

14.5 DRAFT WOLLONDILLY HERITAGE PLANNING PROPOSAL

At 8:03pm, Cr Michael Banasik left the meeting due to a previously declared conflict of interest in this matter.

RESOLUTION 369/2023

Moved: Cr Matthew Gould

Seconded: Cr Matthew Deeth

That:

1. ***Council acknowledge the 72 submitters that provided feedback on the draft proposal.***
2. **Council agree that the Planning Proposal has strategic planning merit and supports the principle of identifying and protecting items and places with heritage significance in Wollondilly by implementing the recommendations of the heritage studies undertaken to inform the planning proposal.**
3. **Council support progressing the Planning Proposal, in the form described at Attachment 2 with the following changes:**
 - a) ***Include:***
 - i. ***The full road reserve and length of Old Razorback Road.***
 - ii. ***The full length of the Upper Canal including the open canal and piped sections.***
 - b) ***Remove the following items:***
 - i. ***Bindook Station.***
 - ii. ***Former Petrol Station and Workshop, Oakdale.***
 - iii. ***Appin Road Conservation Area.***
 - c) ***Defer the following items for consideration as a separate proposal to allow for additional analysis of heritage merit:***
 - i. ***Any item being considered for delisting/removal from the LEP.***
 - ii. ***Store (Former) 168 Argyle St Picton.***
 - d) ***Amend the proposal in the following ways:***
 - i. ***Update locality and village names throughout the document as appropriate to reflect recent changes to locality names.***
 - ii. ***Not support the listing of partial lots without clear justification, and instead list full lots. Where items have clear justification for partial lot listing update the LEP maps to make clear which area is covered.***
 - iii. ***Updating the address and Item name for the Wollondilly Shire Hall.***
4. ***Council acknowledge the representations of the 6 speakers at the Community Forum, and the 11 speakers at the Local Planning Panel, for and against the recommendations.***
5. ***As a result of the representations, Council has decided to make the changes outlined in point 3 and on balance make no changes at this stage to the proposed Model Dairy Number 3 and Mt Taurus listings, noting both the representations from the landowner against the listing but the significance that was identified both by council's expert consultant and that the former Mt Taurus Planning Proposal also acknowledged the***

historical importance of these items.

6. *Council undertake further analysis prior to the planning proposal coming back to council on items that are proposing to amend the lots covered by a particular listing to make sure that they are appropriate and confirm any lots proposed to be removed don't have items of any heritage value*
7. *Council call for the deferred items in point 3 to be reported back to Council before April 2024 and those items to be progressed separately if supported at that time.*
8. *Council's support to progress the Planning Proposal should not be taken as support for all or any of the proposed changes at this stage and that a final decision will be made after a public exhibition.*
9. *Council submit the Planning Proposal to the NSW Department of Planning and Environment with a request for a Gateway determination.*
10. *To ensure transparency and due process an independent review be undertaken into all proposed listings for assets owned or under the care and control of council.*
11. *Given council assets are proposed to be listed as heritage items under this planning proposal, Council request it not be the Local Plan Making Authority for this planning proposal.*
12. *As the Planning Proposal progresses, staff further investigate and assess the site-specific merit of the changes and, where relevant, seek independent advice and establish a process for independent peer review where warranted to inform a future report to Council after a public exhibition and prior to finalisation.*
13. *Landowners of all sites under consideration be given the opportunity to have an on-site visit by council staff to ground truth the proposed listing and consider any issues or concerns regarding the heritage merit of the proposed listing.*
14. *Prior to the final report coming back to council a special briefing be held for councillors going through each proposed heritage item in detail, including its heritage significance, and any feedback on the proposed listing from owners or community members as well as any updated staff recommendations.*
15. *Council notes that a further report will be prepared for Council approval incorporating feedback from the public exhibition process and any recommended changes to the proposed changes.*
16. *Future heritage LEP reviews be programmed in at approximately once per term of Council to prevent significant backlogs forming, as has occurred prior to this review.*
17. *Any affected landowners be notified of Council's decision.*
18. *Any submitters be notified of Council's decision.*

On being put to the meeting the motion was declared **CARRIED 7/1**

In Favour: Crs Suzy Brandstater, Blair Briggs, Matthew Deeth, Hilton Gibbs, Matthew Gould, Judith Hannan and Paul Rogers

