not intended to notify affected and adjoining landowners in writing as this is considered to be impractical due to the minor nature of the proposal and large number of properties which are potentially affected by the planning proposal.

In terms of the allowing boundary adjustment in rural areas, there are nearly 5,800 rurally zoned properties in the Wollondilly Shire Council and these would all need to be notified along with adjacent non-rural zoned properties.

In terms of the introduction of the minimum lot size to community title subdivisions will only apply to new subdivision proposals and so it is difficult to anticipate the location where these development types may occur in the future.

However, for this reason other methods will be used to inform interested stakeholders such as using Council's website, Council's Facebook page and making a press release.

It is anticipated that the introduction of a boundary adjustment clause into rural areas is likely to be positively received rather than being contentious. This position is based on the fact that the introduction of this clause will have an enable rather than restrict development. In addition, Council has received a number of enquiries from rural property owners who have expressed their frustration at the current limitations of the WLEP 2011.

Part 6 – Project Timeline

Project Detail	Timeframe	Timeline
Anticipated commencement date (date of Gateway determination)	6 weeks from submission to DP&E	Up to October 2016
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	N/A	N/A
Anticipated timeframe for the completion of required technical information – after Specialist Study requirements determined	N/A	N/A
Commencement and completion dates for public exhibition period – after amending planning proposal if required, preparation of maps and special DCP provisions (if required)	6 week period	November 2016
Dates for public hearing (if required)	Not expected to be required	N/A
Timeframe for consideration of submissions	1 month	December 2016
Timeframe for the consideration of a proposal post exhibition including amendments and maps and report to Council	2 months	February 2017
Anticipated date Council will forward to Parliamentary Counsel (PC) for an Opinion	8 weeks (from Council meeting)	April 2017
Anticipated date Council will forward to the Department for notification after liaising with PC and making the plan	3 months	July 2017

Appendices

A. Proposed Clause 4.1AA Minimum subdivision lot size for community title schemes

Standard text for *Clause 4.1AA Minimum subdivision lot size for community title schemes* within the *Wollondilly Local Environmental Plan 2011*.

B. Proposed Clause 4.2B Boundary adjustment to certain rural, residential, environment protection zones

C. Assessment against SEPPs

Table indicating compliance with applicable State Environmental Planning Policies (SEPPs) and *deemed SEPPs (formerly Regional Environmental Plans)*.

D. Assessment against Section 117(2) Directions

Table indicating compliance with applicable section 117(2) Ministerial Directions issued under the Environmental Planning and Assessment Act (EP&A Act) 1979.

E. Assessment against Wollondilly GMS 2011

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

F. Council Report and Minutes – 20 July 2015

Report and Minutes from Ordinary Meeting of Council which relate to the adoption of Clause 4.1AA to Wollondilly Local Environmental Plan, 2011 (Community Title Subdivision).

G. Council Report and Minutes –20 June 2016

Report and Minutes from Ordinary Meeting of Council which relates to Draft Planning Proposal for Lot Boundary Adjustments.

Appendix A

Proposed Clause 4.1AA Minimum subdivision lot size for community title schemes

Current Wording – Clause 4.1AA

4.1AA Minimum subdivision lot size for community title schemes

[Not adopted]

Proposed Wording – Clause 4.1AA

(Text proposed to be added shown in italics)

4.1AA Minimum subdivision lot size for community title schemes

- (1) *The objectives of this clause are as follows:*
 - a) *to ensure that community title schemes comply with Council's minimum lot sizes,*
 - b) *to ensure that land is not fragmented by subdivisions that would create additional dwelling entitlements.*
- (2) *This clause applies to a subdivision (being a subdivision that requires development consent) under the Community Land Development Act 1989 of land in any of the following zones:*
 - (a) *Zone RU1 Primary Production*
 - (b) *Zone RU2 Rural Landscape,*
 - (c) *Zone RU4 Primary Production Small Lots*
 - (d) *Zone R2 Low Density Residential*
 - (e) *Zone R3 Medium Density Residential*
 - (f) *Zone R5 Large Lot Residential*
 - (g) *Zone E4 Environmental Living*
- (3) *The size of any lot resulting from a subdivision of land to which this clause applies (other than any lot comprising association property within the meaning of the Community Land Development Act 1989) is not to be less than the minimum size shown on the Lot Size Map in relation to that land.*

