

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 19 June 2017

PE4 – Draft Planning Proposal – No. 2471 Silverdale Road, Silverdale

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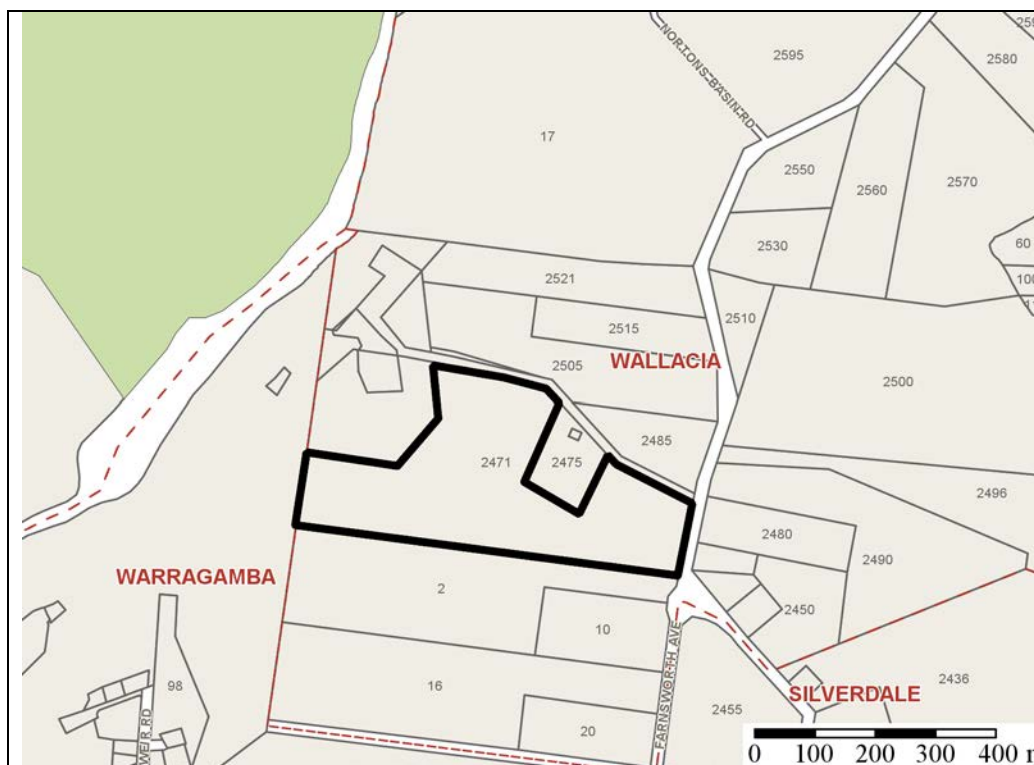
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Applicant:

Cityscape Planning

Owner:

Water NSW and Endeavour Energy



LOCATION MAP N

Stage	Completed
Preliminary notification	22 March, 2017 to 5 April, 2017
Gateway Determination	Not yet completed
Consultation with Public Agencies	Not yet completed
Specialist Studies	Not yet completed
Public exhibition/community consultation	Not yet completed
Referred to Minister for Publication	Not yet completed

Planning & Economy

PE4 – Draft Planning Proposal – No. 2471 Silverdale Road, Silverdale

EXECUTIVE SUMMARY

- A Draft Planning Proposal has been received for Lot 43 DP 1126346 (No. 2471) Silverdale Road, Silverdale.
- The Draft Planning Proposal proposes to amend Wollondilly Local Environmental Plan 2011 to change the land use zone from SP2 Infrastructure to RU2 Rural Landscape and to impose a minimum lot size of 16ha across the entire site.
- The draft Planning Proposal has been subject to initial notification and there was one (1) submission received in response.
- 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 support the preparation of a Planning Proposal to amend the land use zoning of the site from SP2 Water Supply to E3 Environmental Management and introduce a minimum lot size of 10ha over the entire site, that the Planning Proposal be forwarded to the Greater Sydney Commission for a Gateway Determination with a request that Council be granted delegation to make the amendments and that the submitter and proponent be notified of Council's decision.