Against: Cr Beverley Spearpoint

14.5 DRAFT WOLLONDILLY HERITAGE PLANNING PROPOSAL

File Number: 12275-2#161

Directorate: Shire Futures

Proposal: Draft Planning Proposal to recognise places that have heritage significance by updating the Environmental heritage schedule in the *Wollondilly Local Environmental Plan 2011*

Applicant: Wollondilly Shire Council

EXECUTIVE SUMMARY

The purpose of this report is to advise Council on the Council initiated planning proposal (draft proposal) to update heritage listings for the Shire and ensure Wollondilly's heritage places are properly identified, documented and managed. This report recommends Council support the draft proposal for Gateway determination.

The draft planning proposal is informed by the findings and recommendations of the Shire Wide Heritage Study and other relevant heritage studies. These studies reviewed existing heritage listings, heritage conservation areas and listed archaeological sites and investigated potential new heritage items for listing.

In response, the following amendments to *Wollondilly Local Environmental Plan 2011* (WLEP 2011) and State Environmental Planning Policy (Precincts – Western Parkland City) 2021 (Precincts SEPP) are sought by the draft proposal:

- 55 new heritage items.
- Three (3) Landscape Conservation Areas (Spaniard's Hill, Vault Hill and the Appin Massacre landscape).
- One new Heritage Conservation Area (Appin Road Conservation Area).
- Extension to the existing Picton Heritage Conservation Area.
- Removal of five (5) existing Heritage items as they no longer retain their heritage significance.
- Amalgamation of four (4) items.
- Minor housekeeping revisions to 49 existing items.

Preliminary notification has been undertaken to advise affected landowners and other stakeholders and seek feedback on the proposed amendments. In response, 72 submissions were received including two public agency submissions.

In order to ensure significant heritage items and places are adequately protected as early as possible, this report recommends that the principle of the draft planning proposal is supported. Subject to a favourable Gateway determination, formal public exhibition will trigger statutory protection of draft heritage items identified in the draft proposal.

Progressing the draft proposal will still allow submitters to make further representations to Council during the public exhibition period. A post exhibition report to Council will recommend any amendments to the draft proposal in response to submissions and further consideration and feedback received during preliminary notification.

This means that no adjustments will be made to the draft proposal at this stage, with the exception of including additional land, being the full road reserve and length of Old Razorback Road and the full length of the Upper Canal, as detailed in this report.

RECOMMENDATION

That Council:

1. Agree that the Planning Proposal has strategic planning merit and supports the principle of identifying and protecting items and places with heritage significance in Wollondilly by implementing the recommendations of the heritage studies undertaken to inform the planning proposal.
2. Support progressing the Planning Proposal, in the form described at Attachment 2 to this report with the inclusion of the following additional land:
 - the full road reserve and length of Old Razorback Road,
 - the full length of the Upper Canal including the open canal and piped sections
3. That Council's support to progress the Planning Proposal should not be taken as support for all of the proposed changes at this stage and that a final decision will be made after a public exhibition.
4. Submit the Planning Proposal to the NSW Department of Planning and Environment with a request for a Gateway determination.
5. Request authorisation for Council as the Local Plan Making Authority to undertake the plan making functions for this planning proposal.
6. That as the Planning Proposal progresses, staff further investigate the site-specific merit of the changes and, where relevant, undertake site visits and seek independent advice to inform a future report to Council after a public exhibition and prior to finalisation.
7. Notes that a further report will be prepared for council approval incorporating feedback from the public exhibition process and any recommended changes to the proposed changes.
8. That any affected landowners be notified of Council's decision; and
9. That any submitters be notified of Council's decision.

REPORT

Background

Wollondilly 2040, Council's Local Strategic Planning Statement (LSPS), recognises the deep attachment that communities have with places and heritage preservation was noted as an important issue for the community.

Wollondilly 2040 includes several heritage related objectives and actions in the short term, including a review of the heritage schedule and identification of new heritage items for protection.

The last Heritage Study was adopted by Council in 1992. As such, the completion of the Shire-Wide Heritage Study is immensely important to enable a thorough audit and ensure that appropriate protection is in place for significant heritage places and objects across the Shire.

