

14.5 DRAFT PLANNING PROPOSAL - 80 SILVERDALE ROAD THE OAKS

RESOLUTION 44/2025

Moved: Cr Hilton Gibbs

Seconded: Cr Trish Hill

That Council:

1. **Note the Wollondilly Shire Planning Panel's advice to not support the draft Planning Proposal.**
2. **Not support the draft Planning Proposal noting that it does not demonstrate sufficient strategic merit due to its inconsistency with the strategic planning framework including:**
 - a. **Planning Priority W1, W3, W5 and W16 in the Western City District Plan;**
 - b. **Ministerial Directions; 1.1 Implementation of Regional Plans, 3.3 Sydney Drinking Water Catchments, 6.1 Residential Zones, 9.1 Rural Zones and 9.2 Rural Lands.**
 - c. **Wollondilly 2040, Local Strategic Planning Statement (LSPS), including:**
 - i. **Planning Priority 1 – Aligning infrastructure provision with community needs.**
 - ii. **Planning Priority 3 – Establishing a framework for sustainable managed growth.**
 - iii. **Planning Priority 5 – Providing Housing options that meet local needs and match the local character of towns and villages.**
 - iv. **Planning Priority 13 – Protecting Biodiversity and Koala Habitat Corridors.**
 - v. **Planning Priority 16 – Enhancing and Protecting the Diverse Values of the Metropolitan Rural Area.**
 - d. **Council's adopted Local Housing Strategy and Rural Lands Strategy.**
3. **Note that several specialist studies submitted with the proposal do not provide sufficient information and assessment to inform or justify the draft Planning Proposal.**
4. **Note that the draft Planning Proposal will not enhance the values of the Metropolitan Rural Area by delivering any place-based outcomes to deliver targeted environmental, social or economic outcomes.**
5. **Note that the draft Planning Proposal has not demonstrated that future development can be adequately serviced by essential infrastructure.**
6. **Not forward the draft Planning Proposal to the Department of Planning, Housing and Infrastructure for a Gateway determination.**
7. **Notify the proponent, landowners and any person who made a submission of Council's decision.**

On being put the meeting the motion was declared **CARRIED 9/0**

In Favour: Mayor Matt Gould, Cr Matthew Deeth, Cr Hilton Gibbs, Cr Paul Rogers, Cr Suzy Brandstater, Cr Jacqueline Jenson, Cr Trish Hill, Cr Benn Banasik and Cr Ally Dench

Against: Nil

14.5 DRAFT PLANNING PROPOSAL - 80 SILVERDALE ROAD THE OAKS

Directorate: Shire Futures

Address:	No. 80 Silverdale Road, The Oaks
Lot & DP:	Lot 3 DP 1201486
Current Zoning:	RU2 Rural Landscape
Proposal:	Draft Planning Proposal to amend the Wollondilly Local Environmental Plan 2011 to enable further subdivision for large lot residential purposes
Applicant:	Michael Brown Planning Strategies Pty Ltd

EXECUTIVE SUMMARY

The purpose of this report is to advise and seek Council's position on a draft proponent-initiated Planning Proposal (draft proposal) for land at 80 Silverdale Road, The Oaks.

The draft proposal seeks to amend the Wollondilly Local Environmental Plan 2011 (WLEP 2011) by rezoning the land to enable further subdivision for large lot residential purposes. The proposed amendments outlined in the draft proposal would enable approximately nine lots with a minimum lot size of 4,000sqm.

The draft proposal seeks to achieve this through the following amendments:

- Amend the Land Zoning Map from RU2 Rural Landscape to R5 Large Lot Residential for part of the site and retain the RU2 Rural Landscape zoning for the remainder of the land.
- Amend the Lot Size Map from a minimum lot size category of 40 hectares to 4,000sqm for the part of the land proposed to be zoned R5 Large Lot Residential and retain the 40ha minimum for the remaining RU2 zoned land.
- Amend the Height of Building Map to introduce building height of 9m for the part of the land proposed to be zoned R5 Large Lot Residential.

Preliminary community and stakeholder feedback were invited on the draft proposal from 11 July to 8 August 2024. Five community submissions were received in response, mostly objecting to the proposal. In summary, the key matters raised about the draft proposal included lack of infrastructure, negative impacts on value of housing, concerns regarding safety and noise, destruction of rural lifestyle, poor condition of roads and increased traffic, and negative impacts on biodiversity.

Ten submissions were received from public authorities or Government agencies, with some of those submissions identifying a range of issues as discussed in this report, including infrastructure implications and inconsistencies with the strategic planning framework.

On 12 December 2024, the draft proposal was reported to the Wollondilly Shire Local Planning Panel (the Panel) for advice. The Panel has not supported the draft proposal and considers that it is 'out of step' with key strategic planning documents.

On balance, it is not considered that Council can be satisfied that the draft proposal has strategic and site-specific merit. As such, this report recommends that the draft proposal not be supported.

RECOMMENDATION

That Council:

1. Note the Wollondilly Shire Planning Panel's advice to not support the draft Planning Proposal.
2. Not support the draft Planning Proposal noting that it does not demonstrate sufficient strategic merit due to its inconsistency with the strategic planning framework including:
 - a. Planning Priority W1, W3, W5 and W16 in the Western City District Plan;
 - b. Ministerial Directions; 1.1 Implementation of Regional Plans, 3.3 Sydney Drinking Water Catchments, 6.1 Residential Zones, 9.1 Rural Zones and 9.2 Rural Lands.
 - c. Wollondilly 2040, Local Strategic Planning Statement (LSPS), including:
 - i. Planning Priority 1 – Aligning infrastructure provision with community needs.
 - ii. Planning Priority 3 – Establishing a framework for sustainable managed growth.
 - iii. Planning Priority 5 – Providing Housing options that meet local needs and match the local character of towns and villages.
 - iv. Planning Priority 13 – Protecting Biodiversity and Koala Habitat Corridors.
 - v. Planning Priority 16 – Enhancing and Protecting the Diverse Values of the Metropolitan Rural Area.
 - d. Council's adopted Local Housing Strategy and Rural Lands Strategy.
3. Note that several specialist studies submitted with the proposal do not provide sufficient information and assessment to inform or justify the draft Planning Proposal.
4. Note that the draft Planning Proposal will not enhance the values of the Metropolitan Rural Area by delivering any place-based outcomes to deliver targeted environmental, social or economic outcomes.
5. Note that the draft Planning Proposal has not demonstrated that future development can be adequately serviced by essential infrastructure.
6. Not forward the draft Planning Proposal to the Department of Planning, Housing and Infrastructure for a Gateway determination.
7. Notify the proponent, landowners and any person who made a submission of Council's decision.