REPORT

1.1 SITE DESCRIPTION

The site is a large irregular shaped allotment located in Silverdale. The lot is 11.23ha in area and has a frontage to Silverdale Road of 117 metres. Access to the land is currently off a side road which leads to the North Warragamba substation and other Water NSW Infrastructure (including a chlorination plant). The site contains a dwelling which appears to be abandoned and does not appear to be used for any rural or non-residential purposes. The front portion of the site is predominantly cleared and the back portion includes dense vegetation. The front cleared portion of the lot is relatively flat and the slope increases in a downward direction further towards the rear boundary of the site.

The site is currently zoned SP Infrastructure and the only permissible uses in this zone are those identified on the relevant land zoning map. The land zoning map identifies the site as being for the purposes of water supply.

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1.2 DESCRIPTION OF PROPOSAL

The Draft Planning Proposal intends to amend Wollondilly Local Environmental Plan 2011 as it applies to the site in the following manner:

- Amend the land use zone from SP2 Water Supply System to RU2 Rural Landscape Zone
- Amend the minimum lot size map to impose a minimum lot size across the site of 16 hectares.

The proponent has provided the following justification for the proposal:

"The current zoning of the site reflects its ownership by Water NSW, however, the site provides no role in managing or providing for Water NSW's infrastructure, either now or in the future and as such there is no longer any legitimate need for the subject site to have an SP2 Infrastructure zoning.

The most logical planning outcome to resolve this planning anomaly would therefore see the sites zoning and minimum lot size requirements amended in a manner consistent with that of other adjoining lands."

CONSULTATION

2.1 FORMAL CONSULTATION WITH COUNCIL STAFF THAT PROVIDE SPECIALIST COMMENT

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

Infrastructure Planning

Whilst the site has frontage to Silverdale Road it is currently accessed via a right of carriageway and it is anticipated that this arrangement could continue if a rural use or a dwelling was carried out on the site following amendments to the land use zone.

Environmental Services

The site is mapped as Shale Sandstone Transition Forest which is identified as a Critically Endangered Ecological Community under the NSW Threatened Species Conservation Act, 1995 and also the Commonwealth Environmental Protection and Biodiversity Conservation Act, 1999.

An RU2 zone across the entire site would enable certain clearing that wouldn't be permitted in other zones under the current Native Vegetation Act, 2003.

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It was also identified that there is a potential for impacts on nearby watercourses in the event of intensive agricultural activities being undertaken on the site.

Consideration needs to be given to the zone which best protects the environmental values of the site and in this regard an E3 Environmental Management zone may be the most appropriate zone for the site.

Environmental Health Officer

If the proposal is to proceed to the Gateway Determination stage then it is recommended that a Specialist Study be undertaken which looks at the land use conflict with the substation on the adjoining land and also assesses any noise impact of the nearby water treatment plant.

2.2 CONSULTATION WITH PUBLIC AGENCIES

Water NSW were consulted on the proposal and their advice states that the site is not within the Drinking Water Catchment boundary area and therefore they have no comments on the proposal.

2.3 COMMUNITY CONSULTATION

In accordance with Council's notification policy, initial community consultation has been undertaken. The application was made available on Council's website and letters were sent to owners and occupiers of adjoining and potentially affected properties.

One (1) submission was received in response to the matters raised and Council's comments are provided below:

A submission was received from Endeavour Energy as an adjoining land owner who advised that:

- *There are easements over the site benefitting Endeavour Energy (indicated by red hatching) for 132,000 volts / 132 kV high voltage overhead power lines and another for overhead power lines 9 metres wide to the North West corner.*
- *There is an existing low voltage overhead service conductor to Silverdale Road.*
- *The site adjoins Endeavour Energy's North Warragamba Zone Substation in Chlorination Drive, Warragamba (Lot 41 DP 1126346).*

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The key issues that were raised in Endeavour Energy’s submission related to noise and Electric and Magnetic Field exposure from the adjoining substation and power lines. The issues raised and Council’s response is provided below:

Issue Raised	Assessor Comment
<p><u>Noise</u></p> <p>Endeavour Energy is aware that there is an existing dwelling house on the site which at the time of acquisition was essentially uninhabitable. Given the ownership of the land by the Sydney Catchment Authority this did not form a major consideration in the siting on the new zone substation, i.e. the location of the substation was essentially based on it being immediately adjacent to the existing 132 kV high voltage overhead power lines for bulk supply to the substation.</p> <p>The electricity network is operational all day, every day of the year. Overhead power lines can produce an audible sound or buzz as a side effect of carrying electricity. These sounds are generally not an issue in non-urban/non/residential areas but with increasing density and building heights endeavour energy believes it is worth considering. Where development is proposed in the vicinity of electricity infrastructure, Endeavour Energy is not responsible for any acoustic/noise amelioration measures for such noise that may impact on that nearby proposed development.</p>	<p>It is acknowledged that there is the possibility for some land use conflict between a future residential use of the site and the substation and this is consistent with advice from Council’s Environmental Health Officer.</p> <p>It is recommended that a Specialist Study be prepared which investigates the noise from the substation in order to address the issues raised by Endeavour Energy.</p>

