

9.1.1.5. ECDEV- 28/06/2021- Lidsdale Planning Proposal PP 2021-2808 - Update following Gateway Referral

Prepared by Sherilyn Hanrahan - Strategic Land Use Planner
Department Economic Development & Environment
Authorised by Director of Economic Development & Environment

Reference

Min No 18-313 Ordinary Meeting of Council held on 29 October 2018
Min No 18-376 Ordinary Meeting of Council held on 26 November 2018
Min No 21-8 Ordinary Meeting of Council held on 25 January 2021

Summary

The purpose of this report is to:

- Update Council on the progress of Planning Proposal 2021-2808 through the Gateway process.
- Advise that the Planning Proposal in its current form has been withdrawn following detailed discussion with the Western Region office of Department of Planning, Industry and Environment (DPIE).
- Seek a Council resolution to prepare a new Planning Proposal to insert a new additional permitted use clause in Schedule 1 of Lithgow Local Environmental Plan to permit, with development consent, a dwelling-house on Lot 1 DP 914028 retaining the IN2 Light Industrial zone.

Commentary

Background

In accordance with Council resolution 21-8, Council officers prepared a Planning Proposal over Lot 1 DP 914208, Lot DP 914209, Pt EP 327367, Lot 1 DP 1122488, Lot 52DP 1218864, Pt Lot 102 DP 1137972, to amend Lithgow LEP (Local Environmental Plan) as follows:

- a. Amend the land use zone from IN2 Light Industrial to R 5 Large Lot Residential
- b. Amend the minimum lot size (MLS) from 0 to 2000 square metres.

This Planning Proposal was uploaded to the NSW Planning Portal requesting a Gateway Determination on 25 March 2021.

Update

On 26 April 2021, Council received a request for further information in relation to the strategic and site-specific merit of Site 1 (being the land off Castlereagh Highway) of the proposal (Attachment 1). The Department raised concerns that Council has not demonstrated strategic merit to change the current zoning given:

- Council's Local Strategic Planning Statement (LSPS) confirms the land is identified as industrial in the Wallerawang Structure Plan.
- Council indicates that there is 40 years supply of large lot residential land in the Wallerawang/Lidsdale precinct and demand for more large lot residential land at Lidsdale is not demonstrated in the planning proposal.

Further, the Department contended that Council has not adequately identified or addressed the potential for land use conflict between the adjoining and established industrial uses and existing and proposed residential uses. Council officers responded to this request for further information in a letter dated 4 May 2021 (Attachment 2).

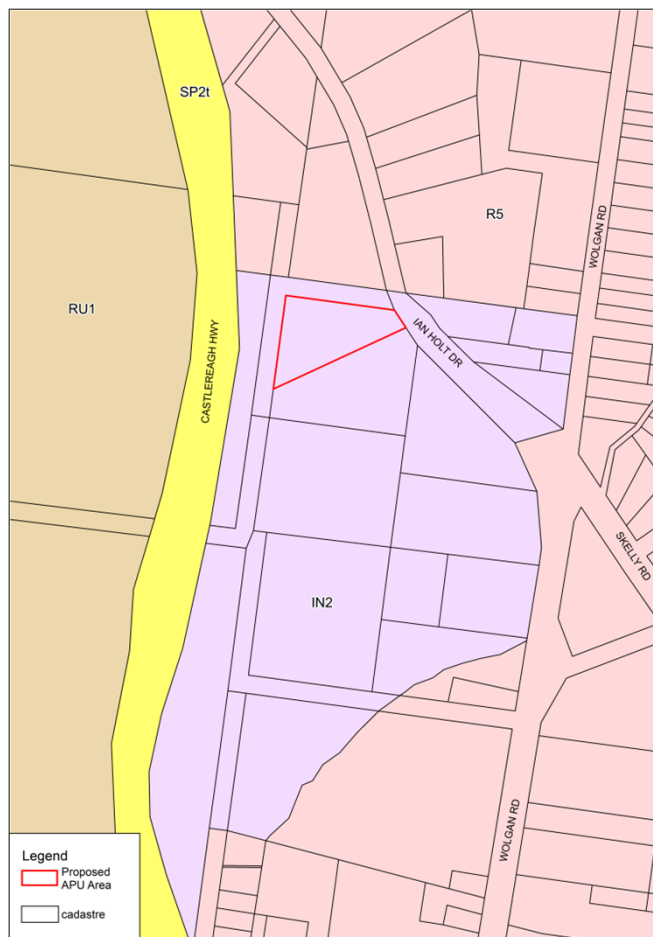
Council officers continued to engage with DPIE making additional representations to address and resolve these concerns without success. Whilst it was made clear that re-zoning Site 1 would not be supported, it was suggested that perhaps a revised proposal (outlined below) would have more likelihood of success.

Council's resolution in relation to the planning proposal was very specific which meant that a new resolution and planning proposal would be required. Consequently, the proposal in its current form was withdrawn to enable the matter to be reported to Council with a resolution for a new proposal to be sought.

Revised Planning Proposal

NSW DPIE have indicated that a new revised Planning Proposal retaining the IN2 zone and seeking an additional permitted use (APU) of only one (1) additional dwelling-house on Lot 1 DP 914028 would be an option for Council to better address the planning concerns of this area.

This option is indicated in the Figure below:



This option has been discussed with the relevant landowner of 32 Ian Holt Drive, Lidsdale who has advised that this option would be an acceptable compromise if the rezoning to R5 Large Lot Residential could not be achieved.

Policy Implications

Nil arising from this report.