Appendix B

Proposed Clause 4.2B Boundary adjustment to certain residential, environment protection and rural zones

Proposed wording for Clause 4.2

4.2B Boundary adjustment in certain rural, residential and environment protection zones

- (2) The objective of this clause is to facilitate boundary adjustments between lots if one or more lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land and the objectives of the relevant zone can be achieved.
- (2) This clause applies to the following land use zones:
- (f) Zone RU1 Primary Production,
 - (g) Zone RU2 Rural Landscape
 - (h) Zone RU4 Primary Production Small Lots,
 - (i) Zone R5 Large Lot Residential
 - (j) Zone E4 Environmental Living'
- (3) Despite clause 4.1 (3), development consent may be granted to subdivide the land by adjusting the boundary between adjoining lots if one or more do not meet the minimum lot size shown on the Lot Size Map in relation to that land, if the boundary adjustment will not result in:
- (c) an increase in the number of lots, or
 - (d) an increase in the number of dwellings on or dwellings that may be erected on any of the lots.
- (4) Before determining a development application under this clause, the consent authority must ensure that the boundary adjustment:
- (f) is appropriate and has regard to the natural and physical constraints affecting the land, and
 - (g) will not adversely affect the provision of existing services on a lot, and
 - (h) will not result in an increased fire risk to existing buildings, and
 - (i) will not adversely impact the curtilage of a heritage item,
 - (j) will not affect threatened species, ecological endangered communities, vegetation or require its removal
- (5) This clause does not apply:
- (c) In relation to the subdivision of individual lots in a strata plan or a community title scheme, or
 - (d) If the subdivision would create a lot that can itself be subdivided in accordance with clause 4.1.

Appendix C

Assessment against SEPPs

The table below indicates compliance, where applicable, with State Environmental Planning Policies (SEPPs) and deemed SEPPs (formerly Regional Environmental Plans).

No.	Name of State Environmental Planning Policies (SEPPs)	Is the Planning Proposal consistent with this SEPP?	Comments
1	Development Standards	N/A	WLEP 2011 is a Standard Instrument Local Environmental Plan. It incorporates Clause 4.6 Exceptions to Development Standards, which precludes the need for consistency with SEPP 1.
14	Coastal Wetlands	N/A	Not applicable in the Shire of Wollondilly.
15	Rural Land-Sharing Communities	N/A	Not applicable in the Shire of Wollondilly.
19	Bushland in Urban Areas	N/A	Not applicable in the Shire of Wollondilly.
21	Caravan Parks	Yes	The Planning Proposal does not change the current provisions of the LEP in relation to Caravan Parks.
26	Littoral Rainforests	N/A	Not applicable in the Shire of Wollondilly.
29	Western Sydney Recreation Area	N/A	Not applicable in the Shire of Wollondilly.
30	Intensive Agriculture	N/A	Not applicable to this Planning Proposal.
32	Urban Consolidation (Redevelopment of Urban Land)	Yes	The planning proposal does not contain provisions that will contradict or hinder the application of the SEPP.
33	Hazardous and Offensive Development	N/A	Not applicable to this Planning Proposal.
36	Manufactured Home Estates	N/A	Not applicable in the Shire of Wollondilly.
39	Spit Island Bird Habitat	N/A	Not applicable in the Shire of Wollondilly.
44	Koala Habitat Protection	Yes	The Planning Proposal will not contain provisions that will contradict or will hinder the application of this SEPP. Assessment against SEPP 44 may be required for individual DAs, but would not preclude this amendment from proceeding.
47	Moore Park Showground	N/A	Not applicable in the Shire of Wollondilly.
50	Canal Estates	N/A	Not applicable to this Planning Proposal.
52	Farm Dams and Other Works in Land and Water Management Plan Areas	N/A	Not applicable in the Shire of Wollondilly.
55	Remediation of Land	Yes	The planning proposal will not contain provisions that will contradict or would hinder the application of the SEPP.