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Issue Raised	Assessor Comment
<p>Electric and Magnetic Field Limits</p> <p>Typical magnetic field measurements associated with Endeavour Energy's activities and assets, given the required easement widths, safety clearances and having a maximum voltage of 132000 volt, will not exceed the recommended magnetic field exposure limits.</p> <p>Notwithstanding, Endeavour Energy believes that likewise Council should adopt a policy of prudent avoidance by siting the more sensitive uses away from electricity infrastructure to minimise exposure to EMF.</p> <p>To reduce or eliminate any potential issues arising from the foregoing matters, rather than utilising the existing dwelling house/building area near the substation boundary or an area adjacent to the easement area, given the large size of the site a more suitable location for a new dwelling house could be identified to provide a larger buffer to the electricity infrastructure on the site.</p>	<p>The Specialist Study mentioned above should also consider EMF from the substation and the likely future impact on a future residence of the site.</p> <p>If the existing structure on the site was unable to re-commence use on the site without further consent from Council due to the period of time in which it has been abandoned, then the suitability of its location could be guided by the study which assesses the likely impact of the nearby substation. Alternatively, an alternate, more suitable location could be nominated.</p>

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Other general matters were raised in Endeavour Energy’s submission and these are outlined below:

Issue Raised	Assessor Comment
It is imperative that the access to the existing electrical infrastructure adjacent to the site is maintained at all times.	The access arrangements to the electrical infrastructure would not be impacted by the Planning Proposal.
The planting of large trees in the vicinity of electricity infrastructure is not supported by Endeavour Energy. Suitable planting needs to be undertaken in proximity of electricity infrastructure.	No large tree planting is proposed as part of the proposal.
Before commencing any underground activity the applicant is required to obtain advice from the Dial before You Dig 1100 service in accordance with the requirements of the <u>Electricity Supply Act 1995</u> (NSW) and associated Regulations.	Not applicable. Advice will be forwarded to proponent.
Demolition work is to be carried out in accordance with Australian Standard AS2601: The demolition of structures (AS 2601).	Not applicable. Advice will be forwarded to proponent.
Workers involved in work near electricity infrastructure run the risk of receiving an electric shock and causing substantial damage to plant and equipment. Any works must be in accordance with Endeavour Energy’s public safety training resources.	Not applicable. Advice will be forwarded to proponent.
In case of an emergency relating to Endeavour Energy’s electrical network, the applicant should note Emergencies Telephone is 131 003 which can be contact 24 hours/7 days.	Not applicable. Advice will be forwarded to proponent.
The construction of any building or structure (including fencing) that is connected to or in close proximity to Endeavour Energy’s electrical network is required to comply with AS/NZS 3000:2007 ‘Electrical installations’ to ensure that there is adequate connection to the earth. Inadequate connection to the earth places persons and the electricity network at risk.	Not applicable. Advice will be forwarded to proponent.

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2.4 PREPARATION OF A PLANNING PROPOSAL

Should Council resolve to support the application, a Planning Proposal will be prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act, 1979* and guidelines published by the Department of Planning and Environment. The Planning Proposal will then be forwarded to the Minister for Planning and Environment for a Gateway Determination.

In deciding to forward a Planning Proposal to the Department of Planning for a Gateway Determination, Council is endorsing the Planning Proposal and it is then deemed to be *Council's* Planning Proposal.

Council's options are:

1. Resolve to support the Draft Proposal in its original form and prepare a Planning Proposal accordingly. Matters can be more fully investigated and resolved with future specialist studies as determined by the Gateway process.
2. Resolve that a Planning Proposal be prepared in a form different to the application (and as described in Section 2.11 of this report). Matters can be more fully investigated and resolved with future specialist studies as determined by the Gateway process.
3. Resolve not to support a Planning Proposal for this site. The applicant can choose to apply for a Pre-Gateway Review as a result of this option.