REPORT

Background

This matter was previously included in the Ordinary Meeting of Council Agenda for 25 February 2025. Council resolved to defer the matter to allow the proponent, landowner, and submitters an opportunity to address a Community Forum prior to Council considering a report on the draft Planning Proposal.

On 28 June 2024, Michael Brown Planning Strategies Pty Ltd submitted the draft proposal to Council through the NSW Planning Portal (this being the date that the relevant application fee was paid and the proposal formally accepted by Council).

The draft proposal seeks to amend the WLEP 2011 by rezoning the land and amending development standards such as minimum subdivision lot size to enable a large lot residential subdivision.

A number of specialist studies have been prepared by professional consultants engaged by the proponent to inform and support the draft proposal.

These include:

- Water Cycle Management Study.
- Aboriginal Cultural Heritage Assessment.
- Strategic Bush Fire study.
- Flora & Fauna Assessment.
- Land Use Conflict Risk Assessment (LUCRA).
- Social & Health Impact Assessment.
- Preliminary Site Investigation.
- Geotechnical & Salinity Assessment.
- Electrical Connection Report.
- Traffic Impact Assessment.
- Odour Impact Assessment.
- Contamination Assessment.

Site Description

The subject site is identified as Lot 3 in DP 1201486, No. 80 Silverdale Road, The Oaks and is located adjacent to the northern boundary to the existing township. It has an area of 31.87ha with an irregular boundary and varying topography.

Known as Mill Park Farm, it has several improvements on the site including fencing, several paddocks containing pasture and three dams. Both the northern and southern boundaries are adjacent to mapped watercourses, although none are mapped on the site. An operational poultry farm is located to the east of the site.

The land is currently zoned RU2 Rural Landscape with a minimum subdivision lot size of 40ha. The Height of Buildings Map does not currently provide a building height limit on the land; however, the residential zoned land within The Oaks township to the south of the site has a nine metre maximum building height limit.

There are no known or listed heritage items located on or adjacent to the site. The site contains stands of vegetation but is not mapped as significant. The western part of the proposal area is within the Sydney Drinking Water Catchment Area.

The subject site is outlined in red at **Figure 1**.

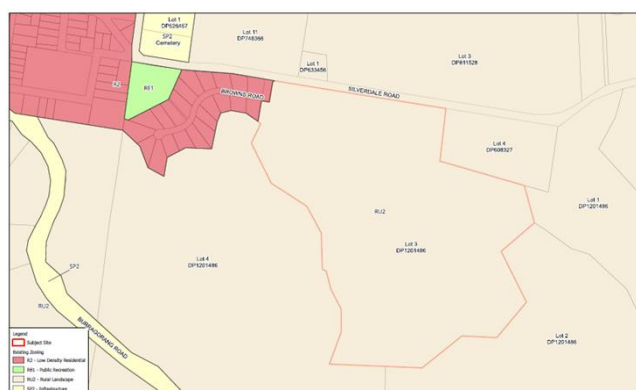


Figure 1: Location map of subject site at 80 Silverdale Road, The Oaks, Lot 3 DP 1201486

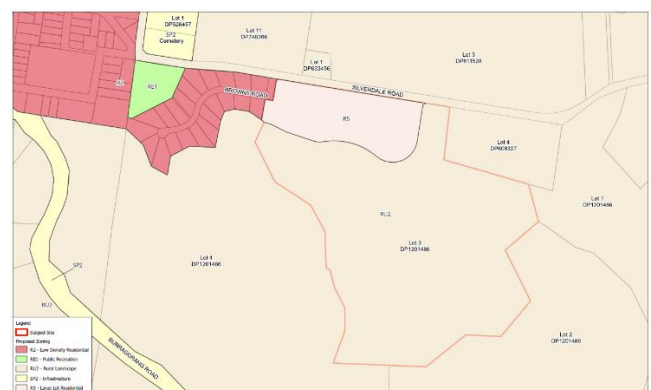
Description of the Proposal

This draft proposal seeks to rezone land to enable a subdivision of the land into nine residential large lots. It seeks to do this through the following amendments to the WLEP 2011:

- Amend the Land Zoning Map from RU2 Rural landscape to R5 Large Lot Residential for part of the site and retain the RU2 Rural Landscape zoning for the remainder of the land as shown in Figure 2.
- Amend the Lot Size Map from a minimum lot size category of 40 ha to 4,000sqm for the part of the land proposed to be zoned R5 Large Lot Residential and retain the 40ha minimum for the remaining RU2 Rural Landscape zoned land as shown in Figure 3.
- Amend the Height of Buildings Map to introduce building height of 9m for the part of the land proposed to be zoned R5 Large Lot Residential as shown in **Figure 4**.