No.	Name of State Environmental Planning Policies (SEPPs)	Is the Planning Proposal consistent with this SEPP?	Comments
59	Central Western Sydney Economic and Employment Area	N/A	Not applicable in the Shire of Wollondilly.
62	Sustainable Aquaculture	N/A	Not applicable in the Shire of Wollondilly.
64	Advertising and Signage	N/A	Not applicable to this Planning Proposal.
65	Design Quality of Residential Flat Development	N/A	The planning proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
70	Affordable Housing (Revised Schemes)	N/A	Not applicable in the Shire of Wollondilly.
71	Coastal Protection	N/A	Not applicable in the Shire of Wollondilly.
	SEPP (Affordable Rental Housing) 2009	Yes	The planning proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
	SEPP (Housing for Seniors or People with a Disability)	Yes	The Planning Proposal does not contain provisions that will contradict or would hinder a future application for SEPP (HSPD) housing.
	SEPP (Building Sustainability Index: BASIX) 2004	Yes	The planning proposal will not contain provisions that will contradict or hinder the application of the SEPP.
	SEPP (Kurnell Peninsula) 1989	N/A	Not applicable in the Shire of Wollondilly.
	SEPP (Major Development) 2005	N/A	Not applicable to this Planning Proposal.
	SEPP (Sydney Region Growth Centres) 2006	N/A	Not applicable in the Shire of Wollondilly.
	SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Yes	This Planning Proposal does not contain any provisions which would contradict or hinder the application of this SEPP.
	SEPP (Infrastructure) 2007	N/A	Not applicable to this Planning Proposal.
	SEPP (Kosciuszko National Park - Alpine Resorts) 2007	N/A	Not applicable in the Shire of Wollondilly.
	SEPP (Rural Lands) 2008	N/A	Not applicable in the Shire of Wollondilly.
	SEPP (Exempt and Complying Development Codes) 2008	Yes	The planning proposal will not contain provisions that will contradict or hinder the application of the SEPP at future stages, post rezoning.
	SEPP (Western Sydney Parklands) 2009	N/A	Not applicable in the Shire of Wollondilly.
	SEPP (Western Sydney Employment Area) 2009	N/A	Not applicable in the Shire of Wollondilly.

No.	Name of State Environmental Planning Policies (SEPPs)	Is the Planning Proposal consistent with this SEPP?	Comments
	SEPP (Sydney Drinking Water Catchment) 2011	Yes	The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
	SEPP (Miscellaneous Consent Provisions) 2007	Yes	The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
	SEPP (Penrith Lakes Scheme) 1989	NA	Not applicable in the Shire of Wollondilly
	SEPP (State & Regional Development) 2011	Yes	The Planning Proposal will not contain provisions that will contradict or would hinder the application of the SEPP.
	SEPP (Three Ports) 2013	NA	Not applicable in the Shire of Wollondilly
	SEPP (SEPP 53 Transitional Provisions) 2011	NA	Not applicable in the Shire of Wollondilly
	SEPP (Urban Renewal) 2010	NA	Not applicable in the Shire of Wollondilly.
Deemed State Environmental Planning Policies (Formerly Regional Environmental Plans)		Consistency	Comments
9	Extractive Industry (No 2)	N/A	
20	Hawkesbury–Nepean River (No 2 - 1997)	Yes	The Planning Proposal will not contain provisions that would be inconsistent with this SREP.