Note that the application has been with Council for more than 90 days. The applicant can apply for a pre-Gateway review in accordance with the EP&A Regs, 2000 if Council fails to indicate support for the application within 90 days of receiving the application.

Option 2 is the recommendation of this report.

2.5 DRAFT SOUTH WEST DISTRICT PLAN

In general, the proposal is consistent with the Draft South West District Plan. However, particular consideration needs to be given to sustainability priority No. 7 in the Plan which is outlined below:

Sustainability Priority 7 – consider environmental, social and economic values when planning for the metropolitan rural area

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The site is considered to be potentially quite high in terms of its environmental value due to the vegetation on the site and also its proximity to the Warragamba River. The sustainability priority in the district plan requires relevant planning authorities to consider how to articulate the different landscape values and character of rural areas with different planning and development controls. In applying that approach to the site, an environmental management zone is considered the most appropriate zone based on its objectives and permissible uses.

2.6 SECTION 117 MINISTERIAL DIRECTIONS

Direction 1.5 Rural Lands

This direction applies when:

- a) *a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environmental protection zone (including the alteration of any existing rural or environmental protection zone boundary).*

The draft planning proposal intends to amend the land use zoning from SP2 Infrastructure to RU2 Rural Landscape and so this ministerial direction applies. Where this direction applies, then a Planning Proposal must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008.

An assessment against the planning principles contained in the SEPP is provided below:

- a) *the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas;*

Comment:

The proposed amendment would result in a rural zone being applied to the site which would promote opportunities for rural activities in the area.

- b) *recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or state;*

Comment:

The importance of agriculture and rural lands is broadly recognised in Council's strategies and growth plans. As the site is of quite high environmental value, it is considered appropriate to provide the site with an environmental zoning to ensure that agricultural activities are directed towards less constrained sites.

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- c) *recognition of the significance of rural land uses to the state and rural communities, including the social and economic benefits of rural land use and development;*

Comment:

The significance of rural land uses to state and rural communities is recognised, however, given the limited ability of the site to support many large scale rural uses due to its environmental value, it would be more appropriate to provide the site with an environmental zone.

- d) *in planning for rural lands, to balance the social, economic and environmental interests of the community;*

Comment:

The site contains a high level of environmental value and it is considered that an environmental zone would be preferable to a rural zone.

- e) *the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land;*

Comment:

Much of the site contains dense vegetation in good condition and the site is also in close proximity to the Warragamba River. An RU2 zone would enable several rural activities to be undertaken on the site and may compromise the environmental values of the site. An environmental zone is therefore considered a more appropriate zone for the site.

- f) *the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of the communities;*

Comment:

The change in land use zone of the site from infrastructure to either rural or environmental would enable a rural lifestyle opportunity on the site.

- g) *the consideration of impacts on services and infrastructure and appropriate location when providing for housing;*

Comment:

The proposed amendment would not result in any greater than one dwelling being located on the existing allotment which would have minimal impact on servicing and infrastructure in the area.

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- h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director General;*

Comment:

The Draft Plan for Growing Sydney and Council's GMS are the relevant strategies called up by this principle and Council's assessment has found that the proposal is consistent with these strategies.

Direction 4.4 Planning for Bushfire Protection

This direction applies when a relevant Planning Authority prepares a Planning Proposal that will affect or is in proximity to bushfire prone land. A majority of the site is bushfire prone land and therefore consideration needs to be given to the direction.

The Planning Proposal proposes a rural zone which would enable a future dwelling on the site. There is a dwelling on the site which appears to have been abandoned for some time. It is not clear whether this structure is able to continue to be used lawfully as a dwelling given that the site is currently zoned SP2 Infrastructure and dwellings are prohibited in this zone.

It is therefore considered that a Bushfire Hazard Assessment should be undertaken as part of the specialist studies requirements should the proposal proceed. The Bushfire Hazard Assessment would need to demonstrate that a future dwelling on the site is able to achieve an appropriate BAL rating under Planning for Bushfire, 2006 and to establish whether any vegetation removal is required in order to achieve the required asset protection zones for the structure. The Bushfire Hazard Assessment would need to demonstrate the proposals consistency with the 117 Direction.