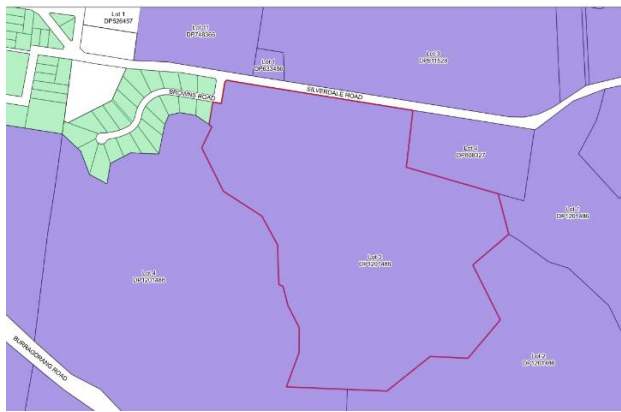


Current zoning

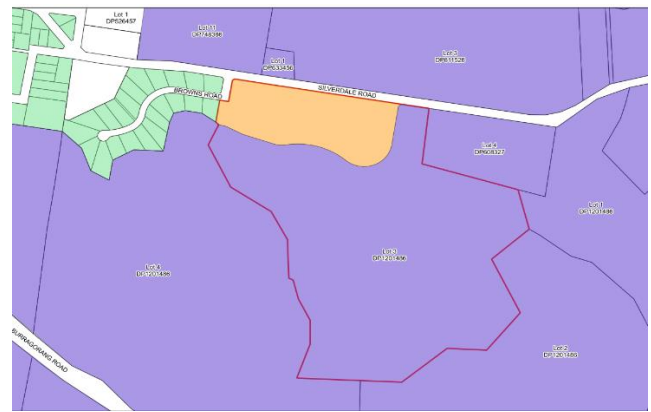


Proposed zoning

Figure 2: Current and proposed zoning



Current minimum lot size



Proposed minimum lot size

Figure 3: Current and proposed minimum lot size

Current maximum building height



Proposed maximum building height

Figure 4: Current and proposed maximum building height

A copy of the draft proposal is provided at **Attachment 1**.

It is noted that the planning proposal document has been updated by the proponent since the preliminary notification in an attempt to respond to matters raised as part of the preliminary assessment of the proposal.

Previous Planning Proposal (2016)

Council has previously considered a planning proposal for this site that was submitted by a different proponent in February 2016. The previous planning proposal was considered by Council a number of times:

- In July 2016, Council initially resolved to support and prepare a planning proposal in an amended form to that submitted by the proponent and to forward that proposal to the then Minister for Planning and Environment for a Gateway Determination.
- In October 2016, Council resolved to include additional land in the planning proposal. The additional land included the lots accessed from the adjoining existing residential land at Browns Road to increase the minimum lot size from 700sqm to 1,500 sqm to ensure the existing character is maintained by preventing infill subdivision.

- On 8 December 2016, a Gateway Determination was initially issued by the (then) NSW Department of Planning and Environment (DPE) which enabled the proposal to progress subject to a number of conditions being satisfied.
- In September 2017, following the outcome of a proponent initiated Rezoning Review, Council resolved to further consider the form of the proposal once the technical studies had been prepared. Council also reduced the proposed maximum building height for the site.
- In August 2020, Council confirmed its support for the planning proposal to proceed on the basis of a 1,500sqm minimum lot size and a maximum building height limit of 6.8 metres.

The previous planning proposal varied from the current proposal, in that it applied to a lesser portion of the site and proposed a minimum lot size of 1500 sqm with an anticipated lot yield of 12 lots.

Ultimately, the previous planning proposal did not progress to a public exhibition and did not have status as a draft environmental planning instrument.

On 6 October 2020, DPE wrote to Council advising that as part of its reform program to streamline and simplify the planning system, it was seeking to resolve and make final decisions on long standing (referred to as legacy) planning proposals where these had a Gateway Determination of more than 4 years with a view to finalising these proposals by 31 December 2020. The planning proposal at No. 80 Silverdale Road, The Oaks was identified as one of the proposals which met these criteria.

In response, in October 2020, Council resolved to refer all nominated Planning Proposals (including the planning proposal for no. 80 Silverdale Rd, The Oaks) to DPE for determination where they had a gateway determination of more than 4 years old and had unresolved issues preventing determination.

DPE determined a total of nine legacy planning proposals with a Gateway Determination of more than 4 years old. The planning proposal for no. 80 Silverdale Road, The Oaks was one of these proposals determined not to proceed.

The implication was that the planning proposal was taken to have never been made and a new proposal would need to be submitted in order for the rezoning to be reconsidered.

DPE provided reasons for refusal for each of the planning proposals along with advice which stated that (aside from site specific issues), they considered a number of fundamental steps would be required to be addressed before the nine proposals that were determined as part of the planning reforms package could be reconsidered.

The proponent has been requested to provide a reconciliation against the reasons why the earlier planning proposal was not supported and how those issues have been addressed as part of the planning proposal package. This has not been provided.

A summary of the reasons for refusal and whether the matters have been addressed with the updated draft proposal is provided in **Table 1**.

Unresolved Issues	Current Assessment
<i>potential impacts on Shale Sandstone Transition Forest and Aboriginal Cultural Heritage have not been addressed;</i>	There are currently no outstanding matters in relation to the assessment of impacts on biodiversity. Originally, an Aboriginal Cultural Heritage Due

Unresolved Issues	Current Assessment
	<p>Diligence Assessment was submitted with the proposal. Usually, a comprehensive aboriginal cultural heritage assessment is required which is a more thorough assessment than a due diligence assessment.</p> <p>During the pre-lodgement process, Heritage NSW advised that the due diligence process does not adequately assess the impacts on Aboriginal cultural heritage as required by the Ministerial Directions.</p> <p>Subsequently, an Aboriginal Cultural Heritage Assessment was submitted.</p> <p>At this stage, no comments have been received from the NSW Department of Climate Change, Energy, the Environment and Water or Heritage NSW who typically review the adequacy of aboriginal cultural heritage assessments.</p>
<i>many remaining matters are unresolved due to the absence of required studies and documentation required by the Gateway determination;</i>	<p>There have been changes to the NSW local environmental plan making process since the last planning proposal. Technical studies are now required to be prepared prior to the submission of a planning proposal.</p> <p>This report identifies shortcomings in some of the technical studies.</p>
<i>the proposal is inconsistent with regional, district and local strategic planning frameworks presently in place for Wollondilly LGA; and</i>	The draft proposal is still considered to be inconsistent with the strategic planning framework as covered in this report.
<i>the planning proposal is inconsistent with Section 9.1 Directions 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 4.4 Planning for Bushfire Protection and 5.5 Sydney Drinking Water Catchment, hence all related issues remain unresolved</i>	The draft proposal is still considered to be inconsistent with a number of Ministerial Directions as covered in this report.

Table 1: Site specific unresolved issues

All of the unresolved issues from the previous planning proposal have still not adequately been addressed or resolved.