Financial Implications

- Budget approved - N/A
- Cost centre - N/A
- Expended to date - N/A
- Future potential impact - Should Council continue to a Planning proposal; Council is committing to the full costs of any technical reports which could be up to \$15,000 (if required by Gateway) and the loss of fees that would normally accompany an owner-initiated planning proposal of this scale of \$15,000. Council should ensure, through Council resolution, that the full costs of any technical reports be charged to the benefitting landowner.

Legal and Risk Management Implications

Nil. The Planning Proposal process is governed by Part 3 of the Environmental Planning and Assessment Act 1979.

Attachments

1. Gateway- Request for further information [9.1.1.5.1 - 2 pages]
2. LCC Response to DPIE - PP 2021-2808 - Further Information [9.1.1.5.2 - 2 pages]

Recommendation

THAT:

1. Council notes that Planning Proposal 2021-2808 as supported by Council Minute 21-8 has been withdrawn.
2. Council supports the preparation of a revised Planning Proposal for Lot DP 914028 to amend Lithgow Local Environmental Plan 2014 as follows:
 - a. Council insert a new clause in Schedule 1 *Additional Permitted Uses* to identify development for the purposes of one dwelling-house as permitted with development consent upon Lot 1 DP 914028 and as shown on an APU Map.
3. The Planning Proposal documentation, once prepared, be forwarded to NSW Department of Planning, Industry and Environment for a Gateway Determination.
4. Council consults with the relevant government agencies as required. Council would consult with Water NSW prior to the issuing of Gateway Determination and Rural Fire Service prior to undertaking community consultation.
5. Council advise NSW Department of Planning, Industry and Environment that it proposes to seek approval to use the delegated functions under S3.36 (2)-(4) to make the plan following compliance with a Gateway Determination.
6. Council advises the relevant owner, in writing, that should any further technical reports be required to support the Planning Proposal that Council will require the landowner to incur the full costs of any such reports. If agreement cannot be reached in this regard the matter be reported back to Council.
7. A DIVISION be called in accordance with the requirements of Section 375A (3) of the Local Government Act, 1993.

9.1.1.4. ECDEV - 28/06/2021 - DA196/18 Planning Agreement- Subdivision 1 into 34 Lots, 'Woodlands' 111 Ian Holt Drive, Lidsdale

21 -140 RESOLVED

THAT:

1. Council endorse the Voluntary Planning Agreement for DA196/18 involving the contribution by the developer of \$3,000 per lot to Council for the purpose of providing open space and community facilities, plus \$5,000 per allotment (Stage 2) to go towards future upgrade works on Maddox Lane.
2. The Voluntary Planning Agreement, upon endorsement by both parties, be forwarded to NSW Department of Planning, Industry and Environment.
3. A DIVISION be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

MOVED: Councillor J Smith

SECONDED: Councillor S Ring

CARRIED: Unanimously

Divisions

FOR: Councillor R Thompson, Councillor S Ring, Councillor W McAndrew, Councillor C Coleman, Councillor D Goodwin, Councillor S Lesslie, Councillor J Smith

AGAINST: nil

9.1.1.5. ECDEV- 28/06/2021- Lidsdale Planning Proposal PP 2021-2808 - Update following Gateway Referral

21 -141 RESOLVED

THAT:

1. Council notes that Planning Proposal 2021-2808 as supported by Council Minute 21-8 has been withdrawn.
2. Council supports the preparation of a revised Planning Proposal for Lot DP 914028 to amend Lithgow Local Environmental Plan 2014 as follows:
 - a. Council insert a new clause in Schedule 1 *Additional Permitted Uses* to identify development for the purposes of one dwelling-house as permitted with development consent upon Lot 1 DP 914028 and as shown on an APU Map.
3. The Planning Proposal documentation, once prepared, be forwarded to NSW Department of Planning, Industry and Environment for a Gateway Determination.
4. Council consults with the relevant government agencies as required. Council would consult with Water NSW prior to the issuing of Gateway Determination and Rural Fire Service prior to undertaking community consultation.
5. Council advise NSW Department of Planning, Industry and Environment that it proposes to seek approval to use the delegated functions under S3.36 (2)-(4) to make the plan following compliance with a Gateway Determination.
6. Council advises the relevant owner, in writing, that should any further technical reports be required to support the Planning Proposal that Council will require the landowner to incur the full costs of any such reports. If agreement cannot be reached in this regard the matter be reported back to Council.
7. A DIVISION be called in accordance with the requirements of Section 375A (3) of the Local Government Act, 1993.

MOVED: Councillor W McAndrew

SECONDED: Councillor J Smith

CARRIED: Unanimously

Divisions

FOR: Councillor R Thompson, Councillor S Ring, Councillor W McAndrew, Councillor C Coleman, Councillor D Goodwin, Councillor S Lesslie, Councillor J Smith

AGAINST: nil

9.2. Water and Wastewater Reports

9.2.1. WWW - 28/06/2021 - Water and Wastewater Report

21 -142 RESOLVED

THAT Council note the June 2021 Water Report as an update on water and wastewater management.

MOVED: Councillor S Ring

SECONDED: Councillor S Lesslie

CARRIED: Unanimously

Divisions

FOR: Councillor R Thompson, Councillor S Ring, Councillor W McAndrew, Councillor C Coleman, Councillor D Goodwin, Councillor S Lesslie, Councillor J Smith

AGAINST: nil

9.3. People and Services Reports

9.3.2. PS - 28/06/2021 - Delivery Program 2017-2022 and Operational Plan 2021/22

Original Motion

THAT Council:

1. Note the receipt of 14 submissions received prior to the closing date of the 25 May 2021 included in the Community Engagement Strategy Feedback Report attached.
2. Note that operational issues or general queries from the submissions have been responded to or referred to staff to action.