2.7 STATE ENVIRONMENTAL PLANNING POLICIES

State Environmental Planning Policy No. 44 – Koala Habitat Protection

Council's Environment Team have advised that there have been recent koala siting's in the area. In that regard, it is considered that a Flora and Fauna Assessment which considers the likely impact of any vegetation removal and the impact on any koala habitat should the proposal proceed with a proposed RU2 Rural Landscape zoning, due to the permitted uses in this zone and likely clearing that would result from some of those uses.

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The application of an E3 Environmental Management zone across the site would enable a dwelling but would not permit most forms of agricultural activity on the site. The dwelling and ancillary structures could likely be provided on the cleared part of the site without the need for any vegetation removal (although a Bushfire Hazard Assessment may be required to verify whether any vegetation removal would be required for any future dwelling on the site).

A Flora and Fauna Assessment would therefore not be required should an E3 Environmental Management zone across the site be adopted provided that it can be demonstrated that no vegetation removal would be required to achieve compliance with Planning for Bushfire Protection, 2006.

2.8 WOLLONDILLY COMMUNITY STRATEGIC PLAN

The Wollondilly Community Strategic Plan 2033 (WCSP), adopted by Council 17 June, 2013 is the Council's highest level long term plan and sets out the long term strategic directions for Wollondilly over a 20 year period up to the year 2033.

The following Community Strategic Plan strategies are relevant to the Planning Proposal:

Strategy EN1 Biodiversity Resilience

Protect and conserve biodiversity and natural resources, including waterways, riparian lands and groundwater dependant ecosystems.

Comment: A majority of the site contains quite dense vegetation which is listed as a CEEC under the TSC Act, 1995. The site is also in close proximity to a watercourse which feeds into the Warragamba River and it is considered that the most appropriate way of protecting and conserving these biodiversity and natural resource values in the application of an E3 Environmental Management zone across the site.

Strategy EC4 Managing Development and Land Use

Manage and regulate land use and development in order to achieve a high quality built environment which contributes to economic well-being.

Comment: The application of an RU2 Rural Landscape zone across the site would permit a number of uses that are unlikely to be compatible with the site given the site constraints. An E3 zone would be a more appropriate way of managing land use and development on the site.

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Strategy EC5 Protect Natural Resources

Protect natural resources so as to contribute to the Shire's economic well-being.

Comment: The alternate land use zone recommended in this report provides an appropriate level of protection to natural resources in the locality.

2.9 LEP PRACTICE NOTE – LOCAL ENVIRONMENTAL PLAN ZONE OBJECTIVES

The proposal intends to amend the land use zoning to RU2 Rural Landscape which would be consistent with the surrounding land use zonings to the north east and south.

The direction states that this should not be used where the main purpose of the zone is to protect significant environmental attributes. A land use zone should be applied which protects the environmental significance of this site and in this regard an RU2 Rural Landscape zone may not be appropriate.

The E3 Environmental Management zone is intended to apply to areas of special attributes that require management. Council's environment team have advised that the vegetated portion of the site would satisfy the criteria to achieve an E3 Environmental Management Zoning. The front, cleared portion of the site comprises mainly exotic grasses rather than natives and is therefore not likely to satisfy the criteria for an E3 zoning.

It is considered however, that applying an E3 Environmental Management zone across the site would be an appropriate outcome as it would be likely that a dwelling and any associated asset protection zones and effluent disposal area could be situated wholly on the cleared portion of the site whilst still providing adequate protection to constrained parts of the land.

2.10 WOLLONDILLY GROWTH MANAGEMENT STRATEGY

Council's GMS was adopted by Council in 2011. The GMS sets directions for accommodating growth in the Shire over the next 25 years. The GMS contains Key Policy Directions which form the overarching growth strategy for Wollondilly and are outlined as follows:

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Key Policy Direction	Comment
General Policies	
P1 All land use proposals need to be consistent with the key Policy Directions and Assessment Criteria contained within the GMS in order to be supported by Council.	The Planning Proposal is consistent with the key policy directions in the Growth Management Strategy.
P2 All land use proposals need to be compatible with the concept and vision of “Rural Living” (defined in Chapter 2 of the GMS).	The proposal intends to rezone a site that is currently zoned infrastructure to an RU2 Rural Landscape zone and is consistent with the concept of rural living in the GMS. However, for reasons detailed in this report an environmental management zone is preferred.
P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.	Preliminary consultation was undertaken from 22 March, 2017 until 5 April, 2017. One (1) submission was received.
P4 The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.	The personal financial circumstances of the landowner have not been considered in the assessment of this proposal.
P5 Council is committed to the principle of appropriate growth for each of our towns and villages. Each of our settlements has differing characteristics and differing capacities to accommodate different levels and types of growth (due to locational attributes, infrastructure limitations, geophysical constraints, market forces etc.).	<p>The proposal would only enable one additional dwelling entitlement and would not enable the further subdivision of the site.</p> <p>The site is not within an area identified for potential future growth in Council’s GMS and is therefore consistent with the intent of this control.</p> <p>Due to the constraints of the site an environmental zone may be a more appropriate land use zone.</p>