A summary of the fundamental steps and whether the matters have been addressed with the updated draft proposal is provided at **Table 2**.

Unresolved issues	Current Assessment
<i>completion of Council's planned natural and hazard risk study in consultation with the Department and the Rural Fire Service and other emergency service</i>	A draft Wollondilly Hazards Analysis and Emergency Management Study has been prepared. However, the Study has not yet been finalised.

Unresolved issues	Current Assessment
<i>providers;</i>	
<i>the Department's review and approval of Council's Local Housing Strategy to reflect growth scenarios proposed by these proposals;</i>	The Wollondilly Local Housing Strategy was adopted by Council in March 2021. The Department approved the LHS on 9 September 2021 subject to requirements.
<i>finalisation of Sydney Water's Environmental Protection License variation application for the Picton Water Recycling Plant and related business case to assure capacity for wastewater.</i>	This is not considered relevant to the draft proposal as The Oaks is not serviced from the Picton Water Recycling Plant.

Table 2: Fundamental steps for all proposals

Only two of the three fundamental steps have been resolved at this time. It is noted that the fundamental steps are matters for Council to resolve and are independent of the planning proposal and cannot be resolved by the proponent.

Scoping Proposal (pre-lodgement) Advice

In September 2023, a Scoping Proposal was submitted to Council and a pre-lodgement meeting was held with the proponent on 15 November 2023.

The purpose of the scoping proposal and pre-lodgement meeting is to provide early feedback to proponents about the strategic and site-specific merits of a proposal and identify the information/studies that would need to be submitted with any Draft Planning Proposal.

The Scoping Proposal proposed a similar, although a more intense amendment for the site. It proposed a minimum lot size of 1,500sqm to enable 17 lots ranging in size from 1,500sqm to 5,038sqm. The same maximum building height and land use zones were proposed.

As part of the pre-lodgement advice, feedback was also obtained from a number of key authorities and government agencies which informed Council's response.

On 5 December 2023, formal written advice was provided to the proponent on the scoping proposal. On balance, this advice concluded that the proposal was not consistent with the strategic planning framework and did not have strategic planning merit.

PLANNING CONTEXT

Wollondilly 2040 Local Strategic Planning Statement (LSPS)

Council's Local Strategic Planning Statement, Wollondilly 2040 (LSPS) is a 20 year land use vision for Wollondilly and guides the implementation of the Western City District Plan at a local level.

The vision is for a prosperous, sustainable and resilient future for Wollondilly residents, with an enviable lifestyle of historic villages, modern living, rural lands and bush settings. Wollondilly 2040 identifies a number of actions under each of its 18 Planning Priorities.

This proposal is inconsistent with the following key planning directions outlined in the LSPS:

- **Planning Priority 1** – Aligning infrastructure provision with community needs.

- **Planning Priority 3** - Establishing a framework for sustainable managed growth.
- **Planning Priority 5** - Providing housing options that meet local needs and match the local character of towns and villages.
- **Planning Priority 13** - Protecting Biodiversity and Koala Habitat Corridors.
- **Planning Priority 16** - Enhancing and Protecting the Diverse Values of the metropolitan Rural area.

A summary of the draft proposal's consistency with the LSPS is summarised in **Table 3**.

Planning Priority		Assessment
1	Aligning infrastructure provision with community needs	<p>No town can operate effectively without adequate services and infrastructure. Council is committed to ensuring that all residents have access to sufficient services/infrastructure to ensure their needs are met and that the Shire can grow into the future. There are currently servicing and environmental constraints that limit further development in The Oaks.</p> <p>Sydney Water has indicated that it cannot support any additional urban growth in The Oaks area until 2028.</p> <p>The draft proposal does not address wastewater servicing and is currently lacking planned and sequenced infrastructure to deliver it. This is a significant concern and will constrain the future development of the site.</p>
2	Establishing a framework for sustainable managed growth	<p>Wollondilly's bush, rural lands, and local towns and villages are well valued and must be protected in the context of unprecedented growth. Wollondilly's contribution to Greater Sydney's housing supply will predominately occur in the Wilton and Greater Macarthur Growth Areas and Council is committed to protecting rural land, landscapes and sensitive environments outside these identified growth areas.</p> <p>The LSPS does not support planning proposals that do not fit within a framework for growth informed by local housing strategy (LHS) and rural lands strategy (RLS). The draft proposal would enable encroachment of urban or residential lands into rural areas outside of identified growth areas or existing village footprints and is not clearly identified for these uses in the LHS.</p>
5	Providing housing options that meet local needs and match the local character towns and villages	<p>The draft proposal will provide residential zoned land which is not identified for future local growth.</p> <p>On balance, it is inconsistent with the LHS for the following reasons:</p> <ul style="list-style-type: none"> • Land in and around the Oaks has not been identified for further urban development or housing growth. • Wollondilly has adequate capacity through existing zoned land to supply additional housing in line with demand.

Planning Priority		Assessment
		<p>The subject site is not located within the Wilton Growth Area or the Greater Macarthur Growth Area and it is not identified for local growth. The Oaks is without a train station and public transport options, bus services are limited. The draft proposal does not support housing supply and affordability with access to jobs and public transport.</p> <p>The draft proposal challenges whether the LHS adequately considers the principle of diverse housing as the Strategy fails to adequately address the demand and provision for 'lifestyle' housing in a rural residential context.</p> <p>The LHS focusses on diverse housing in urban zones within Wollondilly's towns and villages to meet housing needs.</p> <p>Facilitating the provision of additional rural residential development does not form part of the strategic planning framework for Wollondilly. The Western City District Plan provides clear direction that rural residential development is not an economic value of the District's rural areas and further rural-residential development is generally not supported. It is also noted that rural residential development can have environmental, social and economic costs that are significantly higher than those of standard residential development and requires special consideration.</p> <p>Rural residential growth is considered by the Rural Lands Strategy (RLS) which recommends that no further rezoning for rural residential purposes be undertaken. The RLS also notes there is undeveloped supply of between 8 to 16 years of land zoned for large lot residential purposes.</p>
16	Enhancing and Protecting the Diverse Values of Metropolitan Area Living impacts with contributing the Rural	<p>Much of the land in Wollondilly is identified as Metropolitan Rural Area for its agricultural, environmental and scenic values. These rural lands provide a range of agricultural products including dairy, poultry, eggs and cut flowers to Greater Sydney.</p> <p>The proposed development will have adverse impacts on the agricultural values of the land. The proposed amendments limit permissibility of land uses and restrict the agriculture/farming activities on this site. The site is associated with MRA values of rural areas. However, the proposal does not provide the opportunity to enhance the values of the MRA in contributing to habitat, biodiversity, supporting productive agriculture.</p> <p>Council is proposing to include horticulture as exempt development in the RU1 Primary Production zone and complying development in the RU2 Rural Landscape (the site's current zone) and RU4 Primary Production Small Lots zones and there is a potential of new horticulture enterprises that may be possible as a result of Council's planning proposal (PP-2024-676) encouraging Horticulture</p>

