

## 7.2 LEP REVIEW PROGRAM

### DEVELOPMENT INFORMATION

|                                     |  |
|-------------------------------------|--|
| <b>Reason for LPP Referral:</b>     | <b>The Local Planning Panel Direction – Planning Proposals, issued on 27 September 2018, requires all planning proposals to be referred to the LPP for advice before Council considers whether or not to forward it to the Minister or GSC under s3.34</b> |
| <b>Lot &amp; DP – Subject Site:</b> | <b>Various</b>   |
| <b>Proposal:</b>                    | <b>Planning Proposal – LEP Review Program; Stage 1</b>   |
| <b>Applicant:</b>                   | <b>Wollondilly Shire Council</b>   |
| <b>Owner:</b>                       | <b>Various</b>   |

### EXECUTIVE SUMMARY

- The purpose of this report is to seek the Wollondilly Shire Local Planning Panel's (the Panel) advice regarding Local Environmental Plan Review Program (LEP Review Program); Stage 1 draft planning proposal which has been initiated by Council.
- The proposal seeks a number of amendments to the *Wollondilly Local Environmental Plan 2011* which have been identified through the LEP Review Program
- It is recommended that the Panel:
  - Notes this Assessment Report
  - Notes the officer's recommendation the draft planning proposal proceed
  - Provides advice that will be attached to a future report to Council.

### PUBLIC SUBMISSIONS

There were no public submissions.

### PANEL CONSIDERATIONS AND REASONS FOR ADVICE

On Thursday 28 November 2019, the Panel considered the LEP Review Program.

The Panel were addressed by Council Officers during their consideration of the Planning Proposal.

The Panel recommend that Council gives further consideration to the following prior to the Planning Proposal proceeding to Gateway:

1. Amendment 9 (Koala Corridors) be strengthened with additional objectives to give greater weight to achieving long term restoration of corridors to support a sustainable population. This can be supported with development control plan provisions to improve development outcomes.
2. Amendment 15 (Caravan Parks) permitting caravan parks in the rural zones creates the potential for large scale mobile home parks/manufactured home estates with permanent occupancy. The Panel considers that Council should be aware that Amendment 15 may result in de facto urban development.

### ADVICE TO COUNCIL

The Wollondilly Shire Local Planning Panel advises Council that subject to resolution of the above considerations, the Panel recommend that Council support the draft planning proposal proceeding to Gateway.

**VOTING**

4/0

**The public part of the meeting closed at 6.17pm.**

**The full meeting closed at 7.56pm.**

**The minutes of this meeting were confirmed by the Chair.**

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**CHAIRPERSON**

## 7.4 LEP REVIEW PROGRAM

**File Number:** 10621#133

**Reason for LPP Referral:** The Local Planning Panel Direction – Planning Proposals, issued on 27 September 2018, requires all planning proposals to be referred to the LPP for advice before Council considers whether or not to forward it to the Minister or GSC under s3.34

**Lot & DP – Subject Site:** Various

**Proposal:** Planning Proposal – LEP Review Program; Stage 1

**Applicant:** Wollondilly Shire Council

**Owner:** Various

### EXECUTIVE SUMMARY

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### REPORT

#### Background

In response to a number of planning related announcements and legislative changes introduced by the NSW Government, Wollondilly along with other Councils within the Greater Sydney Region are required to undertake a review of their local environmental plans (LEPs).

The purpose of the LEP Review Program is to update the *Wollondilly Local Environmental Plan 2011* (WLEP 2011) to give effect to the Western City District Plan through upfront strategic planning.

The LEP Review Program will be undertaken over six phases and will include seven main project deliverables:

1. Submission of LEP Review Report (completed in November 2018);
2. Submission of Project Plan (completed in January 2019);
3. Submission of draft Local Strategic Planning Statement (completed September 2019);
4. Completion of Local Housing Strategy and specialist reports;
5. Submission of final Local Strategic Planning Statement (LSPS);
6. Submission of Planning Proposal to the Department for a Gateway determination; and
7. Submission of draft LEP to Department Planning, Industry and Environment to make the plan.