Appendix D

Assessment against Section 117(2) Directions

The table below assesses the planning proposal against Section 117(2) Ministerial Directions issued under the Environmental Planning and Assessment Act (EP&A Act) 1979.

Ministerial Direction	Is it applicable to Planning Proposal?	Is the Planning Proposal consistent with this Direction?	Assessment
1. Employment and Resources			
1.1 Business and industrial Zones	N/A	N/A	The planning proposal does not propose any new business or industrial land.
1.2 Rural Zones	Yes	Yes	The proposal does not propose rezoning rural land and does not contain provisions that will increase the permissible density of land within a rural zone.
1.3 Mining, Petroleum Production and Extractive Industries	Yes	Yes (but justified)	The planning proposal may be inconsistent as it has the potential to apply to land covered by this Direction. However, any inconsistency is of minor significance because the proposed shire wide policy changes to the WLEP 2011 will not affect existing statutory provisions which apply to these areas in the assessment of a development application.
1.4 Oyster Production	N/A	N/A	Direction does not apply.
1.5 Rural Lands	N/A	N/A	Not applicable in the Shire of Wollondilly.
2. Environment and Heritage			
2.1 Environmental Protection Zones	Yes	Yes	The planning proposal includes provisions to protect and conserve environmental sensitive areas and will not reduce the environmental protection standards that apply to land within an environmental protection zone.
2.2 Coastal Protection	N/A	N/A	Direction does not apply.
2.3 Heritage Conservation	Yes	No (but inconsistency justified)	The planning proposal may be inconsistent as it has the potential to apply to land covered by this Direction. However, any inconsistency is of minor significance because the proposed shire wide policy changes to the WLEP 2011 will not affect existing statutory provisions which apply to these areas in the assessment of a development application. The proposed boundary adjustment clause will require the consideration of heritage listed items for this type of development.
2.4 Recreation Vehicle Area	Yes	Yes	The planning proposal does not propose any provisions that would enable the land to be developed for the purpose of a recreational vehicle area. Therefore it is consistent with Direction 2.4.

Ministerial Direction	Is it applicable to Planning Proposal?	Is the Planning Proposal consistent with this Direction?	Assessment
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	Yes	No, but the inconsistency is of minor significance.	The planning proposal does not contain provisions that encourage the provision of housing as the objective of this planning proposal is not to enable additional housing and so any inconsistency is considered to be of minor significance. In addition it is noted that any impact on the number of dwelling entitlements and potential density of a community title development will be in line with the existing minimum lot size map and the land zone. Furthermore any impact on the R5 zone by way of a boundary adjustment will not result in a reduction to permissible residential density.
3.2 Caravan Parks and Manufactured Home Estates	Yes	Yes	The proposal does not change existing LEP provisions for Caravan Parks and Manufactured Home Estates.
3.3 Home Occupations	Yes	Yes	The proposal does not change existing LEP provisions for Home Occupations.
3.4 Integrating Land Use and Transport	Yes	No, but the inconsistency is of minor significance.	This direction applies as the planning proposal includes provisions which will apply to land zoned for residential purposes. The proposal does not include any provisions to rezone land or to enable housing development. Subsequently the inconsistency is considered to be of minor significance.
3.5 Development Near Licensed Aerodromes	N/A	N/A	Direction does not apply.
3.6 Shooting Ranges	N/A	N/A	Direction does not apply.
4. Hazard and Risk			
4.1 Acid Sulphate Soils	N/A	N/A	Direction does not apply
4.2 Mine Subsidence and Unstable Land	Yes	Potentially inconsistent but the inconsistency is of minor significance.	The planning proposal may be inconsistent as it has the potential to apply to land covered by this Direction. However, any inconsistency is of minor significance because the proposed shire wide policy changes to the WLEP 2011 will not affect existing statutory provisions which apply to these areas in the assessment of a development application.
4.3 Flood Prone Land	Yes	Potentially inconsistent but the inconsistency is of minor significance.	The planning proposal may be inconsistent as it has the potential to apply to land covered by this Direction. However, any inconsistency is of minor significance because the proposed shire wide policy changes to the WLEP 2011 will not affect existing statutory provisions which apply to these areas in the assessment of a development application.

