

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 19 December 2016

PE4 – Planning Proposal – No.95 Great Southern Road, Bargo

PE4

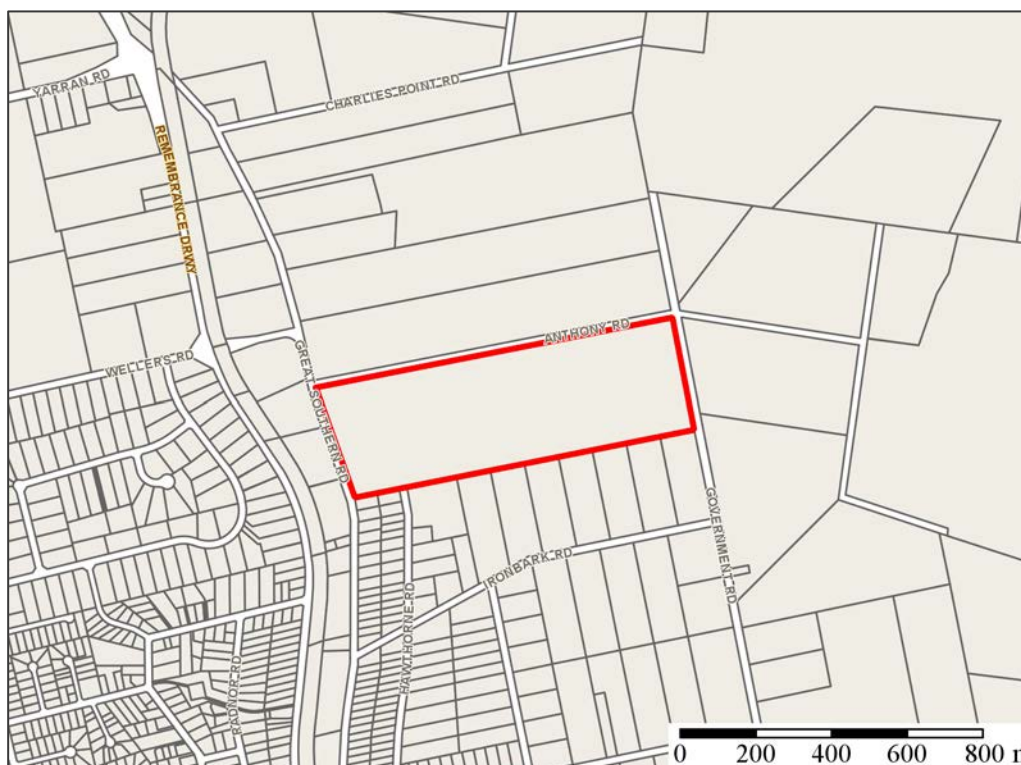
Planning Proposal – No. 95 Great Southern Road, Bargo

1010

TRIM 7696

Applicant: Precise Planning
Owner: Ironlaw Pty Ltd

Planning & Economy



© Wollondilly Shire Council. © LP

↑
LOCATION MAP N

Stage	Completed
Preliminary notification	2 October - 30 October, 2013
Gateway Determination	2 October, 2014
Consultation with Public Agencies	November, 2014
Specialist Studies	August, 2016
Public exhibition/community consultation	Not yet completed
Referred to Minister for Publication	Not yet completed

PE4 – Planning Proposal – No.95 Great Southern Road, Bargo

EXECUTIVE SUMMARY

- This report relates to a Planning Proposal to amend Wollondilly Local Environmental Plan 2011 (WLEP, 2011) as it relates to land at Lot 1 DP 996286 (No. 95) Great Southern Road, Bargo.
- The Planning Proposal currently proposes to amend WLEP 2011 in the following manner (as detailed in the current Gateway Determination):
 - Amend the land use zoning across the site from RU2 Rural Landscape to R2 Low Density Residential to the west of the watercourse on the site and to R5 Large Lot Residential for land to the east of the watercourse on site;
 - Amend the Minimum lot size map so that a minimum lot size of 700 square metres applies to land to the west of the watercourse, with the minimum lot size of land to the east of the watercourse to be determined following submission of an on-site effluent disposal study;
- The purpose of this report is to obtain Council's endorsement to seek alterations to the current Gateway Determination. The proposed alterations relate to zoning, minimum lot size and protecting biodiversity. The reason for the proposed alterations is to address issues that have been identified in Specialist Studies and Government Agency feedback.
- The recommended changes to the Planning Proposal are consistent with the Key Policy Directions and Assessment Criteria within Council's Growth Management Strategy.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extend to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended:
 - That Council request an altered Gateway Determination in the form described in this report; and
 - That the request for an altered Gateway Determination be forwarded to the Greater Sydney Commission;