This report relates to project deliverable 6.

Wollondilly is one of 13 priority Councils selected on the basis of their opportunity to bring forward housing supply and housing diversity by updating local environmental plans to reflect District Plans. The priority Councils include high growth Councils in the new Western Sydney City Deal.

As a priority Council, Wollondilly was offered and has signed a funding agreement with the NSW Government to receive up to \$2.5 million to fund this review in an accelerated timeframe. As part of this agreement the LEP Review (the deliverables noted above) is to be completed by 30 June 2020.

This report relates to an initial draft planning proposal to satisfy the requirements of the funding agreement which requires the submission of a planning proposal to the NSW Government for Gateway determination and the submission of a planning proposal to the Secretary to arrange for the drafting of the updated LEP by 30 June 2020.

This tight timeframe directs the scope and content of this initial draft planning proposal and has meant that only limited amendments can be considered in the short term. However, the broader alignment of the WLEP 2011 with the Western City District Plan is envisaged to be delivered in stages through a number of planning proposals. These are summarised below;

| District Plan/ draft LSPS THEME | POTENTIAL PLANNING PROPOSAL(s);<br>To be delivered through one or more planning proposals.   |
|---------------------------------|--|
| Infrastructure & Collaboration  | <ul style="list-style-type: none"> <li>Protect additional corridors required for the long-term strategic transport needs of Greater Sydney</li> <li>Protect land required for strategic transport needs of Wollondilly associated with Picton, Tahmoor, Silverdale and Warragamba. This is subject to the outcomes of the precinct transport studies currently underway.</li> <li>Transition PDF LEP maps to digital maps.</li> </ul>  |
| Liveability                     | <ul style="list-style-type: none"> <li>Implement the relevant outcomes of the following project currently underway;               <ul style="list-style-type: none"> <li>Local Housing Strategy</li> <li>Centres Study</li> </ul> </li> <li>Resolve outstanding landowner-led planning proposals</li> <li>Provisions to recognise and require consideration of local character</li> <li>Further amendments to embed health provisions</li> <li>Safeguard the future of Yerranderie</li> <li>Greater protection of heritage</li> <li>Provisions to enable the use of spaces for funerals and ceremonial activities in local parks.</li> </ul> |
| Productivity                    | <ul style="list-style-type: none"> <li>Implement the relevant outcomes of the;               <ul style="list-style-type: none"> <li>Employment Lands Study</li> </ul> </li> <li>Rezone Land at Maldon for employment</li> <li>Amendments to open up the visitor economy</li> <li>Opportunities to encourage business across rural and residential zones where it can blend with existing character</li> </ul>  |
| Sustainability                  | <ul style="list-style-type: none"> <li>Implementing the relevant outcomes of the following projects currently underway;               <ul style="list-style-type: none"> <li>Scenic and cultural lands study</li> <li>Rural Lands Strategy</li> <li>Urban Tree Canopy Strategy</li> <li>Biodiversity Strategy</li> <li>Integrated Water Management Strategy</li> </ul> </li> <li>Embed considerations for climate change</li> <li>Supporting native vegetation retention</li> <li>Introducing buffers, for agricultural activities and key industries.</li> </ul>  |

|              |  |
|--------------|--|
| Housekeeping | <ul style="list-style-type: none"> <li>Removing anomalies with other planning instruments such as State Environmental Planning Policies</li> </ul> |
|--------------|--|

Only this planning proposal (formally referred to as Planning Proposal - LEP Review Program Stage 1) is required to be delivered within the funding agreement timeframe up to 30 June 2020. Later stages will be initiated and progressed once the necessary resources, supporting material and information is available.

Amendments to the WLEP 2011 as part of the LEP Review Program will principally be directed and informed by work to date on the LEP Review Program and in particular Wollondilly 2040 draft Local Strategic Planning Statement (draft LSPS). Wollondilly 2040 was publicly exhibited from 30 September 2019 until 1 November 2019. Stakeholder feedback received during the exhibition period and the content is currently being reviewed.

