

TIMELINE OF PLANNING PROPOSAL

2-20 TELEGRAPH ROAD, YOUNG

15 DECEMBER 2021



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1. Introduction

Hilltops Council was formed in May 2016 post the amalgamation of Boorowa Harden and Young Local Government Areas. Since amalgamation Council has prepared a Hilltops Local Strategic Planning Statement and recently submitted a comprehensive Hilltops Local Environmental Plan to the Department of Planning, Industry and Environment.

During the preparation of the Hilltops LSPS and Hilltops LEP, Council had received submissions from the Telegraph Road landowners, Apollo Fabrication, to consider investigating and later rezoning the area as Industrial Land.

With limited studies undertaken to consider the rezoning of the site during the comprehensive LEP, Apollo met with Council to advise that a developer led site specific planning proposal would be submitted to allow for industrial use of the land.

Lodgment of Planning proposals are governed by the *Environmental Planning and Assessment Act 1979*.

2. Lodgment of Planning Proposal

Hilltops Council received a developer led, site specific Planning Proposal seeking to amend the Young Local Environmental Plan (LEP) 2010 to allow general industry at 2-20 Telegraph Road, Young.

Part of the site, being Lots 3 and 4 DP 845187, is used for an existing metal fabrication business and has existing use rights under Division 4.11 of the *Environmental Planning and Assessment Act 1979*.

The proponent seeks to expand their business across the site, however the existing use rights provisions and current land use zones prevent expansion.

The Planning Proposal and associated documentation included:

1. Planning Proposal prepared by Salverstro Planning;
2. Site Photos prepared by Various;
3. Urban Design Report prepared by PTW;
4. Environmental Noise Impact Report prepared by Day Design;
5. Environmental Noise Impact Report-Peer Review prepared by Renzo Tonin & Associates;
6. Traffic Impact Assessment prepared by Spotto Consulting;
7. Biodiversity Development Assessment Report prepared by Australia -Kingfisher;
8. Detailed Site Investigation prepared by El Australia;
9. Aboriginal Due Diligence & Historic Heritage Assessment Report prepared by OzArk;
10. Flooding & Infrastructure Services Report Flooding Advice (including attachments) Utility Servicing Feasibility Memorandum with Attachment: Certified Electrical Design prepared by Cardno and Delta Star Designs;
11. Economic Forecast Analysis prepared by Location IQ.

The Submitted Planning Proposal and Associated Documentation can be found in **Attachment 1-2L**

3. Independent Review and Assessment

Council engaged AQ Planning Pty Ltd to undertake an independent assessment of the Planning Proposal.

In summary, the independent assessment of the Planning Proposal concludes that the Planning Proposal does not satisfactorily demonstrate strategic merit and should not proceed to Gateway Determination.

AQ Planning's Independent Assessment can be found in **Attachment 4**

4. Council Meeting

The Planning Proposal was tabled at the October Ordinary Council Meeting held on 28 October 2021. The Council Report can be found in **Attachment 3**

The Council officers recommendation was not proceed with the Planning Proposal due to the Planning Proposal not having 'Strategic Merit'. The reasons for this are:

- (a) The Planning Proposal does not satisfactorily demonstrate Strategic Merit and is premature and pre-emptive of the necessary comprehensive local strategic planning work that is required, particularly as it relates to:
 - the supply and capacity of existing employment lands;
 - landscape based conservation values;
 - detailed place-based planning for the entire precinct, which would, among other matters consider the cumulative impact of potential development and infrastructure needs/upgrades and funding arrangements.
- (b) Consideration of the site in isolation of this strategic planning is likely to compromise the currently proposed intended outcomes for the area.

However, post discussion, Councillors voted to request additional information from the Applicant as outlined in the Independent Planning Report from AQ Planning. The resolution passed by Council, MIN21/237 was:

That Council:

(a) Delegate to the General Manager prepare the planning proposal documentation as submitted and including the Council Independent Review of planning proposal;

(b) The applicant be asked to provide material addressing the recommendations of AQ Planning within 30 days;

(c) Forward the planning proposal to the Department of Planning, Industry and Environment pursuant to Section 3.34 of the Environmental Planning and Assessment Act 1979, seeking a gateway determination;

(d) Subject to Gateway determination, undertake public exhibition and community consultation on the planning proposal in accordance with the

conditions of the Gateway determination and Council's Community participation Plan; and

(e) Receive a further report on the outcomes of public exhibition and community consultation.