The Shire Wide Heritage Project has been progressed in two stages as resources have become available to fund the necessary studies:

- The Appin, Thirlmere, Warragamba, Menangle – Heritage Study (April 2021), also known as Stage 1 Heritage Study.
- The Shire-Wide Heritage Study (August 2023), which considers those areas not covered by the Stage 1 study.

In addition to the above studies, the following technical studies were prepared to inform the draft proposal:

- Heritage Assessment Mount Taurus (August 2023).
- Wollondilly Heritage Study Addendum – Appin Road Conservation Area (October 2022).
- Staff Road Cottages at Maldon – Peer Review Report (September 2023).

The aim of the heritage studies and supplementary technical studies was to inform updates to the relevant environmental planning instruments (legislation) that protect heritage item or places in Wollondilly. The updates include reviewing existing listed items, heritage and landscape conservation areas and archaeological sites and to identify potential new heritage items for inclusion.

An overview of these studies is provided later in this report.

Site Description

The draft planning proposal applies to various sites across the Wollondilly Shire as detailed in **Attachment 1**.

Description of proposal

The draft Planning Proposal seeks to amend the relevant environmental planning instruments to conserve the heritage significance of various sites throughout Wollondilly Shire.

It seeks to do this through the following amendments to Schedule 5 of Wollondilly LEP 2011 (or an amendment to the Precincts SEPP if on land in which the LEP does not apply):

Specifically, the draft proposal proposes the following amendments:

- 55 new Heritage items;
- Three (3) Landscape Conservation Areas (Spaniard's Hill, Vault Hill and the Appin Massacre landscape);
- One new Heritage Conservation Area (Appin Road Conservation Area);
- Extension to the existing Picton Heritage Conservation Area;
- Removal of five (5) existing Heritage items as they no longer retain their heritage significance;
- Amalgamation of four (4) items;
- Minor housekeeping revisions to 49 existing items.
- Amend Heritage Maps by inclusion of the respective sites for new items and conservation areas, and any amendments to the curtilage of existing items.

A table summarising the proposed amendments in further detail is provided at **Attachment 1**.

The draft proposal is provided at **Attachment 2**.

A Councillor briefing on the post exhibition outcomes for the draft proposal was held on 7 November 2023.

Overview of the heritage studies

As noted previously in this report, a number of heritage studies have been undertaken to inform the draft proposal. An overview of these studies is provided below.

Appin, Thirlmere, Warragamba, Menangle – Heritage Study (Stage 1)

In September 2020, Council commissioned a heritage consultant, Extent Heritage, to prepare a heritage study for Appin, Menangle, Thirlmere, and Warragamba.

This study was completed in April 2021, and recommends the listing of 24 new heritage items, one (1) new heritage conservation area, and revisions to 35 existing heritage items.

The Stage 1 Study forms Appendix G of the draft proposal and is available at [Your Say Wollondilly](#).

Shire-Wide Heritage Study (Stage 2)

In May 2022, Council engaged a heritage consultant, City Plan, to review existing heritage listings and potential new heritage items for the Shire as part of the Shire-Wide Heritage Study project. This study was finalised in August 2023 and covered those areas that were not covered by the Stage 1 heritage study.

The heritage study resulted in the investigation of 236 existing heritage items, two heritage conservation areas, and 12 archaeological sites. Council and the local community also proposed 22 amendments to existing heritage sites to ensure these items are more appropriately protected, as well as nominated 64 new potential heritage items to be investigated. The review of these potential heritage items identified the fact that several items shared the same history with other nominated items, and thus 12 items were amalgamated into one (1) group ('Burraborang Valley Group') and another two items into a second group ('Jarvisfield Mineral Springs and Guesthouse'). The investigation of potential heritage items ultimately resulted in a total of 34 new heritage items being recommended for heritage listing.

The recommendations from the Shire Wide Heritage Study form the basis of this planning proposal to amend and update the shire wide heritage listings.

The Shire Wide Heritage Study forms Appendix F of the draft proposal and is available at [Your Say Wollondilly](#).