REPORT

1.1 SITE DESCRIPTION

The subject land is known as Lot 1 DP 996286 (No. 95) Great Southern Road, Bargo. The site is a rectangular shaped lot which comprises a total of 28.23 hectares. The lot has frontage to Great Southern Road to the west and Government Road to the east and also adjoins an unformed crown road which runs along the northern boundary of the site.

PE4 – Planning Proposal – No.95 Great Southern Road, Bargo

The site contains a local heritage item known as the "Old Coomeroo Homestead, Silo and Slab Shed" which is located in the north-western portion of the site. The lot contains a second order watercourse and associated riparian corridor running south/north which traverses the site. A drainage channel running east also passes through the site feeding into the larger watercourse.

The site is located at the northern end of the existing Bargo Township. The site adjoins residential land at part of its southern boundary while the remainder of the site adjoins rural zoned land.

The adjoining land to the north east of the site known as Lot 252 DP 257510 (No. 25 Government Road, Bargo) is the subject of a current court issued Development Consent for a Waste Transfer Station. The Waste Transfer Station was granted consent on 2 April, 2014 and conditions were issued on 29 May, 2014. Construction of the Waste Transfer Station development has not yet commenced.

The development consent for the Waste Transfer Station enables up to 49,000 tonnes of waste to be processed per annum. Expert evidence provided during the court proceedings found that any impacts of this development on the Planning Proposal site would be "slight and manageable".

1.2 DESCRIPTION OF PROPOSAL

The Planning Proposal intends to amend Wollondilly Local Environmental Plan 2011 to allow the site to be developed for residential purposes. The purpose of this report is to seek amendments to the current Gateway Determination to address issues that have arisen during government agency consultation and review of specialist studies.

1.3 GATEWAY DETERMINATION AND BACKGROUND

The Planning Proposal was initially submitted to Council in August, 2013. A brief history of the Planning Proposal, initial Gateway Determination and subsequent Gateway alterations is provided below:

Original Gateway Determination - October, 2014

Council resolved at its Ordinary Meeting on 21 July, 2014 to support the preparation of a Planning Proposal for the site *to allow for low density residential development on all land to the west of the natural watercourse and that the proposed rezoning of land east of the watercourse not be supported and instead the minimum lot size map be prepared as such that all land east of the natural watercourse be contained within 1 lot.*

PE4 – Planning Proposal – No.95 Great Southern Road, Bargo

A Gateway Determination was then issued by the Department of Planning and Environment (DP&E) on 2 October, 2014. The Gateway Determination permitted the Planning Proposal to proceed in a manner different to that resolved by Council.

The original Gateway Determination that was issued by DP&E enabled the preparation of a Planning Proposal for the site in the following manner:

- *The eastern part of the site being rezoned from RU2 Rural Landscape to R5 Large Lot Residential with a minimum lot size of 1,500 square metres*
- *The western part of the site is to include the following minimum lot sizes:*
 - *1,500 square metres to the immediate west of the watercourse;*
 - *700 square metre lots fronting Anthony and Great Southern Roads as well as the middle third of the site*
 - *450 square metres for the remainder, except for the area around the heritage listed homestead in the north-western corner of the site, which requires a larger lot to provide an appropriate curtilage.*

Council Resolution to Seek Review of Gateway Determination - November, 2014

At its Ordinary Meeting on 17 November, 2014 Council resolved to seek a review of the Gateway Determination. Council resolved not to support the Planning Proposal in the manner that was set out in the Gateway Determination and to seek a review of the Gateway Determination. Council resolved the following in respect of seeking a review of the Gateway Determination:

1. *That Council support the preparation of a Planning Proposal for 95 Great Southern Road, Bargo to allow for low density residential development on all land to the west of the natural watercourse. That the proposed R5 zone not be supported and instead the minimum lot size map be prepared such that all land to the east of the natural watercourse be contained in 1 lot.*
2. *That the proposal be supported, prepared and submitted for a gateway determination on the basis that the minimum lot size for the entire R2 zone is 700m².*

PE4 – Planning Proposal – No.95 Great Southern Road, Bargo

Altered Gateway Determination - May, 2015

An altered Gateway Determination was issued by the NSW Department of Planning and Environment on 22 May, 2015. The altered Gateway Determination enabled the Planning Proposal to proceed in the following manner:

- *Amend the Land use zoning across the site from RU2 Rural Landscape to R2 Low Density Residential to the west of the watercourse on the site and to R5 Large Lot Residential for land to the east of the watercourse on site*
- *Amend the Minimum lot size map so that a minimum lot size of 700 square metres applies to land to the west of the watercourse, with the minimum lot size of land to the east of the watercourse to be determined following submission of an effluent disposal study.*

At its ordinary meeting on 22 June, 2015, Council resolved to support the preparation of the Planning Proposal in the manner specified by the altered Gateway determination.

Specialist Studies have been supplied to Council in recent months and have been comprehensively reviewed.

1.4 ISSUES IDENTIFIED FOLLOWING REVIEW OF SPECIALIST STUDIES

Specialist studies were submitted to Council in August, 2016. The findings of some of these specialist studies as well as advice received from government agencies has identified the need for amendments to the current Gateway Determination to address issues relating to sewer capacity, on-site effluent disposal and flora and fauna.

The issues are discussed in more detail below:

Sewer capacity

Condition No. 10 of the Gateway Determination relates to sewer provision and service capacity and states the following:

- "10. Council is to provide certainty in regard to the provision of a reticulated sewerage scheme to service the development and, where that scheme is not part of the Sydney Water Sewerage Scheme for Bargo, details of the location and capacity of the sewerage scheme have been provided for inclusion in the documents for public exhibition."*

PE4 – Planning Proposal – No.95 Great Southern Road, Bargo

Advice was received from Sydney Water in July, 2016 which states that *'Sydney Water will not be allowing or considering any sewer connections to the Bargo Priority Sewerage program scheme for any proposed development that is outside the subsidised area until at least the year 2020 as there is no spare capacity available due to the current high level water infiltration problems being experienced in the area'*.

The proponent has provided advice stating that a package sewerage treatment plant would be constructed (subject to consent being obtained) on an adjoining site and that Director General's Environmental Assessment Requirements had been obtained for this development. The package sewerage treatment plant would service future R2 Low Density Residential lots west of the watercourse. In this regard, it is considered suitable to retain the 700 square metre minimum lot size for the lands west of the watercourse and no alterations to the current Gateway Determination for zoning and minimum lot size for land west of the watercourse is required. The package treatment plant is not expected to service the lands east of the watercourse and on-site disposal systems would need to be provided in this regard.

On-Site Wastewater Disposal

The current Gateway Determination does not specify a minimum lot size for the R5 zoned lands to the east of the watercourse and instead imposes a requirement that the minimum lot size for this part of the site be nominated following the receipt of an On-Site Effluent Disposal Report.

The On-Site Effluent Disposal Report referred to in the Gateway Determination has been provided to Council and reviewed. The study has identified that the sustainable area for sub-surface irrigation on the site is 519 square metres which is based on water balance requirements. It should be noted that 519 square metres only relates to the area required for effluent disposal within each individual lot and additional areas within each lot for dwellings, ancillary structures, setbacks and retention of vegetation would need to be considered when determining the appropriate minimum lot size for this part of the site.

A larger lot size of 5000 square metres to the east of the watercourse is required so that the vegetation in this part of the site could be retained. The study has been reviewed by Council's Environmental Health Officer and it is considered that the effluent disposal study adequately demonstrates that a minimum lot size of 5000 square metres is also sufficient in ensuring that on-site effluent disposal systems could be provided to future lots in the eastern portion of the site.

PE4 – Planning Proposal – No.95 Great Southern Road, Bargo

Flora and Fauna Matters

The Ecological Constraints Assessment that was undertaken has identified three (3) key vegetation communities across the site as follows:

- Alluvial Woodland;
- Shale Sandstone Transition Forest;
- Shale Plains Woodland.