At the time this report was prepared the draft LSPS public exhibition period was still underway and this draft planning proposal has only benefitted from early feedback. However, the amendments identified for the Stage 1 draft planning proposal are considered necessary and it is considered that the outcome of the exhibition period would not result in the removal of any of the proposed amendments.

The draft planning proposal also includes a number of housekeeping amendments.

### Planning Proposal

LEP Review Program Stage 1 is a Council initiated planning proposal and proposes a range of amendments to *Wollondilly Local Environmental Plan 2011*. It has the following objectives or intended outcomes:

- give effect to the Western City District Plan;
- enhance the health and wellbeing of communities;
- attract investment and grow local jobs;
- ensure potential impacts to koala corridors are minimised, and
- housekeeping amendments to ensure the local environmental plan reflects changes on the ground or updates to legislation

17 amendments are sought and are summarised in the table below. A more detailed summary of the proposed amendments is provided at Attachment 1. The draft planning proposal document is provided at Attachment 2.

|   | Intended outcome  | Description of change   |
|---|---|---|
| 1 | Embed the consideration of health in the assessment of development              | Include a reference to 'health' within the Aims of the plan and relevant land use zone objectives.                                    |
| 2 | Enhance opportunities for outdoor dining.                                       | Introduce exempt development criteria for outdoor dining associated with a food and drink premises.                                   |
| 3 | Increase opportunities for events.  | Introduce exempt development criteria for events which have a low or minimal impact.  |
| 4 | Recognising the role and function of the Metropolitan Rural Area within the LEP | Include a new local provision and associated map to protect and enhance the environmental, social and economic values in rural areas. |

|    | Intended outcome   | Description of change  |
|----|--|--|
| 5  | Protect operations of the Western Sydney Airport   | Include a new local provision to ensure that development of land in the flight paths of the proposed airport does not hinder or have any adverse impact on the development or operation of the proposed airport.   |
| 6  | Protect corridors required for the long-term strategic transport needs of Greater Sydney   | Amend clause 5.1A and associated map and rezone land to limit development on land required for the Maldon Dombarton rail link.   |
| 7  | Protect land required to provide essential services to support existing and future populations   | Rezone relevant Sydney Water land (32 parcels) to SP2 - Infrastructure   |
| 8  | Enable destination weddings, functions and business conferencing in rural locations.   | Make "Function centres" permissible within rural and some environmental protection zones and include an associated local provision to enable function centres at an appropriate scale.   |
| 9  | Protect known koala corridors  | Introduction of a local provision and associated mapping to protect high quality koala habitat while also identifying relevant areas as "sensitive land" on the Natural Resources – Biodiversity Map.  |
| 10 | Remove unnecessary barriers to local residents accessing cheaper and fast-track assessment of new development on their land (i.e. access to exempt and complying development provisions under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008) | Updating the Natural Resources – Biodiversity Map by removing land (75 parcels) that is no longer considered "sensitive land" where it has been legally cleared.   |
| 11 | Enable advertising signage on sports fields  | Introduce exempt development criteria for advertising on RE1 land.   |
| 12 | Strengthen provisions relating to the subdivision of land within Original holdings   | Amend clause 4.1B to provide more specific direction that the density standard applies to all land within the original holding and not just land within a development application.   |
| 13 | Ensure that relevant land is reserved for certain public purposes.   | Update the Land Reservation Acquisition Map to remove land no longer required for public purposes.   |
| 14 | Ensure that the Wollondilly LEP benefits from the most up-to-date model provisions and development terms within the Standard Instrument.   | <p>Part 1;<br/>Amend the Land Use Table to broaden the scope of permissibility beyond the mandatory land use zones for the following development types which have been added or amended since WLEP 2011 was originally adopted:</p> <ul style="list-style-type: none"> <li>• Timber yard</li> <li>• Artisan Food and Drink Industry</li> <li>• Bee Keeping</li> <li>• Eco-Tourist Facility</li> <li>• Markets</li> </ul> <p>Part 2;<br/>Introduce new mandatory local provision which accompanies the introduction of Eco-Tourist Facility definition.</p> |

|    | Intended outcome  | Description of change   |
|----|---|---|
| 15 | Enabling more diverse tourist accommodation   | Amend the Land Use Table so that Caravan Parks are permissible with recreation and rural zones. |
| 16 | Support effective planning and decision making.   | Transition the LEP from PDF maps to a digital format.   |
| 17 | Embedding a clear line of site between the local strategic planning statement and the local environmental plan. | Include a reference to the local strategic planning statement within the Aims of the plan.      |