Heritage Assessment - Mount Taurus

At Council's Ordinary Meeting dated 13 December 2022, Council resolved to prioritise a heritage review for Mount Taurus (Resolution 347/2022) following an earlier Resolution of Council (Resolution 253/2022) for the Elizabeth Macarthur Agricultural Institute.

A heritage consultant, City Plan Heritage, was subsequently engaged to undertake a heritage assessment for the 'Mount Taurus' site to investigate whether the site's heritage significance and whether it met the criteria to warrant listing at a Local and/or State level.

The subject site included the landscape encompassed within Lot 100 DP 1276755 (65 Woodbridge Road), which was the subject of the Mulpha Mount Taurus Planning Proposal to allow for approximately 1,856 low and medium density residential houses, as well as retail, commercial, educational, and open space facilities, to be built on 'Mount Taurus'. This Planning Proposal was refused by the Council in July 2022.

The heritage assessment for Mount Taurus was completed in August 2023 and concluded that the 'Mount Taurus' landscape has state significance. The investigation recommends heritage listing based on the heritage qualities the site possesses, and a comparative analysis undertaken for the site with the similar 'Prospect Hill'.

The recommended heritage curtilage for the Mount Taurus heritage item incorporates the hill and surrounding landscape, extending across most of the allotment (Lot 100 DP 1276755) to ensure that significant views of the landscape, as well as physically and visually sensitive areas, are captured.

It is noted that nomination of sites for listing on the State Heritage Register is beyond the scope of the draft planning proposal.

The consultant was also asked to provide a peer review of the heritage significance of the dairy cottage on the same site that had been identified as a potential item in the Wollondilly Stage 1 Heritage Study. A peer review was considered necessary in response to the proponent's heritage study submitted as part of the draft planning proposal for the Mount Taurus site that recommended that the cottage did not warrant listing.

The peer review recommends that the Model Dairy No. 3 – including double silo, milking shed, previously mentioned dairy cottage and outbuildings be nominated for listing as a heritage item.

The Mount Taurus Heritage Assessment forms Appendix K of the draft proposal and is available at [Your Say Wollondilly](#).

Wollondilly Heritage Study Addendum – Appin Road Conservation Area

In June 2022, Council engaged a heritage consultant to undertake an addendum for the Stage 1 Heritage Study, which included a review of the areas of Appin, Thirlmere, Menangle and Warragamba. The scope of the addendum was limited to a review of the proposed Appin Road Conservation Area, located at Appin, and a potential heritage item, Farm Buildings located at 440 Macquariedale Road, Appin.

The addendum required a review of the above-mentioned draft heritage conservation area and draft heritage item to determine if they are of heritage significance, as previously, their identification was inconclusive and required a peer review.

Based on the findings of this heritage study addendum, the area to the east of Appin Road – between Macquariedale Road and Church Street – was found to provide evidence of the original township and a high level of contributing items.

The Appin Conservation Area, with a reduced curtilage in accordance with the Heritage Study Addendum, is therefore proposed to be progressed as part of this draft planning proposal

The Appin Road Conservation Area Addendum forms Appendix H of the draft proposal and is available at [Your Say Wollondilly](#).

Staff Road Cottages at Maldon – Peer Review

In August 2023, Council commissioned a heritage consultant, GML Heritage, to undertake a peer review of two heritage reports relating to Nos 3 and 10 Staff Road, Maldon being:

- Heritage Data Form prepared for the Shire-Wide Heritage Study: and
- Heritage assessment submitted in support of the proponent-initiated Maldon Bridge Road Planning Proposal.

The peer review was undertaken to review conflicting recommendations on the heritage values of the subject properties in the above reports. The review concluded that the heritage assessment submitted by the proponent of the Maldon Bridge Road Planning Proposal benefited from greater access to the site and documentary resources not publicly available, thus allowing for the preparation of more detailed heritage assessment.

The peer review concurred with the advice of the proponent's heritage assessment that the 'Staff Road Workers Houses' (3 and 10 Staff Road, Maldon) did not meet the threshold for local significance. As such, the proposed listing Staff Road Workers Houses' does not form part of the draft proposal and is noted in this report for transparency.

The Staff Road Cottages at Maldon Peer Review forms Appendix J of the draft proposal and is available at [Your Say Wollondilly](#).