A map identifying the location of these communities is provided at attachment 3 and is explained in greater detail below. Council's Environmental Services Section have reviewed the Ecological Constraints Assessment and agree with the inclusion of an E2 zone, however; they have indicated that the proposed E2 zone may need to be expanded further west to accommodate all of the alluvial woodland vegetation and some of the derived native grasslands on the site. An outline of the three vegetation types and the planning response is provided below:

Alluvial Woodland

The large area of vegetation which extends across the riparian corridor is identified as Alluvial Woodland Vegetation (this is identified in blue on the vegetation map at attachment 3). Alluvial Woodland is a component of the vegetation community river flat eucalypt forest on coastal floodplains which is identified as an endangered ecological community under the Threatened Species Conservation Act, 1995. The corridor of vegetation that has been identified as Alluvial Woodland also contains 3 hollow bearing trees that were observed to be utilised by both native birds and mammals.

The Ecological Constraints Assessment recommends the area within the riparian corridor be included within an E2 Environmental Conservation Zone. Council's Strategic Planning and Environmental Services Teams are agreeable with the proposed inclusion of an E2 Environmental Conservation Zone across this area of the site. An indicative location of the proposed E2 zone is provided in attachment 2. The final location of the E2 zone would be determined prior to public exhibition of the Planning Proposal, however, it is likely that the location of the E2 zone shown in attachment 2 would need to be extended to include all of the Alluvial Woodland vegetation on site.

Shale Sandstone Transition Forest

The Ecological Constraints Assessment has identified some isolated patches of Shale Sandstone Transition Forest (SSTF) vegetation in the eastern portion of the site, which contributed to a combined total of 0.7ha of SSTF (this is identified in green on the vegetation map at attachment 3). SSTF is listed as a critically endangered ecological community (CEEC) under the Threatened

PE4 – Planning Proposal – No.95 Great Southern Road, Bargo

Species Conservation Act, 1995 and the Commonwealth Environmental Protection and Biodiversity Conservation Act, 1999.

If an R5 zone is applied over this part of the site, then any future clearing of the SSTF vegetation would remain subject to the provisions of the Native Vegetation Act, 2003. Any clearing of land to which the Native Vegetation Act applies would require a Property Vegetation Plan (PVP), and as the vegetation is listed as a critically endangered ecological community it is considered a red light and a PVP would not allow for any clearing of this vegetation.

It would also not be possible to offset any removal of this vegetation through the NSW Biobanking Framework, as OEH is unable to issue a Biobanking Statement on R5 zoned lands as the Native Vegetation Act, 2003 would apply. Therefore, the appropriate minimum allotment size for this part of the site should be based on the area necessary to ensure that SSTF vegetation can be retained. A minimum lot size of 5000 square metres would achieve this outcome. A larger allotment (for example 8000-9000) may be required to accommodate the larger patch of SSTF vegetation, and this would need to be factored into the design of any future subdivision proposal.

Shale Plains Woodland

There are two small patches of Shale Plains Woodland (SPW) mapped on the site to the west of the riparian zone (this is identified in yellow on the map at attachment 3). SPW vegetation is a component of the Cumberland Plain Woodland vegetation community which is listed as a critically endangered ecological community under the Threatened Species Conservation Act, 1995.

This vegetation is identified as being in a degraded condition, comprising only a small patch of scattered paddock trees, and as such would not meet the condition criteria to be considered a Critically Endangered Ecological Community under the EPBC Act. The future removal of this vegetation is expected to result in a minor impact and no objections have been raised by Council's Environmental Services Team.

It is also noted that this patch of SPW vegetation would be located on a part of the site proposed to be zoned R2 Low Density Residential. The land within the R2 zone is exempt from the operation of the Native Vegetation Act, 2003 and accordingly; there would likely be an ability to offset the removal of this vegetation through a Biobanking Statement from OEH (if required).