A number of these amendments are still subject to further coordination with the relevant public agencies and may need to be removed at a later date if they cannot be achieved within the LEP Review Program timeframe. This relates to items 4, 5, 6, 9 and 16.

### Consultation

The proposed amendments included within the Stage 1 draft planning proposal have been determined on the basis of ongoing engagement with a range of stakeholders associated with the LEP Review Program and include feedback from:

- Councillor workshops;
- Council's Community Advisory Committees;
- Internal sections across Council;
- Workshops organised by the Greater Sydney Commission and the NSW Government Department of Planning, Industry & Environment (DPIE) on the LEP Review Program and Local Strategic Planning Statements;
- Tharawal Local Aboriginal Land Council;
- Destination Sydney Surrounds South;
- Public agencies, including South West Sydney Local Health District, Transport for NSW, DPIE, and the Office of Strategic Lands, and
- Community drop in sessions held as part of the public exhibition of Wollondilly 2040 draft LSPS.

On the basis of the extensive consultation undertaken to date and the tight timeframe available under the LEP Review Program funding agreement formal preliminary consultation in the manner described within Council's adopted Planning Proposal Policy CP0038 and draft Community Participation Plan has not been undertaken. The requirement for preliminary consultation for draft planning proposals is not a statutory requirement and reflects Council's commitment to engaging with the community and key stakeholders early in the planning proposal process. Usually a 28 day consultation period is required for Council initiated planning proposals.

The LEP Review Program is a major project and the ongoing engagement to date which has been drawn on to inform this initial draft planning proposal is considerably more than would ordinarily be practicable for Council initiated planning proposals. A variation to the preliminary consultation requirements has been approved in accordance with the adopted Planning Proposal Policy.

Further consultation will occur after a Gateway determination is issued and it has been established that the proposal has strategic merit. The Gateway determination will outline the consultation requirements with public agencies and the community which is likely to include a public exhibition.

**Description of Site**

The draft planning proposal is a shire wide planning proposal. Individual components apply to either individual nominated land parcels, land within nominated land use zones or nominated areas. The relevant area for each component is identified in the summary table provided at Attachment 1 and within the draft planning proposal provided at Attachment 2.

**PLANNING CONTEXT****Greater Sydney Region Plan (Region Plan) and Western City District Plan (District Plan)**

The Greater Sydney Commission's *A Metropolis of Three Cities – the Greater Sydney Region Plan* and the *Western City District Plan* were finalised in March 2018. The Region Plan aligns land use, transport and infrastructure planning to reshape Greater Sydney as three unique but connected cities. The Western City District Plan along with the other four district plans guide the implementation of the Region Plan at a District Level.

The District Plan requires councils to review their strategic planning framework. This is to include a review of the existing local environmental plan against the relevant district plan. Updates to local environmental plans are to be guided, in part, by the development of local strategic planning statements.

**Create Wollondilly 2033: Community Strategic Plan (CSP)**

Create Wollondilly 2033 is Council's adopted community strategic plan and is Council's highest level long term plan. It sets out the communities long term aspirations for Wollondilly over a 20 year period up to 2033.

The position statements and strategies from the CSP have informed the preparation of Wollondilly 2040 draft LSPS and consequently, the Stage 1 draft planning proposal to amend the local environmental plan.

**Wollondilly 2040 draft Local Strategic Planning Statement (draft LSPS)**

Wollondilly 2040 is Council's draft Local Strategic Planning Statement. It outlines the vision for land use planning over the next 20 years and will guide the implementation of the District Plan at a local level. It is also required to be consistent with the community strategic plan.