Gateway Determination

If supported by Council, the draft planning proposal will be submitted to the NSW Government Department of Planning and Environment with a request for a Gateway determination.

PLANNING CONTEXT

Wollondilly Community Strategy Plan 2033 (CSP 2033)

The Wollondilly Community Strategic Plan 2033 (CSP) is Council's highest-level long-term plan. It identifies and expresses the aspirations held by the Community of Wollondilly and sets strategies for achieving those aspirations.

The draft proposal is consistent with the priorities and five key pillars outlined in the CSP. In particular, the Place & Landscape pillar which recognises Wollondilly's unique towns and villages and their setting within the natural landscape.

Objective 9.3 seeks to manage places with special landscape, rural and scenic value.

The completed heritage studies and draft proposal will implement two priority actions in the Delivery Program 2022/23-2025/26 to implement objective 9.3. These include:

Priority Projects & Actions from Delivery Program	
9.3.1	Identify heritage items across the Shire to include on Wollondilly's heritage register
9.3.3	Amend Wollondilly's Local Planning Framework in accordance with heritage studies

Wollondilly 2040 Local Strategic Planning Statement (LSPS)

Wollondilly 2040, Council's Local Strategic Planning Statement 2040 (LSPS) is a 20-year land use vision for Wollondilly. Wollondilly 2040 identifies a number of actions under each of its 18 planning priorities.

Heritage, and Wollondilly's historic villages are recognised throughout the Statement. In particular, Planning Priority 7, *Cultivating a Creative and Cultural Destination Connection People with Places*, recognises the deep attachment that communities have with places and heritage preservation. The completed heritage studies and draft proposal will implement a number of actions from Wollondilly 2040. These include:

Action	
7.7	Investigate the need and scope of a heritage conservation area in Appin
7.8	Review our heritage schedule and identify new heritage items for protection
7.9	Investigate options to protect and preserve the heritage values of Warragamba and buildings associated with the construction of Warragamba Dam
7.11	Investigate options to strengthen and expand heritage protection in and around the Thirlmere heritage conservation area

The draft proposal is consistent with the key planning directions outlined in the LSPS.

Western City District Plan 2018

The Western City District Plan (District Plan) is a 20-year plan that guides implementation of the Greater Sydney Region Plan and acts as a bridge between regional and local planning. It outlines a number of directions, priorities and actions for managing growth, delivering infrastructure and protecting and enhancing bushland and biodiversity.

The draft proposal is consistent with Action No.21 of the District Plan to *Identify, conserve and enhance environmental heritage by: a. engaging with the community early in the planning process to understand heritage values and how they contribute to the significance of the place.*

Metropolitan Rural Area (MRA)

The draft proposal is consistent with the values of the MRA, which has importance for protecting areas of cultural, heritage or scenic value.

The draft proposal is therefore considered consistent with the District Plan.

Section 9.1 Ministerial Directions

The Minister for Planning has issued a number of Directions under the *Environmental Planning and Assessment Act 1979* which apply to the assessment of planning proposals.

This draft proposal is consistent with the relevant ministerial directions.

A full assessment against relevant directions is included in Appendix B of the draft proposal, provided at **Attachment 2**.

State Environmental Planning Policies

The NSW Government publishes State Environmental Planning Policies (SEPPs) and Sydney Regional Environmental Plans (SREPs). These documents deal with matters of state or regional planning significance.

The draft proposal is consistent with all applicable SEPPs and SREPs.

A full assessment against all relevant SEPPs and SREPs is included at Appendix A of the draft proposal, provided at **Attachment 2**.

Greater Macarthur 2040: An Interim Plan for the Greater Macarthur Growth Area (where relevant)

The Greater Macarthur 2040 plan is a land use and infrastructure implementation plan for the Greater Macarthur Growth Area.

The draft proposal includes three (3) new heritage items, one (1) heritage conservation area (Appin Road Conservation Area) and one (1) landscape heritage conservation area (Appin Massacre Cultural Landscape Conservation Area) within the Greater Macarthur 2040 Growth Area.

The draft proposal is considered consistent with Greater Macarthur 2040, in particular with the plans vision to “*protect areas of European and Aboriginal heritage significance*”; and the planning principles which concern heritage, including that precinct planning must “*protect all heritage items from development*”.