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Key Policy Direction	Comment
Housing Policies	
P6 Council will plan for adequate housing to accommodate the Shire's natural growth forecast.	The proposal intends to rezone the site to RU2 which would not result in any greater than one dwelling being located on the existing allotment. Hence there will be no impact on the dwelling targets for Silverdale and Warragamba to be achieved on other sites that have been identified as potential future growth in Council's GMS. One dwelling on the site would be consistent with the surrounding area. This is not altered if an environmental management zone is used instead.
P8 Council will support the delivery of a mix of housing types to assist housing diversity and affordability so that Wollondilly can better accommodate the housing needs of its different community members and household types.	The intent of the proposal is to rezone the site from Infrastructure. The delivery of housing which increases housing variety would be provided in appropriate locations around existing town centres.
P9 Dwelling densities, where possible and environmentally acceptable, should be higher in proximity to centres and lower on the edges of towns (on the "rural fringe").	The proposal would not enable any further subdivision of the land and would not result in any greater than one dwelling being located on the existing allotment. The dwelling density of the locality would therefore not be affected by the subject proposal.
P10 Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.	The site is not located within or immediately adjacent to an existing town or village and the proposal would not result in any greater than one dwelling being located on the existing allotment. It is therefore considered that the proposal is consistent with this direction.
Macarthur South Policies	
Key Policy Directions P11, P12, P13 and P14 are not applicable to this planning proposal. The subject land is not within the Macarthur South area.	N/A

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Key Policy Direction	Comment
Employment Policies	
P15 Council will plan for new employment lands and other employment generating initiatives in order to deliver positive local and regional employment outcomes.	N/A
P16 Council will plan for different types of employment lands to be in different locations in recognition of the need to create employment opportunities in different sectors of the economy in appropriate areas.	N/A
Integrating Growth and Infrastructure	
P17 Council will not support residential and employment lands growth unless increased infrastructure and servicing demands can be clearly demonstrated as being able to be delivered in a timely manner without imposing unsustainable burdens on Council or the Shire’s existing and future community.	N/A
P18 Council will encourage sustainable growth which supports our existing towns and villages, and makes the provision of services and infrastructure more efficient and viable – this means a greater emphasis on concentrating new housing in and around our existing population centres.	The proposal would not place an unreasonable demand on existing services and infrastructure. The nature of the proposal would not be detrimental to future housing growth being focussed around existing town centres as outlined in the GMS.
P19 Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.	The proposal would not enable any further subdivision of the site and would not contribute to disperse population growth.
P20 The focus for population growth will be in two key growth centres, being the Picton/Thirlmere/Tahmoor Area (PTT) area and the	The proposal is located outside the areas of Picton, Tahmoor, Thirlmere and Bargo; however, its intent isn’t to provide for population growth but merely to enable the site to be used for

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Key Policy Direction	Comment
Bargo Area. Appropriate smaller growth opportunities are identified for other towns.	rural purposes rather than for Water NSW infrastructure.
Rural and Resource Lands	
P21 Council acknowledges and seeks to protect the special economic, environmental and cultural values of the Shire's lands which comprise waterways, drinking water catchments, biodiversity, mineral resources, agricultural lands, aboriginal heritage and European rural landscapes.	<p>A front portion of the site is predominately cleared and the remaining back half of the site is quite densely vegetated. The vegetation in the back portion of the site is most likely Shale Sandstone Transition Forest (SSTF) which is listed as a Critically Endangered Ecological Community under the Threatened Species Conservation Act, 1995 and is also listed under the commonwealth Environmental Protection and Biodiversity Conservation Act, 1999.</p> <p>The site is considered to be quite high in environmental values both due to the vegetation on site and its proximity to Megaritys creek. Megaritys Creek also feeds into the Warragamba River which is also located just over 200 metres from the sites rear boundary. The application of a rural zone to the site would enable agricultural activities which may compromise these environmental values and an environmental management zone is therefore considered to be more appropriate.</p>
P22 Council does not support incremental growth involving increased dwelling entitlements and/or rural lands fragmentation in dispersed rural areas. Council is however committed to maintaining where possible practicable, existing dwelling and subdivision entitlements in rural areas.	The site is located outside the existing township of Silverdale. The minimum lot size proposed would not enable further subdivision of the site and therefore not contribute to fragmentation of the rural lands.

