



Arcadia Estate Planning Proposal 2021

ADDENDUM

1 October 2022



ISSUE	REV	DATE	AUTHOR	ISSUED TO
Addendum DRAFT	01	21 September 2022	Tamworth Regional Council AS	For Internal Review
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Background

The purpose of this Addendum is to outline the amendments and actions that have been undertaken as a result of Agency and Community consultation in 2022. The addendum is intended to be read in conjunction with the *Arcadia Estate Planning Proposal 2021* and related documentation located on the NSW Planning Portal at:

[Arcadia Estate Planning Proposal 2021 | Planning Portal - Department of Planning and Environment \(nsw.gov.au\)](https://www.nsw.gov.au/planning-portal/arcadia-estate-planning-proposal-2021)

These actions now provide the basis to address Government Agency (agency) and community comments and advise how this Addendum to the Planning Proposal has responded to agency and community expectation.

The Arcadia site is located in the southern extent of the suburb of Hillvue, Tamworth and is identified as a key future residential release area in *New England North West Regional Plan 2036, Blueprint 100 - Part 1* and *Blueprint 100 - Part 2* which is the *Tamworth Regional Local Strategic Planning Statement (LSPS) 2020*. *Blueprint 100 - Part 1 and Part 2* were adopted by Council in 2020.

The Department issued an original Gateway Determination on 5 August 2021. Council subsequently submitted the amended planning proposal in response to the Gateway Determination. An amended Gateway Determination was issued on 6 December 2021.

Consultation outcomes

The Planning Proposal was exhibited in conjunction with detailed development controls designed to give effect to the aims, facilitate permissible development and achieve the objectives of the land zones.

Council undertook public exhibition from 14 March 2022 to 14 April 2022 in conjunction with Agency consultation. Eleven (11) public and six (6) Agency submissions were received. The comments focussed on traffic and particular road intersections, lot size reduction and resultant increase residential density. The Agency submissions relating to biodiversity and education infrastructure did not raise any notable concerns. The Transport for NSW submission supported the aim of the planning proposal to maximise the efficient use of public infrastructure. A Traffic Impact Assessment was undertaken that addresses traffic generation, access points and potential intersection treatment understanding that ultimate treatments will be finalised as development thresholds are arrived at in future.

These matters are addressed in detail in the Report to the Ordinary Meeting of Council on 11 October 2022.

Heritage NSW and Tamworth Local Aboriginal Land Council (TLALC) combine to raise some important issues to be addressed via an update of the relevant studies including reassessment of items and locations of Aboriginal heritage. An expert cultural heritage consultancy was engaged by Council to complete an addendum due diligence cultural heritage assessment in accordance with the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (DECCW 2010) for the proposed works.

The assessment was completed and accepted by Council on 21 September 2022. The Executive Summary of the report is **ATTACHED**, refer **ANNEXURE 1**.

The Executive Summary describes the methodology used, consultation and involvement of Aboriginal groups including TLALC, engagement with landowners and list the recommendation of the assessment.

The investigations undertaken on the subject lands indicate that there are several items of Aboriginal cultural significance which have been identified which need to be considered in the future development of the land. The recommendations were addressed and included in the updated development controls for the Arcadia Estate which was adopted by Council at its Ordinary Meeting on 11 October 2022.

Mapping

Early consultation was undertaken with the Department and the NSW Parliamentary Counsel Office (PCO) regarding the proposed LEP Maps and the proposed Dwelling Density clause. The Department confirmed the Zone, Lot Size and FSR mapping. PCO drafted clause wording for consideration and included a drafting note regarding dwelling density mapping. Council has developed a revised draft Dwelling Density Map which is **ATTACHED** to this Addendum, refer **ANNEXURE 2**.

The planning proposal will amend the existing *Tamworth Regional Local Environmental Plan 2010* Maps:

- Land Zoning Map
- Lot Size Map
- Floor Space Ratio Map

The planning proposal will amend the *Tamworth Regional Local Environmental Plan 2010* to introduce the following map:

- Dwelling Density Map (10 dwellings / ha, restricted yield 2,350 dwelling total)

Project Timeline - *Updated*

PLAN MAKING STEP	ESTIMATED COMPLETION
Date of revised Gateway Determination	Completed
Completion of required technical information	Completed
Government agency consultation as required by revised Gateway Determination	Completed
Public exhibition period	Completed
Public hearing	Completed
Consideration of submissions	Completed
Consideration of proposal post exhibition	Completed
Finalisation of Specialist Study	Completed
Addendum to Planning Proposal complete	Completed
Report to Council on the outcomes of the public exhibition and Agency consultation and recommendation regarding the making of the Plan under Delegation	11 October 2022
Finalisation of mapping with DPE	21 October 2022
Finalisation of Parliamentary Counsel processes and Opinion	21 October 2022
Council Makes the plan under delegation and requests DPE to Publish on the NSW Legislation website	31 October 2022
Amendment to the TRLEP 2010 Published	15 November 2022

ANNEXURE 1 – ADDENDUM DUE DILIGENCE CULTURAL HERITAGE ASSESSMENT EXECUTIVE SUMMARY

AREA Environmental & Heritage Consultants

Executive summary

Background

The Arcadia Estate is located on the southern extent of Tamworth City. The Arcadia Estate is an Urban Release Area under the *Tamworth Regional Local Environmental Plan 2010*. The site is approximately 290ha in area and is currently zoned R1 – General Residential, R2 – Low Density Residential and B1 – Neighbourhood Centre. As part of the Planning Proposal public exhibition, Tamworth Regional Council (Council) received a submission from Heritage NSW and Tamworth Local Aboriginal Land Council (Tamworth LALC) raising a number of items, namely the suitability of the submitted Due Diligence Cultural Heritage Assessment which is dated having been completed by Everick in 2014. Both submissions identified that an Aboriginal Cultural Heritage Assessment Report (ACHAR) should be prepared as part of the Planning Proposal, however Council has opted to undertake an addendum to the Due Diligence Cultural Heritage Assessment and consultation with the Tamworth LALC for the Arcadia Estate. Further assessment in the form of an ACHAR will be conducted by the developers for the Arcadia Estate.