CONSULTATION

Stakeholder engage during Study Preparation

The preparation of the Stage 1 Heritage Study and the subsequent Shire Wide Heritage Study engaged were informed by consultation with local heritage contacts. This consultation was undertaken by the consultants who prepared the studies and included local historical societies and the Wollondilly Heritage Centre & Museum.

In early 2022, Council promoted an opportunity for the community to nominate potential heritage items (a ‘call for sites’) as part of the ‘Protecting our Heritage’ public consultation. A number of suggestions were received which were provided to the consultant who prepared the Shire Wide Heritage Study and, following investigation, have been included in the draft planning proposal.

In addition, relevant Council committees have also been engaged as the project has progressed:

- The Heritage Community Advisory Committee was briefed ahead of the preparation of the Shire Wide Heritage Strategy on 21 October 2021 and provided a list of items for the upcoming strategy.
- A briefing was held with the Indigenous Culture and Heritage Advisory Group on 19 June 2023 and focused on proposed listings with Aboriginal relevance. Advisory Group members were invited to provide feedback.
- An extraordinary meeting of the History & Heritage Advisory Group was held on 20 July 2023 to present the proposed amendments to be included in the draft planning proposal.
- An update was provided to the History & Heritage Advisory Group at its most recent meeting held on 12 October 2023 during the preliminary consultation period.

It is also noted that where staff were alerted to a development proposal that affected any of the proposed listings, they proactively engaged with the stakeholder by sharing the draft heritage listing sheet for the item prior to the studies finalisation and release. This included information on what is of significance on the site. This approach was relevant to planning proposals, development applications and early stage development of proposals.

In one case, mentioned earlier in this report, this resulted in the proposed listing being removed from the proposed changes following the availability of more detailed information.

Community Consultation

Preliminary notification of the draft proposal was undertaken for a period of 28 days between 18 September and 16 October 2023 to invite community and stakeholder feedback on the proposed amendments.

All documents relevant to the draft proposal were published on Council's engagement platform, Your Say Wollondilly, along with supporting information about the process.

The preliminary notification was held in accordance with Council's Community Participation Plan and adopted Planning Proposal Policy. These establish the minimum community engagement requirements for planning proposals and require a preliminary consultation period to better understand the planning considerations and local attitudes to proposals.

Community and stakeholder feedback were encouraged through:

- Notification letters were sent to affected landowners and residents.
- Notification letters were sent to affected adjoining landowners and residents (for proposed new heritage items).
- Notification emails were sent to key external stakeholders.
- Public notice in local newspaper.
- Social media posts (including three Facebook posts and one Twitter/'X' post)
- Hard copies of the draft planning proposal were available for inspection at Council's administration building, Wollondilly Library, mobile library and the Dilly Wanderer.

This promotion has resulted in a lot of interest in the proposed changes. To date, staff have assisted with 53 enquiries seeking further information about individual sites.

In response, 71 submissions were received to the preliminary notification.

Of the submissions:

- 53 were not supportive (70%), including 23 for one proposed new heritage item ('Bindook').
- 18 were supportive (24%).
- 5 were neutral (6%).

A petition signed by 12 landowners was also received objecting to the proposed Appin Road Conservation Area.

In broad terms, the key matters raised in submissions that did not support the proposed amendments can be summarised as follows:

- Disagreement with the assessed heritage value (23 submissions).
- Concerned about the potential financial burden associated with a heritage item (15 submissions).
- Allege that the proposed heritage item is in poor irreparable condition (six (6) submissions).
- A perception that heritage listing means no changes can be made to the item (five (5) submissions).
- May prevent future residential development on the site (five (5) submissions).
- Against the owners wishes (three (3) submissions).
- Indicated that they would be seeking their own independent heritage advice (three (3) submissions). Although, it is noted that a number of stakeholders indicated verbally they intended to seek independent heritage advice.

Landowners, residents and/or agencies that have indicated that they are seeking their own heritage advice have been advised that any additional information relating to the proposed

amendments will be accepted up to and including the closing date of any post-gateway public exhibition period.

It is acknowledged that further assessment, including site investigations, for some of the proposed heritage listings will be required post-gateway due to information received in response to the preliminary notification.

