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Gateway determination report – PP-2021-3086

Events and Visitor Economy Proposal

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Destination Weddings Business Conferencing Strategic Review
Wollondilly Strategic Bushfire Study

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Wollondilly
PPA	Wollondilly Shire Council
NAME	Events and Visitor Economy (LEP Review Program Stage 1A)
NUMBER	PP-2021-3086
LEP TO BE AMENDED	Wollondilly Local Environmental Plan 2011
ADDRESS	LGA wide
DESCRIPTION	LGA wide
RECEIVED	15/04/2021
FILE NO.	IRF21/1896
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- Increase opportunities for events.
- Enable destination weddings, functions and business conferencing in rural locations.
- Ensure that the Wollondilly LEP benefits from the most up-to-date model provisions and development terms within the Standard Instrument.
- Enable more diverse tourist accommodation.
- Minimise or avoiding the impact of bush fire hazard.

1.3 Explanation of provisions

The planning proposal seeks to amend the Wollondilly LEP 2011 per the changes below:

Table 3 Current and proposed controls

Amendment	Control	Current	Proposed
1	Schedule 2 Exempt development – New exempt development provisions for Events	N/A	New exempt development provisions that permit events for up to 1,500 participants to be carried out without development consent on Rural, Residential, Business, Industrial, SP and Environmental Protection zoned land throughout the LGA.
2	Land Use Table – Permit, subject to assessment Rural Function Centres and in some rural and environmental zones	Prohibited	Identify ‘Rural Function centres’ or ‘Function Centres’ subject to consent in the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and the E4 Environmental Living zones.
2	New Local Provision – Rural Function Centres	N/A	Include new local assessment objectives to manage the impacts of the proposed additional uses in the respective zones. Assessment criteria includes ensuring the function centres do not adversely impact on agricultural production and provide for the appropriate management of infrastructure and related impacts.
3	Land Use Table – Housekeeping update of modal provisions for land use terms of Standard Instrument	N/A	Subject to approval, permit ‘Timber yard’ in RU1 Primary Production, RU2 Rural Landscape, and RU4 Primary Production Small Lots zones
			Subject to approval, permit ‘Artisan Food and Drink Industry’ in RU1 Primary Production, RU2 Rural Landscape, and RU4 Primary Production Small Lots, B1 Neighbourhood Centre, B2 Local Centre, B4 Mixed Use and B5 Business Development zones
			Subject to approval, permit ‘High technology industry’ in B5 Business Development zone
			Subject to approval, permit ‘Eco-Tourist Facility’ in RU1, RU2, RU4, and E4 Land use zones

Amendment	Control	Current	Proposed
			Subject to approval, permit 'Bee Keeping' in R2 Low Density Residential, R3 Medium Density Residential, R5 Large Lot Residential, B1 Neighbourhood Centre, B2 Local Centre, B4 Mixed Use and B5 Business Development zones and E3 Environmental Management zones
3	Miscellaneous Provision – Eco-tourist facilities in certain rural and environmental zones (Housekeeping update of Standard Instrument if Eco-tourist facilities supported)	N/A	Adopting model clause 5.13 for 'Eco-tourist facilities' to ensure that the eco-tourist facility is sympathetic to and maintains the environmental and cultural values of the land, and is designed and managed to have minimum impact on the environment.
4	Land Use Table – Subject to consent, Permit Tourist Parks in rural and recreation zones	N/A	Rural and recreation zones not specified. Gateway determination conditioned to require Council to identify which zones are intended to be subject to this amendment, and an explanation of the intended local provisions to accompany this proposed amendment.
5	Additional Local Provision – Development for the purposes of markets, events and function centres on bushfire prone land	N/A	<p>New local provision and associated mapping that seeks to minimise the risk to life and property from bush fire attack in RU1, RU2, RU4, RE1, RE2, E3 and E4 zones.</p> <p>The clause would require the consent authority to consider the suitability of the proposed development with regard to bushfire risk.</p> <p>Gateway determination conditioned to require Council to include an explanation of the intended local provisions to accompany this proposed amendment.</p>

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The planning proposal applies to the whole Wollondilly Local Government Area (LGA) identified on the Land Application Map (**Figure 1**, overleaf), except for the Wilton Growth Area which is covered by the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (Growth Centres SEPP).

1.5 Mapping

The mapping included is sufficient to enable consultation with the RFS.

2 Need for the planning proposal

Strategic Merit for amendments 2-5 of the proposal have been demonstrated, subject to further consideration of bushfire risk.