The Council Resolution can be found in **Attachment 5**

5. Request for Information and Information Received

On Friday 29th October 2021, Council sent correspondence to the Applicant of the Planning Proposal, Salvestro Planning, with regard to Part (b) of Council's resolution, relating to the recommendations of the Independent Review of the Planning Proposal undertaken by AQ Planning Pty Ltd, to provide to Council the following additional information to Council by 26 November 2021.

The Council Letter Requesting Information can be found in **Attachment 6**

As resolved by Council the information requested being:

1. An assessment of the impact of the Planning Proposal, being additional land for general industry, in the proposed location on the viability and integrity of existing employment lands;
2. An assessment of the impact of the Planning Proposal on the natural environment, particularly an assessment of the landscape based conservation values of Victoria Creek and opportunities for protection and enhancement thereof;
3. A visual impact assessment of the Planning Proposal on surrounding land uses, particularly regarding the bulk, scale and setbacks of buildings and noise mitigation measures as well as potential for landscaping to screen the development given proposed building setbacks;
4. Detailed place-based planning for the entire Eastern Light Industrial area, considering the cumulative impact of development and infrastructure needs/upgrades, sequencing and funding for the entire investigation precinct, including the land-use aspirations of other land owners within the investigation precinct;
5. Funding arrangements for infrastructure provision. This can be in the form of an offer to enter into a Voluntary Planning Agreement or alternatively Council will prepare a site specific contributions plan under Section 7.11 of the *Environmental Planning and Assessment Act 1979* concurrently with the Planning Proposal; and
6. Reconsideration of the consistency of the Planning Proposal with relevant State Environmental Planning Policies and Ministerial Directions under Section 9.1 of the *Environmental Planning and Assessment Act 1979*. The Ministerial Directions that particularly require further assessment are:
 - 1.2 Rural zones
 - 1.5 Rural land

- 2.1 Environmental protection zones
- 3.1 Residential zones
- 3.2 Caravan parks and manufactured home estates
- 5.1 Implementation of Regional Strategies
- 6.2 Rezoning land for public purposes

Additional Information from Salvestro Planning was received by Council on 29th November 2021 and included:

- Cover Letter from Salvestro Planning
- Planning Proposal Addendum - Apollo Fabrication Group, 2 – 20 Telegraph Road, Young NSW – Salvestro Planning – 26 November 2021
- 1 - Telegraph Road, Young - Response to Council Question (Employment Land Impact) – Location IQ – 18 November 2021
- 2 - Natural Environment Assessment - Victoria Creek - By Ecological Consultants Australia Pty Ltd TA Kingfisher Urban Ecology and Wetlands – November 2021. Council has reviewed the information provided.

The Received Additional Information can be found in **Attachments 7-10**

6. Review of Submitted Information

Council requested AQ Planning review the additional information provided by Salvestro Planning to note whether the provided information satisfies Part (b) of the Council resolution.

AQ Planning provided the following advice:

The recommendations of the AQ Planning are detailed below with commentary as to whether the proponent has satisfactorily addressed the item.

1. *An assessment of the impact of the planning proposal, being additional land for general industry, in the proposed location on the viability and integrity of existing employment lands.*

Not satisfactorily addressed - Based on a Planning Assessment only. Council may wish to engage an Economic Consultant to peer review.

The proponent has submitted an additional report prepared by Location IQ which concludes there will be no impact on the viability and integrity of the existing employment lands.

It is our opinion that this report does not provide an assessment of the impact of additional employment lands on the viability and integrity of existing zoned employment lands. The report instead reiterates the reasons why Apollo consider existing industrial zoned land to be unsuitable to them, advises that Apollo does not compete with established businesses and therefore won't affect their viability, and reiterates the opportunity for jobs growth.

2. *An assessment of the impact of the planning proposal on the natural environment, particularly an assessment of the landscape based*

conservation values of Victoria Creek and opportunities for protection and enhancement thereof.