Two submissions, including the Picton Historical Society and the Razorback Environmental Protection Society, have recommended that the proposed extension to the existing Old Razorback Road listing is extended even further to take in the full road reserve and length of Old Razorback Road up to Cawdor. It is recommended that the full road reserve is included within the planning proposal to enable this to be investigated further as the draft proposal progresses. This is because it will not be possible to include additional land within the planning proposal after a Gateway determination is issued.

A summary of community submissions and Council's response to these submissions is provided at **Attachment 3**.

It is noted that, the requirement for preliminary notification of 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.

Should the draft proposal proceed and receive a Gateway determination, formal public exhibition will be undertaken in accordance with Council's Community Participation Plan and any other requirements included in the Gateway determination.

Consultation with Public Agencies

To date, advice has been sought from two public agencies, the Department of Planning and Environment (DPE) and Heritage NSW.

DPE did not provide comments during the recent preliminary notification. However, DPE have provided earlier feedback in response to the Scoping Proposal that was prepared as part of the initial stage of the local environmental plan making process prior to preparing a draft planning proposal DPE recommended that staff clarify with Heritage NSW whether formal consultation would be required at the Preliminary Exhibition stage.

DPE also provided advice on the proposed Appin Road Conservation Area to ensure that justification or rationale is sufficient to propose the new heritage conservation area. Previous comments provided by DPE have not been counted as a submission to the preliminary notification.

The Heritage NSW referral response provided stated that new heritage listings are encouraged to provide for greater heritage protection provided that all necessary due diligence, assessments and notifications have been undertaken. Prior to finalisation of the planning proposal, Council should be satisfied that this is the case.

In addition to the above, Water NSW made a submission, in part, as a landowner of multiple sites proposed for heritage listing.

Water NSW have requested spatial data, further information and a meeting prior to Gateway have been requested on matters relating to the following proposed heritage items:

- Burragorang Valley
- Burragorang Valley Group
- Warragamba Supply scheme
- Broughton Pass Weir

The submission makes comment that the proposal is inconsistent with Ministerial Direction 3.3 Sydney Drinking water catchment, and have concerns that listing will have implications for items

owned by them under SEPP - Transport and Infrastructure and SEPP Biodiversity and Conservation.

Water NSW support the draft proposal and have only minor suggestions for the following proposed heritage items:

- Upper Canal
- Windmill Group, Appin

Staff will continue to engage further with Water NSW prior to public exhibition (Post Gateway) and update the Planning Proposal as appropriate. However, at this stage, further engagement is necessary to understand whether the concerns raised by Water NSW can be addressed.

It is recommended that the full length of the Upper Canal, including the open canal and piped sections, is included within the planning proposal to enable this to be investigated further as the planning proposal progresses. This would take in private land and public infrastructure assets. As noted earlier as part of a similar recommendation, this is because it will not be possible to include additional land within the planning proposal after a Gateway determination is issued.

Further consultation will be undertaken as required by any Gateway determination issued by the Department.

A complete assessment of issues raised by public agencies is located at **Attachment 3**.

Internal consultation

As part of the preliminary consultation, feedback was also invited from the relevant teams within Council either representing Council interests as a landowner or to provide specialist advice.

The following issues were raised:

- Discrepancies have been identified between proposed items in this draft proposal and heritage items included in the incoming State Environmental Planning Policy – Appin (Part 1) Precinct, due to commence December 2023.
- Significant upgrade works were undertaken to proposed heritage item at Mount Hercules causeway in July 2022. Assessment of this potential heritage item as part of the Shire-Wide Heritage Study occurred prior to this date, and the heritage significance of the original causeway was not known at the time of the upgrade works. Further consideration is now required to determine whether the proposed item is still appropriate for listing.

CONCLUSION

The objective of the draft proposal is to update heritage listings for the Shire and ensure Wollondilly's heritage places are properly identified, documented and managed.

The draft proposal is consistent with Council's and State Government's plans to identify and protect heritage significant properties and it is therefore recommended that the proposal be supported.

Local Planning Panel Advice

As required by the ministerial direction issued on 27 September 2018, the proposal was reported to the Wollondilly Shire Local Planning Panel (the Panel).