Planning Priority		Assessment
		in Rural lands.
18	Living impacts with contributing the Rural climate and to the broader resilience of Greater Sydney	<p>Planning Priority 18 sets out that before Council can consider planning proposals for local growth in the Shire, a study and approach needs to be undertaken to guide the appropriate location for development in terms of exposure to natural and man-made hazards.</p> <p>A draft Wollondilly Hazards Analysis and Emergency Management Study has been prepared. However, the Study has not yet been finalised.</p> <p>The draft proposal has not addressed Planning Priority 18. It is noted that the draft proposal has been informed by technical studies that consider hazards in isolation (bush fire, flooding, contamination) however, no cohesive consideration has been given to hazard resilience.</p>

Table 3: Summary of draft proposal consistency with the LSPS

On balance, the draft proposal is considered to be inconsistent with the LSPS.

A more detailed assessment of the draft proposal against relevant key Planning Priorities is included in **Attachment 2**.

Council Resolution 33/2021 – Wollondilly Local Housing Strategy

As noted earlier in this report, Council has previously considered a Planning Proposal on the land which was determined in December 2020.

In March 2021, Council resolved to adopt the Wollondilly Local Housing Strategy (LHS).

The LHS is significant in determining future housing growth for the area. For example, the Western City District Plan identifies that urban development will only be supported in the Metropolitan Rural Area (MRA) where the land has been identified for growth in a Council or Government endorsed Strategy, which could include a council's LHS.

In adopting the LHS, Council also provided the following direction in relation to planning proposals that had been active during the development of the LHS:

Resolution (33/2021)

5. *Notes that a number of planning proposals have been recently refused by the Department of Planning, Industry & Environment due to outstanding agency and infrastructure issues for example, the planning proposals known as Darley Street and Stilton Lane.*
11. *Given that the planning proposals outlined above were considered as likely to proceed when finalising the draft housing strategy, Council amend the draft housing strategy to allow for consideration of appropriate new planning proposals for those sites that meet the following criteria:*
 - a. *Were in progress during the preparation of the local housing strategy and were refused during the finalisation period of the Local Housing Strategy (January – March 2021).*
 - b. *Were supported when they were most recently considered by Council prior to their refusal by DPIE.*

c. Had previously received a Gateway Determination to proceed.

It is considered that the draft proposal does not meet the criteria above due to the following:

- The determination of the previous planning proposal was made in December 2020 and therefore does not meet the intent of the resolution, which was clear in identifying the later tranche planning proposals.

Even if the proposal was consistent with the resolution and considered under the LHS, the Council Resolution also included criteria for planning proposals to be reconsidered.

- The proposal resolved any known planning or infrastructure issues previously identified for the site, including those identified by the Department of Planning, Industry & Environment and other agencies.
- For proposals that include R2 or R3 zonings and appropriate road infrastructure upgrades are in place.
- The proposal is consistent with the character of the surrounding area, consistent with the LSPS and would otherwise meet the definition of local growth.

The draft proposal is not considered to meet the criteria for reconsideration as known planning issues for the site have not been resolved and the proposal is considered to be inconsistent with the LSPS.

Although the draft proposal is quite small in terms of any contribution to housing supply, it is not considered to be consistent with the framework for local growth in that a need has not been identified for additional housing supply for The Oaks in addition to planned growth already in the pipeline.

Large lot residential development is also not considered to provide any meaningful contribution to diverse housing given its low density, cost of providing services, and poorly located in terms of walking distance and access to transport, shops and services.

Western City District Plan 2018

The Western City 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 Plan sets a 5 year (2016-2021) housing supply target for Wollondilly Shire Council of 1,550 dwellings. Dwelling completions since 2016, combined with existing capacity of rezoned land and the Wilton Growth Area are expected to satisfy this requirement. The subject site is not located within the Wilton Growth Area or the Greater Macarthur Growth Area.

The draft proposal is inconsistent with the following key planning directions outlined in the District Plan:

- W1 - Planning for a city supported by infrastructure.
- W5 - Providing housing supply, choice and affordability, with access to jobs, services and public transport.
- W14 - Protecting and enhancing bushland and biodiversity.
- W17 - Better managing rural areas.

A summary of the draft proposal against the District Plan is summarised in **Table 4**.

On balance, the draft proposal is considered to be inconsistent with the District Plan.