Ministerial Direction	Is it applicable to Planning Proposal?	Is the Planning Proposal consistent with this Direction?	Assessment
4.4 Planning for Bushfire Protection	Yes	Potentially inconsistent but the inconsistency is of minor significance.	The planning proposal may be inconsistent as it has the potential to apply to land covered by this Direction. However, any inconsistency is of minor significance because the proposed shire wide policy changes to the WLEP 2011 will not affect existing statutory provisions which apply to these areas in the assessment of a development application. The proposed boundary adjustment clause will require the consideration of heritage listed items for this type of development.
5. Regional Planning			
5.1 Implementation of Regional Strategies	N/A	N/A	Direction does not apply.
5.2 Sydney Drinking Water Catchments	Yes	Potentially inconsistent but the inconsistency is of minor significance.	The planning proposal may be inconsistent as it has the potential to apply to land covered by this Direction. However, any inconsistency is of minor significance because the proposed shire wide policy changes to the WLEP 2011 will not affect existing statutory provisions which apply to these areas in the assessment of a development application.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	N/A	N/A	Direction does not apply.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	N/A	N/A	Direction does not apply.
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	N/A	N/A	Revoked.
5.6 Sydney to Canberra Corridor	N/A	N/A	Revoked.
5.7 Central Coast	N/A	N/A	Revoked.
5.8 Second Sydney Airport: Badgerys Creek	N/A	N/A	Direction does not apply
6. Local Plan Making			
6.1 Approval and Referral Requirements	Yes	Yes	The proposal is consistent with this direction because it does not alter the provisions relating to approval and referral requirements.
6.2 Reserving Land for Public Purposes	Yes	Yes	This planning proposal is consistent with this direction because it does not create, alter or reduce existing zoning or reservations of land for public purposes.
6.3 Site Specific Provisions	No	N/A	Direction does not apply.

Ministerial Direction	Is it applicable to Planning Proposal?	Is the Planning Proposal consistent with this Direction?	Assessment
7. Metropolitan Planning			
7.1 Implementation of A Plan for Growing Sydney	Yes	Yes	This planning proposal is not inconsistent with A <i>Plan for Growing Sydney</i> .
7.2 Implementation of Greater Macarthur Land Release Investigation	Yes	Yes	This planning proposal does not contain provisions which are contrary to the Greater Macarthur Land Release Investigation Preliminary Strategy & Action Plan.

Appendix E

Assessment against Wollondilly GMS 2011

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 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
General Policies	
P1 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.	This proposal meets all the relevant Key Policy Directions and Assessment Criteria contained within the GMS.
P2 All land use proposals need to be compatible with the concept and vision of 'Rural Living' (defined in Chapter 2 of the GMS).	This proposal is consistent with the concept and vision of 'Rural Living' as it will close off a loophole which potentially enables subdivision (community title) across the shire involving lot sizes which are smaller than would otherwise be permitted. The proposal also addresses current issues with rural land s in the Shire by allowing boundary adjustment to undersized lots with the aim of better achieving the objectives of the zone.
P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.	If a Gateway Determination is issued, it is anticipated that community consultation will be required. This is discussed in Part 5 – Community Consultation.
P4 The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.	There have been no such representations regarding this Planning Proposal and therefore this Key Policy Direction has been satisfied.
P5 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.)	In the absence of a minimum subdivision lot size for community title schemes, there is potential for growth to occur in a disorderly manner. The introduction of a clause to enable boundary adjustment in undersized lots may help to improve the viability of rural land uses across the Shire.
Housing Policies	
P6 Council will plan for adequate housing to accommodate the Shire's natural growth forecast.	The GMS sets out where and how much housing should occur and takes into consideration natural growth rates within existing towns and villages from infill development. The absence of a minimum subdivision lot size for community title schemes means that there is the potential for growth to occur which is not in line with the GMS.
P8 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.	While community title subdivision schemes have the potential to contribute to housing diversity and affordability it is considered that a minimum lot size for subdivision is necessary to ensure appropriate development.
P9 Dwelling densities, where possible and environmentally acceptable, should be higher in proximity to centres and lower on the edges of	It is considered that the absence of a minimum subdivision lot size for community title schemes has the potential to enable higher dwelling densities in inappropriate locations.