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2.11 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP 2011)

Should the lot be zoned either RU2 Rural Landscape or E3 Environmental Management zone, then a dwelling would be permissible on the site with consent. There is a structure on the site at present which appears to have been used as a dwelling in the past but has been abandoned for some time. The current infrastructure zoning prohibits the use of a dwelling and it is unclear as to whether the dwelling would benefit from existing use rights and be able to re-commence its use as a dwelling on the site.

If the dwelling on-site cannot re-commence lawfully without consent, then further approval from Council would be required and the site would need to satisfy one of the following criteria on clause 4.2A of Wollondilly Local Environmental Plan 2011 in order for a dwelling to be approved on the site:

- “(3) Development consent must not be granted for the erection of a dwelling house on land to which this clause applies, and on which no dwelling house has been erected, unless the land is:*
- (a) a lot that is at least the minimum lot size specified for that land by the Lot Size Map, or*
 - (b) a lot created before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or*
 - (c) a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house would have been permissible if the plan of subdivision had been registered before that commencement.”*

The lot would not benefit from a dwelling entitlement under subclause (a) or (c) above. The lot may have a dwelling entitlement under sub-clause (b) however this would require a substantial amount of research to establish.

It is recommended that a minimum lot size of 16 hectares not be applied to the site and rather a minimum lot size be applied such that a Council would be able to consent to a dwelling under clause 3(a) above.

In this regard, the lot size shown on the minimum lot size map would need to be lower than the actual size of the lot. However, the minimum lot size would need to be of such a value that would not enable further subdivision of the site.

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The lot is currently 11.23ha in area. A minimum lot size of 10ha is considered the most appropriate minimum lot size for the site as it would provide clear guidance that the lot would benefit from a dwelling entitlement and would also prohibit further subdivision of the site. A minimum lot size of 10ha is not currently available within the legislation maps; however, the option of introducing this minimum lot size could be further explored with the Department of Planning through the Planning Proposal process.

The LEP standard mapping template currently enables a minimum lot size of 7ha. If the introduction of a 10ha minimum lot size into the mapping template is not possible, then a 7ha minimum lot size would also be considered appropriate.

Following consideration of responses from initial consultation and notification and preliminary assessment of the application, it is considered that the Planning Proposal should take the form as detailed below.

2.12.1 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP, 2011)

The proposed amendments to WLEP 2011 are described below:

- Amend the Land Zoning Map from Zone SP2 Infrastructure zone to Zone E3 Environmental Management.
- Amend the Lot Size Map to impose a minimum lot size of 10 hectares across the entire site.

2.12.2 WOLLONDILLY DEVELOPMENT CONTROL PLAN, 2011 (WDCP, 2011)

No amendments are proposed to WDCP 2011.

VOLUNTARY PLANNING AGREEMENT

It is unlikely that a Voluntary Planning Agreement would be required for this proposal.

FINANCIAL IMPLICATIONS

Funding for this project to date has been achieved through the adopted Planning Proposal fees and charges further fees will apply if the proposal progresses.

ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET

1. Site identification plan
2. Proposed zoning map
3. Alternate zoning map

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RECOMMENDATION

1. That Council support the preparation of a Planning Proposal for land being:

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to amend Wollondilly Local Environmental Plan, 2011 as follows:
 - amend the Land Zoning Map from SP2 Infrastructure Zone to E3 Environmental Management
 - amend the Lot Size Map to introduce a minimum lot size of 10 hectares across the entire site.
2. That the Planning Proposal be forwarded to the Greater Sydney Commission for a Gateway Determination.
3. That Council request the Greater Sydney Commission grant Council delegation to make the amendments to Wollondilly Local Environmental Plan, 2011 in accordance with Section 59 to the Environmental Planning and Assessment Act, 1979.
4. That the proponent and submitter be notified of Council's Resolution.