Not satisfactorily addressed - Based on a Planning Assessment only-. Council may wish to engage a qualified Biodiversity Consultant to peer review should it be considered necessary.

The proponent has submitted an additional report, prepared by EI Australia, which concludes:

- The development (as conceptually proposed for the purposes of the Planning Proposal) is outside all core riparian areas
- The riparian zone has a high weed abundance
- Weed removal and additional planting along the riparian zone.

From a planning assessment it is our opinion that this report does not provide a landscape based conservation assessment, being a strategic assessment of the role of Victoria Creek in the biodiversity of the LGA and the role of the site within this broader context. It is also not clear to what extent the findings of the report relate to the subject site or to adjacent land within the creek itself as they have not been mapped. In addition, the mapping that has been provided appears to be poor e.g. Figure 1.7d shows the indicative building footprint extending beyond the subject site in all directions.

It is noted in the report that the Council mapping of the riparian and sensitive lands may be slightly off accurate and this appears to be reflected in the overlay onto cadastre. This is an issue that should be resolved along the entirety of the creek corridor.

3. *A visual impact assessment of the planning proposal on surrounding land uses, particularly regarding the bulk, scale and setbacks of buildings and noise mitigation measures as well as potential for landscaping to screen the development given proposed building setbacks*

Not satisfactorily addressed as no additional Information provided.

The proponent claims the Urban Design Report prepared by PTW satisfactorily addressed this issue and there is no need to provide further assessment.

It is our opinion that this report does not satisfactorily address the issues raised.

4. *Detailed place based planning for the entire Eastern Light Industrial area, considering the cumulative impact of development and infrastructure needs/upgrades, sequencing and funding for the entire investigation precinct, including the land-use aspirations of other land owners within the investigation precinct*

Not satisfactorily addressed as no additional information provided.

The proponent claims there is no need for detailed place based planning for the entire investigation area as the Planning Proposal is for a site specific Schedule 1 LEP Amendment.

Irrespective of the mechanism proposed to facilitate the permissibility of a land use on a site, the decision making process should include an assessment of the strategic merit of the proposal.

In this regard, the Hilltops LSPS indicates the Eastern Light Industrial area as a precinct to be investigated for potential industrial use. Any proposal for a change in land use within this precinct should be considered in the context of this Strategic Direction, as ad hoc, site specific decisions may compromise the ability of the precinct to meet its potential/intended objectives.

As such, it is our opinion that irrespective of the mechanism proposed by the proponent, that the strategic place based planning work must be undertaken for the whole precinct prior to decisions being made on individual sites within the precinct.

5. *Funding arrangements for infrastructure provision. This can be in the form of an offer to enter into a Voluntary Planning Agreement or alternatively Council will prepare a site specific contributions plan under Section 7.11 of the Environmental Planning and Assessment Act 1979 concurrently with the planning proposal.*

The proponent indicates details of a VPA can be prepared prior to development approval and would include enhancement of the Victoria Creek corridor and infrastructure improvements to Telegraph Road intersections.

It is noted that this does NOT comprise a formal offer to enter into a VPA and as such does not satisfactorily address this item, however the proponent raises no objection to a site specific contributions plan.

6. *Reconsideration of the consistency of the Planning Proposal with relevant State Environmental Planning Policies and Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979. The Ministerial Directions that particularly require further assessment are:*

- 1.2 Rural zones
- 1.5 Rural land
- 2.1 Environmental protection zones
- 3.1 Residential zones
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- 5.1 Implementation of Regional Strategies
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Addressed, however the justification is based on the land not actually being rezoned, as proposed in the amended Planning Proposal. Whilst this is technically correct the outcome is essentially the same as the land will no longer be available for the use intended by the land use zone.

7. Gateway Determination Assessment Request

The information request offered to the applicant to provide to Council within 30 days as per Council resolution, generally did not satisfy the resolution. Therefore, as the resolution passed by Council to submit the documentation, Council officers request that the Department of Planning, Industry and Environment seek further information as per the above from the applicant to form part of the Gateway determination assessment.

For Council to undertake the technical studies and preparation of reports would be a financial and time liability and risk to the application process. As a developer led project and documentation that had not satisfied the project, it is considered the project studies and reports are to be undertaken by the developer for Gateway consideration.