	Planning Priority	Assessment
W1	Planning for a city supported by infrastructure.	<p>The draft proposal is not consistent.</p> <p>This priority encourages better alignment of growth with infrastructure. Accommodating homes needs to be linked to local infrastructure. According to the District Plan, Councils are in the best position to investigate and confirm which parts of their local government areas are suited to additional density opportunities.</p> <p>To address housing supply, Council developed the Local Housing Strategy (LHS) has been developed to identify the right locations for growth, including areas that are suitable for change in the short to medium term.</p> <p>The site is not identified for future local growth in the LHS.</p> <p>Furthermore, Sydney Water has indicated that it cannot support any additional urban growth in the Oaks area until 2028. The proposal lacks the necessary infrastructure (e.g. wastewater management) and strategic importance to accommodate additional housing at this time.</p>
W5	Providing housing supply, choice and affordability, with access to jobs, services and public transport	<p>The draft proposal is not consistent.</p> <p>This priority of the District Plan emphasizes that new housing should be located in the right areas to meet the demand for various housing types and price points. The Plan sets a 5 year (2016-2021) housing supply target for Wollondilly Shire Council of 1,550 dwellings. Dwelling completions since 2016, combined with existing capacity of rezoned land and the Wilton Growth Area are expected to satisfy this requirement.</p> <p>The subject site is not located within the Wilton Growth Area or the Greater Macarthur Growth Area and it is not identified for local growth. The Oaks is without a train station and public transport options like buses are limited. The proposal does not support housing supply and affordability with access to jobs and public transport.</p>
W14	Protecting and enhancing bushland and biodiversity	<p>The draft proposal is not consistent.</p> <p>The far western part of the site lies within the Sydney Drinking Water Catchment (SDWC) but falls just outside the Warragamba Special Area (Schedule 2) lands. There are concerns that the Planning Proposal might lead to adverse water quality impacts in the SDWC. Neutral or Beneficial</p>

	Planning Priority	Assessment
		Effect on Waterways will need to be demonstrated. The proposal does not discuss the SDWC beyond broadly identifying that Direction 3.3 Sydney Drinking Water Catchments is applicable to the Wollondilly Local Government Area (LGA). Further consultation is also required with Water NSW.
W17	Better managing rural areas	The draft proposal is not consistent with this Planning Priority. The proposal facilitates low-density housing within the Metropolitan Rural Area (MRA) and rural-residential development is not an economic value of the District's rural areas and further rural-residential development is generally not supported. Additionally, the proposal does not maintain or enhance the values of the MRA using place-based planning to deliver targeted environmental, social and economic outcomes.

Table 4: Summary of consistency with District Plan**Metropolitan Rural Area (MRA)**

The Planning Proposal is not consistent with the provisions of the Metropolitan Rural Area (MRA). The site includes approximately 6ha of land mapped as Class 4 land by the Land and Soil Capability Scheme (LSC) and has moderately high fertility. This land correlates with land mapped as State Significant Agricultural Land (SSAL) on the preliminary draft State Significant Agricultural Land Map and is part of a larger contiguous area of better agricultural land extending west and north.

The site provides a strategic buffer between existing residential use and more intense agricultural pursuits including an operational poultry farm to the east. The proposed rural residential subdivision is not considered an optimal use of biophysically capable agricultural land and is inconsistent with the strategic planning framework for the MRA.

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

The proximity of the site to adjoining agricultural lands is illustrated in **Figure 5**.

An assessment of the draft proposal against the Western City District Plan (and the MRA where relevant) is provided in **Attachment 2**.



Figure 5: Subject site in relation to adjoining agricultural lands

Section 9.1 Ministerial Direction

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.

The draft proposal is considered to be inconsistent with the relevant Ministerial Directions including:

- Direction 1.1 (Implementation of Regional Plans).
- Direction 3.2 (Heritage Conservation).
- Direction 3.3 (Sydney Drinking Water Catchments).
- Direction 6.1 (Residential Zones).
- Direction 9.1 (Rural Zones).
- Direction 9.2 (Rural Lands).

The inconsistencies can be summarised by the following:

- The proposal seeks to enable housing growth in a location that is inconsistent with the strategic planning framework, primarily due to its location in the Metropolitan Rural Area.
- The proposal has not yet adequately demonstrated that it would conserve indigenous heritage significance.

- The proposal has not yet adequately demonstrated that it would protect water quality in the Sydney Drinking Water Catchment.
- The scale of the proposal and its location are not well placed to provide diverse housing and efficient use of infrastructure while minimising impacts.
- The proposal will result in the loss of rural land and opportunities for agricultural production.

A full assessment of the draft proposal against the relevant Directions is included in **Attachment 3**.

State Environmental Planning Policies

The NSW Government publishes State Environmental Planning Policies (SEPPs) which deal with matters of state or regional planning significance.

The proposal is not considered to be consistent with the following SEPP:

- *Primary Production State Environmental Planning Policy (Primary Production) 2021*
The proposed amendments limit permissibility of land uses and restrict the agriculture/farming activities on this site. The site is associated with MRA values of rural areas. However, the proposal does not provide the opportunity to enhance the values of the MRA in contributing to habitat, biodiversity, supporting productive agriculture.

Wollondilly Shire Council is proposing to include horticulture as complying development in the RU2 Rural Landscape and RU4 Primary Production Small Lots zones (PP-2024-676) and there is a potential of new horticulture enterprises that may be possible as a result of Council's planning proposal encouraging horticulture in rural lands. Additionally, future development that would be enabled by the amendments in the planning proposal will lead to land-use conflicts and reduce the availability of agricultural land.

The proposal is lacking resolution for current land use conflict between the proposed residential and rural land uses.

A full assessment of the draft proposal against the relevant SEPPs and SREPs is included in **Attachment 4**.

CONSULTATION

Community Consultation

Preliminary notification of the draft proposal was held in accordance with Council's Community Participation Plan and adopted Planning Proposal Policy. Preliminary notification occurred for a period of 28 days from 11 July to 8 August 2024.

The draft proposal was exhibited on Council's engagement platform, Your Say Wollondilly, along with supporting information.

Community and stakeholder feedback were encouraged through:

- Notification letters to residents and landowners within a 2km radius of the site.
- Notification letters to relevant public agencies.
- Hard copies of the draft proposal were available to view at Council's administration building and at Wollondilly library.

- Promotion on social media.

In response, 5 submissions were received during this process, 1 was supportive, and 4 were not supportive.

In summary, the key matters raised about the draft proposal included:

- Lack of infrastructure.
- Negative Impacts on value of housing.
- Concerns regarding safety and noise.
- Destruction of rural lifestyle.
- Poor condition of roads and increased traffic.
- Negative impacts on biodiversity.

A summary of community submissions and Council's response to these submissions is located at Attachment 5.

The matters raised in community submissions have mostly identified broad concerns with the proposal and are generally consistent with the concerns identified in this report as part of the proposal's assessment.

Consultation with Public Agencies

Comments were sought from the relevant public authorities and government agencies as part of preliminary consultation for the draft proposal.