Further consideration regarding the need for Amendment 1, seeking to exempt events, should be undertaken prior to exhibition. A range of existing provisions such as through Division 3 of *State Environmental Planning Policy (Exempt and Complying Development Codes)* 2008 (the Codes SEPP) already apply to facilitate the delivery 'events'. There requires further consideration and investigation as to whether 'events' (gathering of people) as sought by the proposal, can be regulated by the planning framework, and therefore whether proposed Amendment 1 can be legally made.

3 Strategic assessment

3.1 Regional Plan

The site is within the Western City District. The Greater Sydney Commission released the Western City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability, in the plan as outlined below.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table provides an assessment of the planning proposal against relevant directions and actions.

Table 4 Regional Plan assessment

District Plan Priorities	Justification
Planning Priority W4 – Fostering healthy, creative, culturally rich and socially connected communities	The proposal seeks to encourage healthy communities that are create, culturally rich and socially connected by supporting new opportunities for arts enterprises and facilities/ creative industries, interim and temporary uses and appropriate development of the visitor economy.
Planning Priority W8; Leveraging industry opportunities from the Western Sydney Airport and Badgery's Creek Aerotropolis	The proposal seeks to leverage industry opportunities from the Western Sydney Airport and Badgery's Creek Aerotropolis by growing the visitor economy and the attraction of accommodation development for overnight stays in the Wollondilly.
Planning Priority W17; Better managing rural areas	The planning proposal seeks to permit events, destination weddings, functions, business conferencing and more diverse tourist accommodation in rural locations. These additional permitted uses have the potential to conflict with the social, economic and environmental values of the Metropolitan Rural Area (MRA). To protect and enhance environmental, social and economic values of the MRA future development applications must give consideration to the values of the MRA in accordance with clause 7.9 of the LEP.
Planning Priority W20 - Adapting to the impacts of urban and natural hazards and climate change.	Planning Priority W20 seeks to avoid locating new development in areas exposed to natural and urban hazards and consider options to limit the intensification of development in areas most exposed to hazards. To address potential risk of permitting new land uses in bushfire prone areas, the proposal should be updated following finalisation of the strategic bushfire study and consultation with RFS.

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 6 Local strategic planning assessment

Local Strategies	Justification
Wollondilly Local Strategic Planning Statement (LSPS)	<p>The proposal gives effect to the Wollondilly LSPS as follows:</p> <ul style="list-style-type: none"> (a) Action 7.5 – Review the LEP and broader policy framework to create opportunities for events. (b) Action 9.1 Implement and continually review the Wollondilly Destination Management Plan. (c) Action 9.3 - Work with Destination Sydney Surrounds South on the Destination Wedding Project and, if required, update the LEP and DCP to encourage development of tourism infrastructure including accommodation, events and conferencing or function spaces.
Wollondilly Community Strategic Plan	<p>Council advises that the planning proposal is consistent with the directions of the Wollondilly Community Strategic Plan (Create Wollondilly 2033). Consistency of the planning proposal with the Community Strategic Plan is discussed further on page 18 of the planning proposal.</p>

3.3 Local planning panel (LPP) recommendation

On 28 November 2019, the Wollondilly Local Planning Panel resolved to support the planning proposal proceeding to Gateway determination subject to the followed suggested advice:

- The proposed Caravan Park amendment to encourage more diverse tourist accommodation in some rural, and recreation 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 this amendment may result in defacto urban development.
- Council made further assessments on the Panel's advice and on 16 December 2019, resolved to:
 - update the proposal to seek the introduction of a new land use term for 'Tourist Park' to be permissible in recreation and rural zones. If this option is not available to proceed with the original proposed amendment. With either option, the proposed amendment should be removed from the planning proposal, if after further investigation, it is considered that the amendment has the potential to unintentionally permit planned housing growth in the Metropolitan Rural Area.
 - update the proposed amendment to permit Function Centres to introduce a new land use term for 'Rural Function Centre' in rural and some environmental protection zones (E3 and E4) and if the option is not available to proceed with the original proposed amendment.