Key Policy Direction	Comment
towns (on the “rural fringe”).	
P10 Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.	This PP may allow growth outside of areas immediately adjacent to existing towns and villages, however this is very low density growth. As per the point above, assessment of individual DAs will determine whether this is appropriate.
Macarthur South Policies	
P11 Council does not support major urban release within the Macarthur South area at this stage.	Key Policy Direction P11 is not applicable to this proposal.
P12 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.	Key Policy Direction P12 is not applicable to this proposal.
P13 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.	Key Policy Direction P13 is not applicable to this proposal.
P14 Council will consider proposals for employment land developments in Macarthur South provided they: ▪ Are environmentally acceptable; ▪ Can provide significant local and/or subregional employment benefits; ▪ Do not potentially compromise the future orderly master planning of the Macarthur South area; ▪ Provide for the timely delivery of necessary infrastructure; ▪ 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; ▪ 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).	Key Policy Direction P14 is not applicable to this proposal.
Employment Policies	
P15 Council will plan for new employment lands and other employment generating initiatives in order to deliver positive local and regional employment outcomes.	This proposal does not include employment lands.
P16 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.	This proposal does not include employment lands.

Key Policy Direction	Comment
Integrating Growth and Infrastructure	
P17 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.	This PP is not expected to generate significant demand for new infrastructure. Boundary adjustment and community title subdivision will be subject to DA assessment to determine if adequate services are available. Potential developer contributions payable at the development application stage will further fund the necessary local infrastructure required to support any future development.
P18 Council will encourage sustainable growth which supports our existing towns and villages, and makes the provision of services and infrastructure more efficient and viable – this means a greater emphasis on concentrating new housing in and around our existing population centres.	Any boundary adjustment under this new clause will not provide for new growth and the introduction of the minimum lot size to community title subdivision will further support this direction.
P19 Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.	The planning proposal is not related to a particular site however overall it is thought that it will further support this direction through managing the density of future subdivisions.
P20 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.	This PP is not identifying a specific site/area for growth however it is thought that the proposal would facilitate more appropriate development for community title land in the future.
Rural and Resource Lands	
P21 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.	It is not expected that this PP would result in any adverse impacts on these factors. Future DA assessment would need to determine the impacts on rural land on a site by site basis.
P22 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.	This PP will support existing dwelling entitlements on rural land without supporting new entitlements. There may be some impact on this rural land by way of community title subdivision however this will be further assessed at the DA stage.

Appendix F

Council's Report and Minutes – 20 July 2015

Extract from Agendas containing the Report to Wollondilly Shire Council and its Planning and Economy Meeting of Council held on Monday 20 July 2015

Extract from Minutes of the Ordinary Meeting of Wollondilly Shire Council held on Monday July 2015

Council's Reference: TRIM 8479 #2 and TRIM 8479 #3

Appendix G

Council's Report and Minutes – 20 June 2016

Extract from Agendas containing the Report to Wollondilly Shire Council and its Planning and Economy Meeting of Council held on Monday 20 June 2016

Extract from Minutes of the Ordinary Meeting of Wollondilly Shire Council held on Monday 20 June 2016

Council's Reference: TRIM 9019 #23 and TRIM 9019#25