Maas Group Properties Arcadia Pty Limited (MAAS) is proposing to develop Lot 6 DP 1211122 and has started consultation in accordance with the *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (DECCW 2010). An archaeological survey has been completed and an ACHAR is being compiled.

AREA Environmental & Heritage Consultants (AREA) have been engaged by Council to complete an addendum due diligence cultural heritage assessment in accordance with the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (DECCW 2010) for the proposed works.

Previous archaeological assessment

Everick Heritage Consultants Pty Ltd (Everick) were engaged by Tamworth Regional Council in 2014 to conduct an Aboriginal Due Diligence assessment for the South Tamworth Rural Lands Master Plan Development (Robins and Towers 2014). AREAs study area is within the southern portion of the master plan development.

The survey was undertaken in conjunction with Tamworth Local Aboriginal Land Council. The survey targeted areas with archaeological potential. Sample survey occurred in the riparian corridor of Burkes Gully and the rocky crests in the west of the study area.

Fifteen Aboriginal sites were recorded during Evericks survey, 12 artefact scatters and three culturally modified trees (scarred) with artefacts. One of the culturally modified trees (scarred) contained a stone cache containing at least three stone artefacts including a potential axe blank. This tree has grown around the Aboriginal objects making them impossible to remove. The placing of stones in tree hollows has been recorded in Aboriginal ethnography, with the purpose being for hunting and trapping small animals or for storage. Everick (Robins and Towers 2014) noted the possibility of the stones being placed in the tree following non-Aboriginal settlement. Height of the stones in the tree combined with the substantial overgrown bark around the hollow indicated the Aboriginal objects have been in place for more than 100 years. Everick (Robins and Towers 2014) also recorded a volcanic stone resource area in the northwest portion of Lot 1 DP795331, containing high quality (fine grained) volcanic cobbles suitable for stone tool making.

AREA's Fieldwork

Maas Group Properties Arcadia Pty Limited (MAAS) is proposing to develop Lot 6 DP 1211122 and has started consultation in accordance with the *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (DECCW 2010). An archaeological survey has been completed and an ACHAR is being compiled. The archaeological survey was undertaken in accordance with the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (OEH 2011a) and conducted over two days from 31 May to 1 June 2022 by Anna Darby of AREA, together with Michelle Fermor and Michael Fermor from Tamworth LALC and Sharon Porter and Neville Sampson from the Gomeroi People's Registered Native Title Applicants (Tamworth Culture and Heritage Committee).

A site inspection of the study area was conducted over two days from 7 to 8 September 2022 by Anna Darby of AREA, together with Edward Fermor and Michael Fermor from Tamworth LALC.

15 previously recorded Aboriginal sites were revisited, and 13 new Aboriginal sites were recorded during the survey and site inspection. All Aboriginal sites are within the Arcadia Estate.

Recommendations

Based on the assessment, the following recommendations are made:

- The developers to conduct formal consultation in accordance with the *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (ACHCRs; DECCW 2010). An Aboriginal Heritage Impact Permit (AHIP) would be required to impact any Aboriginal sites which cannot be avoided and further consultation to support an AHIP application is needed.
- The culturally modified trees (scarred) should not be impacted and plans made to incorporate the trees into parkland.
- A condition of consent for the AHIP is likely to express a desire by the Registered Aboriginal Parties that Aboriginal sites which cannot be avoided are collected and reburied in consultation with the Aboriginal community expressing a formal interest in this proposal.
- Should an AHIP be issued, surface collection of the stone artefact scatters and isolated finds should be undertaken in accordance with OEH's *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (2011a).
- The locations of the cultural heritage sites shown in Figure 5.1 and detailed in Section 4.5 should be provided to the supervisors responsible for the construction and operation of the proposal. They should be informed cultural heritage sites are protected under the NPW Act and no harm is to come to them. The presence of the cultural heritage sites will be made clear to the workforce as part of an induction.
- Shared pathways within Burkes Gully should be built above the surface to avoid damage to any subsurface archaeological deposits.
- The following is not an archaeological recommendation as it is inconsistent with OEH's *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (2011a).
 - The Aboriginal community recommend monitoring be undertaken to mitigate possible impacts to unrecorded sub-surface remains within Burkes Gully.

- AREAs archaeologist determined there is likelihood for subsurface archaeological deposits in this area and further investigation via test excavation is required.
- The decision to allow cultural monitoring lays entirely with the Proponent and once a decision is made, they should consult with Tamworth LALC and the Gomeroi People's Native Title Applicants.
- Archaeologically, where impacts to Burkes Gully are proposed Aboriginal test excavations are recommended in accordance with OEH's *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (2011a)*.
- If any objects of suspected Aboriginal heritage origin be encountered during the proposal, activity in the area of the find should cease and the unexpected finds protocols (Appendix B) should be implemented.
- If changes are made to the proposal which could impact locations outside of the current study area, further archaeological investigation may be required.

If suspected human remains are located during any stage of the proposal, work must stop immediately, and the NSW police must be notified.

----- Executive Summary Ends -----

ANNEXURE 2 – WORKING DRAFT DWELLING DENSITY MAP