3.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Direction 1.5 Rural Lands	No	<p>Inconsistency of minor significance</p> <p>The objectives of this direction are to protect the agricultural production value of rural land and facilitate the orderly and economic use and development of rural lands for rural and related purposes. This direction applies as the proposal affects rural and environment protection zones.</p> <p>The proposal is inconsistent with this direction as it will introduce caravan parks and function centres onto rural land which has the potential to result in land use conflict with rural activities. However, the inconsistency is considered to be justified as of minor significance as the proposal does not rezone land or change minimum lot sizes.</p>
Direction 2.1 Environment Protection Zones	No	<p>Inconsistency of minor significance</p> <p>The objective of this direction is to protect and conserve environmentally sensitive areas. This direction applies as it seeks to introduce eco-tourist facilities into the environmental zones.</p> <p>The proposal is inconsistent with the direction as it is proposing to include new land use in environmental zones. However, the inconsistency is considered to be justified as of minor significance as eco-tourist facilities are considered to be compatible uses for an environment protection zone.</p>
Direction 4.4 Planning for Bushfire Protection	No	<p>The objective of this direction is to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas.</p> <p>The Wollondilly local government area is highly exposed to bushfire hazard with significant areas mapped as bushfire prone land. To address requirements of Planning for Bushfire Protection 2019 all planning proposals in bushfire prone areas are to be supported by a strategic bushfire study or endorsed by RFS to proceed.</p> <p>Council has prepared a bushfire study which considers the risk of the proposal. The bushfire study identifies provisions that should be considered to further align the proposal with appropriate risk for the Wollondilly LGA. For example, the proposal recommends that part of 'Amendment 1' seeking to exempt outdoor events, should be amended to be 'permitted, subject to consent' so that the risk of any individual development application is undertaken. Amendment 1 includes provisions that requires the events to not be held during a gazetted bushfire season to manage risk.</p> <p>Having regard to detailed RFS advice dated 9 February 2021 which identifies a requirement for a site-specific strategic bushfire study in order to support the proposal, consistency with this direction cannot be established until the RFS has been consulted.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Direction 5.2 Sydney Drinking Water Catchment	No	<p>In its current form, the planning proposal is inconsistent with the Direction as it will permit future development within the Sydney drinking water catchment which has the potential to adversely impact water quality and catchment health. This inconsistency remains unresolved until consultation with the NSW Water is undertaken.</p> <p>To ensure consistency with the Direction, it is recommended that Council refer the planning proposal to NSW Water as part of the public exhibition and updated in accordance with any comments received.</p>
Direction 7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	Consistent	<p>The objective of this direction is to ensure development within the Western Sydney Aerotropolis is consistent with the Stage 1 Western Sydney Aerotropolis Land Use and Infrastructure Implementation Plan dated August 2018 (the Stage 1 Land Use and Implementation Plan). The Department notes that the north-eastern corner of the LGA is affected by the ANEC/ANEF Contours for the Airport.</p> <p>The proposal affects land within the Aerotropolis including the introduction of the 'Function Centre' and 'Caravan Park' in the rural zones, the MRA map, and the identification of Sydney Water land as SP2 Infrastructure zone. In the case of caravan parks only temporary accommodation should be permissible in noise affected areas and this will be addressed in the Aerotropolis SEPP.</p> <p>The Department notes that these amendments will not impact the strategic intent of the Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan therefore is consistent with this direction.</p>

3.5 State environmental planning policies (SEPPs)

With exception of the Exempt and Complying Development Codes SEPP, the planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 8 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP 21 – Caravan Park	The aims of this SEPP are to facilitate the development of land for caravan parks either for short-term residents (such as tourists) or long-term residents. The SEPP requires land for caravan parks to be managed in a way that it promotes the social and economic welfare of the community and protects the local environment.	Yes	The planning proposal acknowledges the potential for unintended outcomes of rural areas by permitting caravan parks in rural zones. The proposal does not affect the operation of this SEPP, with future caravan park development proposals to be assessed against SEPP 21 including specifying a maximum number of sites to be used for long-term residence
SEPP (Sydney Drinking Water Catchment) 2011	The aims of this SEPP are to provide for healthy water catchments that will deliver high quality water and ensure consent authorities must not grant consent to development that would negatively affect water quality.	TBD	The planning proposal contains a number of amendments that permit new land uses within the Sydney Drinking Water Catchment. As mentioned earlier, it is recommended NSW Water be consulted on the proposal as part of the public exhibition.
Sydney Regional Environmental Plan No 20 Hawkesbury-Nepean River	The aim of this policy is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.	Yes	The planning proposal acknowledges the potential for indirect impacts within the Hawkesbury Nepean River Catchment. The proposal further notes that the proposed LEP amendments will not hinder the application of the SREP as part of any further development application.