In response, submissions were received from ten (10) agencies.

A summary of the authorities consulted as part of the preliminary consultation is identified in **Table 5**.

Public Authority/Organisation Consulted	Outcome
Department of Primary Industries – Agriculture (DPI)	<ul style="list-style-type: none"> • Inconsistent with strategic planning framework. • Mapped the site as Class 4 which contains approximately 6 hectares of land with moderately high fertility. • Required that the Land Use Conflict Risk Assessment (LUCRA) to be updated as it did not consider potential agricultural uses for adjacent rural land. • Consideration should be given to the Wollondilly Shire Council's proposal (PP-2024-676) to include horticulture as complying development in the RU2 Rural Landscape and RU4 Primary Production Small Lots zones. • Recommended the application of buffer areas that achieve physical separation between residential and a poultry farm which is less than 1,000m from the proposed development. • The proponent has provided an updated LUCRA assessment. However, the timeframe has not allowed for a further review from DPI at this stage. It is noted that the updated LUCRA recommends a reduced buffer of

Public Authority/Organisation Consulted	Outcome
	approximately 400m however the adequacy of this recommendation has not been assessed due to time constraints within the assessment process.
State Emergency Services (SES)	No objection raised
Sydney Water	<ul style="list-style-type: none"> • Sydney Water is unable to service the site prior to 2028. • Required the proponent to complete and return a new Feasibility application and Growth Data Form. • The applicant is now seeking alternative solutions to wastewater management.
Department of Planning, Housing and Infrastructure (DPHI)	<ul style="list-style-type: none"> • Required the proposal to address all issues of the previous Planning Proposal. • Required further consultation with the agencies/ authorities including NSW Department of Climate Change, Energy, the Environment and Water to ensure key issues are addressed prior to lodgement of a planning proposal to the Department for a Gateway determination. • Required inconsistency with strategic planning framework to be addressed.
Transport for NSW (TfNSW)	No objection raised.
Department of Regional NSW – Mining, Exploration and Geoscience	No objection raised.
Jemena	No objection raised.
Endeavour Energy	No objection raised.
NSW Rural Fire Service (RFS)	No objection raised.
Water NSW	<ul style="list-style-type: none"> • Prime concern is to ensure that proposal does not lead to adverse water quality impacts on the Sydney Drinking Water Catchment • Support approach to connect to water and sewer infrastructure • Request that the planning proposal is referred again once the planning proposal has been updated to more comprehensively address Ministerial Direction 3.3 Sydney Drinking Water Catchment • Provided a Strategic land and Water Capability assessment (SLWCA) for the component of the land occurring in the SDWC based on the development being seweraged.

Table 5: Public Agency consultation

A more detailed assessment of issues raised by public agencies is provided at **Attachment 6**.

No response was provided by the following authorities:

- NSW Department of Climate Change, Energy, the Environment and Water.
- Heritage NSW.

It is noted that at its Ordinary Council Meeting on 28 June 2022, Council resolved that *in the event that state Agencies are unable to meet their obligations to provide a response on draft Planning Proposals, that the draft Planning Proposal be assessed as if it is not supported by the agency* (Resolution 153/2022).

With this in mind, two authorities are considered to not support the draft proposal.

If the draft proposal proceeds, further consultation will be required with a number of agencies to confirm that issues have been resolved. This includes Heritage NSW, Water NSW, and the Department of Primary Industries.

Key Issues

The draft proposal was provided to internal Council officers to provide specialist advice. The following key issues have been identified with the proposal:

- **Health Planning:** Concerns regarding accessibility, housing diversity, justification for loss of agricultural land and possible impacts related to the nearby poultry farm and land use conflict.
- **Infrastructure:** Concerns regarding the amount of infrastructure required relative to the lot yield. There is a significant amount of future public infrastructure proposed (including but not limited to, retaining wall, swales, intersections, guardrail, road, etc) for a small lot yield, not within an area of specific strategy significance regarding residential land. The road layout and associated infrastructure appears to be influenced by bushfire requirements but puts the future asset ownership implications on Council.

There are also concerns regarding the availability of essential infrastructure to service the proposal. In particular, existing wastewater infrastructure is inadequate to service the proposed growth. Sydney Water has advised that the site is located outside of the West Camden wastewater system catchment. The West Camden Water Recycling Plant is currently at capacity and is not anticipated to have capacity prior to 2028. However, Sydney Water has indicated that this is subject to approvals and project delivery. It is noted that Sydney Water has not taken the step to object to the proposal.

Housing delivery in other areas within Wollondilly is currently significantly delayed due to a shortfall in Sydney Water planned sewer capacity resulting from delays in project planning and construction. Although this proposal will be serviced from a different plant there is low confidence in the delivery estimate for upgrades.

It is not considered appropriate to support a draft proposal that represents unplanned growth. Particularly as it may contribute towards constraining capacity that is being planned to service long term identified growth areas to service Greater Sydney's housing needs.

There are also unresolved concerns regarding potential impact on the surrounding catchment in terms of the ability of OSD requirements to be met.

- **Land Use Conflict:** A poultry farm is located approximately 750 metres east of the area proposed to be rezoned. An odour impact screening assessment has been prepared for the proponent to inform the planning proposal by determining the likely risk of odour impacts after considering local factors such as topography, vegetation, wind. The assessment identifies that a separation distance of approximately 407m would be required and concludes that the poultry farm is unlikely to cause adverse odour impacts to future housing on the site. The NSW Department of Primary Industries Interim Buffer Guideline recommends that new sensitive receivers should achieve a minimum 1,000m separation distance from poultry (sheds). However, it also acknowledges that site-specific factors play a role in determining the most appropriate level of separation to avoid conflict.

At the time of this report's preparation the adequacy of the odour impact assessment had not yet been confirmed. However, the planning proposal and supporting documents have not yet adequately considered the full range of potential or current conflict issues. In particular, there has been no consideration of potential future expansion of the poultry farm.