PE4 – Planning Proposal – No.95 Great Southern Road, Bargo

Application of the Natural Resources Biodiversity Map

It is intended to include the areas mapped as containing the three vegetation types above on the Natural Resources Biodiversity map. This would provide further protection to ensure that the Alluvial Woodland and Shale Sandstone Transition Forest vegetation on the site are adequately protected and retained. It would also ensure that the removal of the Shale Plains Woodland vegetation west of the watercourse undergoes appropriate assessment at the subdivision stage and that its removal is suitably offset (if required).

CONSULTATION

2.1 FORMAL CONSULTATION WITH COUNCIL STAFF THAT PROVIDE SPECIALIST COMMENT

The following comments on the Planning Proposal were received from Council staff:

Environmental Services

The Environmental Services team supported the inclusion of an E2 Environmental Conservation Zone throughout the riparian corridor on the site and also recommended that the endangered ecological communities identified on the site be included on the Natural Resources Biodiversity map that forms part of WLEP 2011.

Environmental Health Officer

Council's Environmental Health Officer advised that the On-site Effluent Disposal Study submitted is adequate and demonstrates that the 5000 square metre lots should be able to sustainably manage wastewater on-site.

2.2 CONSULTATION WITH PUBLIC AGENCIES

The following comments have been received from state government agencies at various stages of the Planning Proposal and have relevance to the proposed changes recommended in this report.

Sydney Water

Sydney Water provided updated advice in July, 2016. The advice from Sydney Water states the following:

'Sydney Water will not be allowing or considering any sewer connection to the Bargo Priority Sewerage Program (PSP) Scheme for any proposed development that is outside the subsidised area until at least the year 2020 as there is no spare capacity being available due to the current high water infiltration problems being experienced in the area.'

PE4 – Planning Proposal – No.95 Great Southern Road, Bargo

In addition to the infiltration issues being addressed, the Bargo PSP will also be dependent upon the amplification of the Picton Recycling Plant to provide for any future additional capacity. The amplification is not expected until around 2020 and there would still be no guarantee that there would be spare capacity for developments outside the subsidised area after this date.'

Comment: In response to Sydney Water's advice, the proponent has advised that a package Sewage Treatment Plant will be constructed on adjoining land to service the 700 square metre lots on the site. Details of the location and the capacity of the treatment plant would be provided with the public exhibition documentation in accordance with the gateway conditions.

NSW Office of Environment and Heritage (OEH)

The NSW Office of Environment and Heritage (OEH) were consulted shortly after the issue of the original Gateway Determination. The relevant OEH comments are provided below:

'The vegetation around the tributary of dogtrap creek is within a riparian corridor connecting with land zoned E2 approximately 400 metres downstream.

To ensure that areas of moderate and high biodiversity value are protected, environmental protection zonings such as E2 and E3 and other land use planning controls may be required.

Offsetting areas of high biodiversity value should be considered if they cannot be satisfactorily protected.'

Comment: The proposed inclusion of the watercourse and riparian area within an E2 Environmental Conservation Zone is consistent with the recommendations from OEH. A larger lot size has been applied to the east of the watercourse to ensure the SSTF vegetation is protected without the need to rely on an offsetting approach.

NSW Office of Water (NOW)

NSW Office of Water (NOW) provided preliminary comments in December 2014. This advice included the following in respect of the riparian corridor:

"The ownership of riparian corridors is an important factor in the function and health of riparian corridors within new release areas. Public ownership of riparian corridors is considered to be the most effective mechanism for ensuring the appropriate long term management of these areas.

PE4 – Planning Proposal – No.95 Great Southern Road, Bargo

Private landowners may have lower levels of expertise and understanding regarding the management of natural areas. Inappropriate and unlawful activities within privately owned riparian corridors are generally more frequent with compliance issues exacerbated by multiple ownership.

The financial burden of maintenance costs and lack of expertise by private landowners has been found to result in poor maintenance practices and degradation of corridors."

Comment: It is proposed to apply an E2 Environmental Conservation Zone through the riparian corridor on the site which is consistent with the advice from NOW. Council would need to determine prior to public exhibition of the proposal whether it accepts dedication of the E2 zoned land in accordance with the recommendations from NOW.

2.3 COMMUNITY CONSULTATION

Community consultation was not carried out as part of the changes proposed. Formal public exhibition of the Planning Proposal will be undertaken at a later stage where the community will have the opportunity to provide feedback. Three (3) submissions were received during the preliminary notification of the Planning Proposal in 2013 and these three submitters will be notified directly during the formal public exhibition period.