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 9 Environmental impact assessment

Environmental Impact	Assessment
Environmental	The proposal is unlikely to have an adverse impact on the existing vegetation with the LGA.
Bushfire	<p>The Rural Fire Service has provided detailed advice to Council and the Department dated 9 February 2021 advising that a strategic bushfire study should be prepared to demonstrate acceptable risk associated with major access routes to isolated and high-risk locations of the Wollondilly Shire.</p> <p>Council has prepared a bushfire study which considers the risk of the proposal. The bushfire study identifies provisions that should be considered to further align the proposal with appropriate risk for the Wollondilly LGA. For example, the proposal recommends that part of 'Amendment 1' seeking to exempt outdoor events, should be amended to be 'permitted, subject to consent' so that the risk of any individual development application is undertaken. Amendment 1 includes provisions that requires the events to not be held during a gazetted bushfire season to manage risk.</p> <p>It is recommended Council consult with the RFS, and the planning proposal be updated accordingly to address any concerns of the RFS. The updated planning proposal must be submitted to the Department for review and endorsement prior to exhibition.</p>

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 10 Social and economic impact assessment

Social and Economic Impact	Assessment
Social	The planning proposal includes a number of amendments which are intended to have positive social benefits either through enhancing the health and wellbeing of communities and/or attracting investment and growing local jobs.
Economic	The proposal will provide greater economic opportunities for landowners as additional commercial land uses have been added to the rural, environment and business zones. These uses are considered to be compatible with the zone objectives.

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 11 Infrastructure assessment

Infrastructure	Assessment
Infrastructure	The planning proposal will not result in major developments that would place significant additional demand on the existing infrastructure (utilities, transport or other services). Assessment of infrastructure capacity for each individual development is also required at the development application stage.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days. The exhibition period proposed is considered appropriate and is recommended as a condition of the Gateway determination.

5.2 Agencies

The proposal does not specifically indicate agencies to be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 28 days to comment:

- NSW Rural Fire Service
- Department of Primary Industries
- Transport for NSW
- Greater Sydney Commission
- Sydney Water

6 Timeframe

Council proposes a 6 month time frame to complete the LEP.

The Department recommends a time frame of **12 months** to ensure adequate consideration of bushfire risk, reviewing the land uses associated with events and provide sufficient time to process the amendment as a result of local government elections. It is recommended that if the gateway is supported it also includes conditions requiring council to refer the proposal to the Department for finalisation by a specified milestone date.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council sought to exercise its functions as a Local Plan-Making authority.

As the planning proposal is dependent on consultation with State agencies to satisfy the terms of Section 9.1 Directions, and further consultation is required within the Department prior to community consultation, it is recommended that Council not be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The proposal provides opportunity to increase employment

Based on the assessment outlined in this report, the proposal must be updated before public consultation to:

- Remove references to 'Tourist Park' and 'Rural Function Centre' and respectively replace with 'Caravan Park' and Function Centre'
- Further investigate the need to exempt event activities in the LGA given the existing planning framework may not recognise 'events' as a type of development to be regulated – that is, no Development Application is currently required for gatherings of people.
- Include an explanation of the intended local provisions proposed for amendment 4 and amendment 5; and
- Outline the zones Amendment 4 is intended to apply to.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions: 1.2 Rural Zones; 2.1 Environment Protection Zones are minor or justified; and
- Note that the consistency with section 9.1 Directions: 4.4 Planning for Bushfire Protection; and 5.2 Sydney Drinking Water Catchments is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to public exhibition:

- Council is to consult the Department of Planning, Industry and Environment (Planning System Policy Branch) to further investigate the planning framework relation to proposed Amendment 1 and to update the planning proposal to address feedback received.

- References in the planning proposal to the proposed new definitions of 'Tourist Park' and 'Rural Function Centre' be removed and updated with 'Caravan Park' and 'Function Centre' where relevant.
 - The planning proposal is to be updated to include an explanation of the intended local provisions proposed for amendments 4 and 5, and clarify which zones Amendment 4 is intended to apply to.
2. After the proposal has been updated in accordance with Condition 1, and before public exhibition of the proposal, Council is to consult with the Rural Fire Service and update the planning proposal to address feedback received.
 3. Following addressing conditions 1 and 2, the revised planning proposal must be forwarded to the Department (Western Team, West Parkland City) for review and approval.
 4. Consultation is required with the following public authorities:
 - Department of Primary Industries
 - Transport for NSW
 - Greater Sydney Commission
 - Sydney Water
 5. The planning proposal should be made available for community consultation for a minimum of 28 days.
 6. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
 7. Given the nature of the proposal, Council should not be authorised to be the local plan-making authority.



13th May 2021

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13th May 2021

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