Outstanding Matters

Based on the initial assessment, including feedback from key stakeholders, the proponent has been informed of the following key issues and/or outstanding matters:

- Inconsistencies with the strategic planning framework.
- Infrastructure required to support the development is not in the public interest in terms of asset burden on Council.
- Inadequate wastewater infrastructure.
- An updated LUCRA to address the full range of potential or current conflict issues.
- Potential inadequate separation from an existing poultry operation.
- An updated Social Impact Assessment to be prepared in accordance with Council's guidelines.
- An updated water cycle management study that considers the relevant parameters.
- A reconciliation against the reasons why the earlier planning proposal was not supported and how those issues have been addressed.

It is recognised there are shortcomings in some of the studies submitted that are still to be addressed however, given the lack of strategic merit the proponent has not been asked to provide additional detail, which could be provided if the proposal proceeds to a Gateway Determination.

It is further noted that Council must meet new benchmark timeframes for processing of planning proposals. For 'complex' proposals such as this, the benchmark is 120 days. This timeframe does not support ongoing discussion between agencies and the proponent. As such, the report was submitted to the Local Planning Panel without the additional detail in those studies.

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 draft proposal was reported to the Panel at its meeting on 12 December 2024.

The report recommended that the Panel note the draft proposal does not demonstrate sufficient strategic or site-specific merit.

The panel has not supported the draft proposal and provided the following reasons for advice:

A summary of the reasons for not recommending support included:

1. **Council Officers report:** The Panel noted and generally agreed with officers assessment and findings.
2. **Site History and Strategic Alignment:** Despite the previous planning proposal for the site, the Panel considered that the current proposal is now *out of step with key strategic planning documents*. These included the Western City District Plan, Ministerial Planning Directions, Wollondilly 2040, and Council's adopted Local Housing Strategy and Rural Lands Strategy.
3. **Prematurity of Planning Proposals:** The Panel considered that future local growth in the Metropolitan Area should align with strategic plans. The Panel recognised that future opportunities for local growth could be explored as part of any studies prepared to inform a future LEP review.

A copy of the Panel's advice is provided at **Attachment 7**.

Options open to Council for this proposal

The draft proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning & Assessment Act 1979* and the guidelines published by DPHI.

There are several options open to Council in making an initial determination on the draft proposal, outlined below:

1. Support the draft proposal as submitted.

This option will require the proponent to address outstanding matters.

2. Resolve to support the draft proposal with amendments.

This option will require the draft proposal to be amended and is likely to require the proponent to address outstanding matters. If this option is supported by Council, it would be appropriate to liaise with Sydney Water to clarify servicing requirements, and adjust the minimum lot size, whether smaller if it can be serviced, or maintain as 4,000sqm if on-site treatment can be accommodated, to be consistent with R5 land across the Shire.

If Council is minded to support the draft proposal, consideration could also be given to including land at Browns Road, The Oaks in a similar manner to its previous inclusion (i.e. to increase the minimum lot size for subdivision to prevent unintended growth).

3. Not support the draft proposal.

With this option, there is no further action to be taken other than to inform the proponent, landowners and submitters that the draft proposal has not been supported.

With this option, the proponent may request a Rezoning Review where an independent planning panel (Western City District Planning Panel) evaluate and recommend to the Minister whether the proposal should progress to Gateway Determination. It is noted that this option is also available to the proponent if Council has not indicated support for the draft proposal within 115 calendar days of the proponent lodging the proposal. The proponent may also submit a compliant development application.

Option 3 is the recommendation of this report.

Conclusion and advice for Council

The draft proposal seeks to amend WLEP 2011 to rezone land to enable part of the site to be developed for large lot residential (approximately 9 large residential lots).

It is noted that a planning proposal for this site has previously been supported by Council and subsequently received a Gateway determination to proceed. However, that proposal did not progress to a public exhibition and was ultimately refused by the NSW Government.

There have been significant updates to the strategic planning framework since the previous proposal was submitted to Council in 2016. These include the release of the Greater Sydney Region Plan and the Western City District Plan which established the Metropolitan Rural Area, as well as the new requirement for Councils to prepare local strategic planning statements and local housing strategies.

On balance, it is not considered that Council can be satisfied that the draft proposal has strategic and site-specific merit. It is therefore recommended that the draft proposal not be supported.

Risk Assessment

This matter has been assessed against inherent risks outlined in the Risk Appetite Statement and the following risks are identified:

1. Should Council resolve not to support the draft Planning Proposal, the proponent will be eligible to pursue a Rezoning Review. This will result in the draft proposal being assessed and managed by DPHI and the relevant regional or independent Planning Panel. Council will remain a stakeholder in that process, although decision making will not be a function of Council. It is noted that the proponent is eligible to pursue a Rezoning Review now, given the time that has passed since the draft proposal was lodged, however this has not occurred.
2. The Minister for Planning has released a Statement of Expectations Order, which outlines the Minister's expectations that Council's should assess Planning Proposals within the benchmark timeframes set out in the LEP Making Guideline. If a Council is found not to be meeting these expectations, the Minister can take these matters into consideration as part of determining if it is appropriate to appoint a planning Administrator or Sydney district or regional Planning Panel to exercise a Council's functions. There is a risk that if Council does not adequately resource projects or resolve to determine the Planning Proposal in a timely manner to meet the benchmark timeframes subject to the Order, Council may not meet the expectations and there may be consequences.

Financial Implications

Funding for this project to date has been partially offset through the adopted planning proposal fees and charges for cost recovery. Given the preliminary stage of the proposal, no detailed analysis of infrastructure or financial implications for Council has been undertaken.

ATTACHMENTS

1. Proponent Draft Planning Proposal Document [**14.5.1** - 56 pages]
2. Assessment against Local and State Planning Documents and Legislation [**14.5.2** - 14 pages]
3. Assessment against Ministerial Directions [**14.5.3** - 18 pages]
4. Assessment against State Environmental Planning Policies [**14.5.4** - 8 pages]
5. Table summarising Community and Stakeholder Feedback [**14.5.5** - 4 pages]
6. Table summarising Public Authority and Government Agency Feedback [**14.5.6** - 5 pages]
7. Advice from Wollondilly Shire Local Planning Panel - 12 December 2024 [**14.5.7** - 3 pages]