The Panel consists of independent qualified individuals and is required to provide advice on planning proposals to Council for its consideration before Council considers whether or not to forward it to the NSW Government.

The draft planning proposal was reported to the Local Planning Panel at its meeting on 7 December 2023.

At the time of this report's preparation the Minutes, including advice, from the Panel meeting were not available and will be provided under separate cover once published.

Options for Moving Forward

The aim of the draft proposal is to ensure that heritage items and places of significance within Wollondilly are recognised and adequately protected by environmental planning instruments. With this in mind, the priority is to progress the draft proposal as quickly as possible to a stage that triggers statutory protection (i.e. public exhibition).

Once the planning proposal commences a public exhibition, the proposed changes will have status as a 'proposed instrument'. This would, for example, mean that the proposed changes would need to be considered in determining a development application.

It would also remove the ability to demolish proposed heritage items without the need for development consent.

A positive Gateway determination from the NSW Government is required before a public exhibition can be held.

It is acknowledged that there has been significant interest in the proposed changes, and unsurprisingly, many of the affected landowners do not support the proposed new listings.

From the feedback received so far, a number of items have been identified for further investigation, and a number of stakeholders have indicated that they will be seeking independent heritage advice.

It is recommended that the draft planning proposal is progressed in the form recently exhibited, and no significant changes are made until a final report is prepared for Council's consideration after the public exhibition. This would enable:

- A consistent and transparent approach to be applied across the proposed changes,
- Additional time for landowners to seek independent advice and submit this to Council for consideration,
- A peer review of any independent advice, and any sites where a need for further investigation has been identified. This could be undertaken by Council's consultant Heritage Advisor or by an independent consultant.
- Site visits to be undertaken where further investigation is required.

There are two exceptions to this. It is recommended that the following additional land is included within the planning proposal:

- The full road reserve and length of Old Razorback Road up to Cawdor
- The full length of the Upper Canal including the open canal and piped sections.

This is because, it is not possible to include additional land within the planning proposal once progressed. It is noted that both of these items are already listed and the recommended changes are to extend the current listing.

Although this is a change to the draft planning proposal, it is consistent with the principles mentioned above.

At this stage, it is considered likely, that there will be changes recommended before finalising the planning proposal. This may include removing items from the proposed changes.

It is noted that, by their nature, shire wide heritage studies are resource intensive and are usually undertaken by professionally qualified heritage experts on the basis of desktop research, consultation with local heritage knowledge holders and limited access to sites. It is not practicable to gain access to all of the heritage sites and site visits are based on visibility from public roads and land. It is recommended that where the heritage status of proposed listings is in question, that an on-site visit is undertaken to inform the recommendations.

The draft proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning & Assessment Act 1979* and the Local Environmental Plan Making Guideline published by the NSW Government.

The options to be considered are:

1. Resolve to support the draft proposal in the form as described in the Description of Proposal section of this report with the inclusion of additional land associated with the Old Razorback Road item. With this option, Council is supporting the principle of identifying and protecting heritage and implementing the recommendations of the heritage studies undertaken to date. A final decision on the proposed changes would be made following the formal public exhibition.
2. Resolve to support the draft proposal in another form.
3. Resolve not to support the draft proposal. With this option there is no further action to be taken.

Option 1 is the recommendation of this report.

FINANCIAL IMPLICATIONS

The draft proposal is a key process to implement the recommendations of the Shire Wide Heritage Study and Planning Proposal to review and identify new heritage significant properties in Wollondilly LEP 2011.

Funding for this project to date has been a mixture of grants and Council's adopted budget.

The Stage 1 Heritage Study was funded by the NSW Government as part of the Accelerated LEP Review Program Funding Agreement. The Shire Wide Heritage Study has been part funded through Heritage NSW's 2021-23 NSW Heritage Grants Program with match funding from Council.

Project management of consultants and progressing the planning proposal has been delivered with Council's adopted budget.

As the planning proposal progresses, it is anticipated that peer reviews will be required by an independent heritage consultant and this will be met from Council's adopted budget.

ATTACHMENTS

1. **Table Summarising Amendments to Heritage List** 
2. **Draft Wollondilly Heritage Planning Proposal** 
3. **Table Summarising Community & Stakeholder Submissions** 