The draft LSPS identifies a number of actions under each of its 18 planning priorities which have informed the scope of the current and future staged amendments to the local environmental plan.

At its Extraordinary Council Meeting on 24 September 2019, Council resolved that the draft LSPS *is endorsed for consultation purposes only and does not yet represent Council policy and cannot be relied upon in regards to any planning proposals.*

The exception to this statement is the subject planning proposal which is a mechanism for a council led process to the local environmental plan in accordance with the Funding Agreement with the NSW Government and in accordance with the legislation framework.

The proposed amendments to the local environmental plan are all identified as actions within the draft LSPS with the exception of the housekeeping amendments.

**Consistency with Section 9.1 Directions**

An assessment of the draft planning proposal for consistency against s9.1 Directions is available within the draft planning proposal document provided at Attachment 2.

**Consistency with State Environmental Planning Policies (SEPPs)**

An assessment of the draft planning proposal for consistency against SEPPs is available within the document provided at Attachment 2.



### Previous Advice from Panel

At its meeting on 26 July 2018, the Panel considered a report on a draft planning proposal for housekeeping amendments to the WLEP. As part of its decision, the Panel provided the following Advisory Note:

*In addition, the Panel in discussion recognises the importance of the protection of Aboriginal Heritage and provides the following advisory note:*

- *That during the preparation of Council's next comprehensive Local Environmental Plan review, it explores the opportunity to work with senior members of its First Nations people to further its understanding of the Aboriginal Cultural Heritage of Wollondilly Shire and how to protect it.*

As part of the preparation and engagement associated with Wollondilly 2040 draft LSPS, Council has been working with the Tharawal Local Aboriginal Land Council. The focus of the discussion to date has been to foster opportunities for economic participation and future strategic land use planning, designing with country, and cultural education.

Wollondilly 2040 draft LSPS acknowledges Aboriginal people, their histories and connection to Country and community and their valuable continuing contribution to Wollondilly's heritage, cultural and identity. The statement commits to continuing to work with Local Aboriginal Land Councils.

### Delegation of plan making functions

It is recommended that plan making functions associated with this draft planning proposal are not delegated to Council on the basis that some of the amendments have:

- District and regional planning significance,
- Implications for Council owned land,
- Acquisition and agency matters, and
- To ensure a transparent process is followed

### Financial Implications

Funding of up to \$2.5 million is available for the LEP Review Program, which includes this Stage 1 draft planning proposal, through the City Deal initiative subject to contractual conditions.

Any additional costs for this project are to be covered through Council's adopted budget and forward estimates.

The requirement to undertake a LEP Review, along with requirements generated from changes to the *Environmental Planning & Assessment Act 1979*, continue to have a significant impact on strategic planning resources.

The subject planning proposal is being prepared in accordance with an approval project plan, including budget allocation.

### CONCLUSION

The LEP Review Program Stage 1 draft planning proposal is a Council initiated proposal that seeks a number of amendments to the Wollondilly LEP that reflect the work undertaken to date as part of the LEP Review Program including the development of Wollondilly 2040 draft Local Strategic Planning Statement.

The Stage 1 draft planning proposal includes those amendments that can be progressed within the funding agreement timeframe up to 30 June 2020. The proposed amendments are considered to represent an initial alignment of the Wollondilly LEP with the District Plan.

The proposed recommendation for the LEP Review Program Stage 1 Draft Planning Proposal will be as follows:

That Council

- Supports the LEP Review Program Stage 1 draft planning proposal which seeks a range of amendments to *Wollondilly Local Environmental Plan 2011*.
- That the planning proposal be forwarded to the Minister for Planning and Public Spaces for a Gateway determination.

## ATTACHMENTS

1. **Summary of proposed amendments to Wollondilly Local Environmental Plan 2011** 
2. **LEP Review Program Stage 1 Draft Planning Proposal** 

## RECOMMENDATION

That the Panel:

1. Notes this Assessment Report
2. Notes the officer's recommendation that the draft planning proposal proceed
3. Provides advice in accordance with the Local Planning Panel Direction – Planning Proposals, issued on 27 September 2018. This advice will be attached to a future report to Council.