2.4 PLANNING PROPOSAL

The Planning Proposal has been prepared in accordance with Section 55 to the EP&A Act, 1979 and the guidelines published by the DP&E.

Council's options are:

1. Resolve to support the Planning Proposal in the form as described in Section 2.6 of this report. An altered Gateway Determination and updated specialist studies would be required to reflect the changes.
2. Resolve to support the Planning Proposal in another amended form. If this option were chosen a new Gateway Determination and updated specialist studies may be required.
3. Resolve to support the Planning Proposal in its current form.
4. Resolve not to support the Planning Proposal. If this option were chosen there would be no further action to be taken on the Planning Proposal other than for Council to write to the Department of Planning and Environment and request an altered Gateway Determination to state the Planning Proposal does not proceed.

PE4 – Planning Proposal – No.95 Great Southern Road, Bargo

Option 1 is the recommendation of this report.

2.5 WOLLONDILLY GROWTH MANAGEMENT STRATEGY

The Planning Proposal would remain consistent with Council's Growth Management Strategy (GMS) if the changes recommended in this report were adopted. The site is identified in the structure plans within Council's GMS as a potential future residential growth area and the proposal would contribute to the overall housing targets of the area.

2.6 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP 2011)

Based on the specialist studies and preliminary advice received from government agencies (particularly Sydney Water, NSW Office of Water and Office of Environment and Heritage) it is recommended that an altered Gateway Determination be requested from the Department of Planning and Environment.

The altered Gateway Determination would seek to amend Wollondilly Local Environmental Plan 2011 as it applies to land at No. 95 Great Southern Road, Bargo in the following manner:

- Amend the Land Zoning Map from Zone RU2 Rural Landscape to Zone R2 Low Density Residential for land to the west of the watercourse, R5 Large Lot Residential for Land to the east of the watercourse and apply E2 Environmental Conservation to the riparian corridor on the site;
- Amend the Minimum Lot Size Map to provide a minimum lot size of 700 square metres for the R2 zoned land (to the west of the watercourse and) and 5000 square metres to the R5 zoned land (to the east of the watercourse);
- Amend the Height of Buildings Map to a Maximum Building Height Category of 9 metres across the entire site;
- Include certain land on the Natural Resources Biodiversity Map under WLEP 2011.

FINANCIAL IMPLICATIONS

Funding for this project to date has been achieved through Council's adopted Fees and Charges.

PE4 – Planning Proposal – No.95 Great Southern Road, Bargo

Council has experienced a record increase in the number of Planning Proposals submitted in addition to the Wilton Junction project. Note that the Wilton Junction project is not a planning proposal but has had significant impact on Strategic Planning resources. All proposals which result in an increased intensity of land use within the Shire shall also lead to increased demand for Council services and facilities over time. Council will need to consider this in the adopted budget and forward estimates.

ATTACHMENTS IN A SEPARATE BOOKLET

1. Map showing Planning Proposal Site.
2. Indicative Zone Layout Plan.
3. Map showing vegetation communities on the site.
4. Gateway Determination (October, 2014) and Altered Gateway Determination (June, 2015).

RECOMMENDATION

1. That Council support amending the Planning Proposal at No. 95 Great Southern Road, Bargo and forward a request to alter the Gateway Determination to the Greater Sydney Commission to enable the Planning Proposal to proceed in the following manner:
 - Amend the Land Zoning Map from Zone RU2 Rural Landscape to Zone R2 Low Density Residential for land to the west of the watercourse, R5 Large Lot Residential for Land to the east of the watercourse and apply E2 Environmental Conservation to the riparian corridor on the site;
 - Amend the Minimum Lot Size Map to provide a minimum lot size of 700 square metres for the R2 zoned land (to the west of the watercourse and) and 5000 square metres to the R5 zoned land (to the east of the watercourse);
 - Amend the Height of Buildings Map to a Maximum Building Height Category of 9 metres across the entire site;
 - Include certain land on the Natural Resources Biodiversity Map under WLEP 2011.
2. That once the alteration to the Gateway Determination has been received that the Planning Proposal be placed on public exhibition.