

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 16 May 2016

PE4 – Planning Proposal – Penny Lane Land Acquisition Release Housekeeping LEP Amendment

PE4 **Planning Proposal – Penny Lane Land Acquisition Release Housekeeping LEP Amendment** TRIM 5298
259421

Proponent: **Wollondilly Shire Council**
Owner: **D R Roache, Pikestaff Investments Pty Ltd, L Thornton**

Planning & Economy



LOCATION MAP N

Stage	Completed
Preliminary notification	Not required
Gateway Determination	24 March 2016
Consultation with Public Agencies	Not required
Specialist Studies	None required
Public exhibition/community consultation	Not yet completed
Referred to Minister for Publication	Not yet completed

**PE4 – Planning Proposal – Penny Lane Land Acquisition Release
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EXECUTIVE SUMMARY

- Council has previously resolved to support the preparation of a planning proposal to remove land from the Land Reservation Acquisition Map which forms part of the Wollondilly Local Environmental Plan 2011.
- Council also resolved that a further report be prepared detailing the requirements of the Gateway Determination and to consider whether the planning proposal should proceed.
- This report also seeks to amend the planning proposal to update the Wollondilly Local Environmental Plan 2011 so that it no longer refers to land required for the Penny Lane car park which has already been acquired for this purpose.
- 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 proceed with the planning proposal
 - the planning proposal be amended in a form detailed in this report and an Alteration to the Gateway Determination be requested from the Department of Planning & Environment.

REPORT

1.1 BACKGROUND

The need for additional car parking in Thirlmere was first identified in 1981 to service the surrounding commercial land uses. The land has been protected for the purposes of a car park through the Local Environmental Plan since August 1983.

The scale of car parking originally planned was reduced in 2006 in response to a commercial centre's study and a car parking study. The studies concluded that the Thirlmere commercial centre was unlikely to grow to the extent that it would require a large public car park.

Land in private ownership has been reserved for the purpose of a car park through the Wollondilly Local Environmental Plan 2011. This land would need to be acquired by Council to build a car park. The statutory protection provided by the local environmental plan has prevented the land from being developed for any development other than a car park.

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One of the landowners affected has requested that Council either acquire the land or remove the burden so the land can be developed for another purpose permissible within the land use zone.

This matter was considered by Council at the Ordinary Meeting held 15 June 2015. Council resolved to support the preparation of a planning proposal to remove land from the Land Reservation Acquisition Map which forms part of the Wollondilly Local Environmental Plan 2011. Removal of the land from the Land Reservation Acquisition Map will enable landowners to use the land for other suitable development.

Council also resolved to revisit the merits of the planning proposal after a Gateway Determination had been issued by the Department of Planning & Environment (“Department”) so any Gateway requirements could be considered before the planning proposal progressed further.

1.2 SITE DESCRIPTION

The planning proposal takes in three (lots) all located within or adjoining the Thirlmere commercial centre being:

Lot and DP	Property Description	Approximate Size of Area Sq.m	Description
Lot B DP 383947	64 Carlton Road	17	Small triangular area at rear corner of lot.
Lot C DP 383947	31 Oaks Street	267	Rear portion of lot.
Lot 3 Section C DP 1569	27 Oaks Street	857	Rear half of the lot.

The land is mostly zoned B2 Local Centre which is a business zone. One of the land parcels (Lot B DP 383947) is mostly zoned R2 Low Density Residential except for a small triangular portion of land which is zoned B2 Local Centre.

At present, each of the lots within the planning proposal contains a residential dwelling and are currently used for residential land uses. Apart from dwelling houses, the land within the planning proposal boundary is predominately cleared, mostly undeveloped land within the exception of a small shed.

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1.3 DESCRIPTION OF PROPOSAL

A planning proposal has been prepared with the intent of removing statutory provisions within the Wollondilly Local Environmental Plan 2011 for the acquisition of certain land in Thirlmere for a public car park.

The relevant statutory provisions are:

- Clause 5.1A - Development on Land intended to be acquired for public purposes, and
- the associated Land Reservation Acquisition Map.

The effect of these statutory provisions is that development consent on the land in question is limited to purposes related to the intended use for the land as a car park.

Attachment 2 to this report includes an annotated extract from the Wollondilly LEP 2011 showing land identified for a car park at Thirlmere.

The planning proposal, in the form submitted to the Department, seeks to remove some of the areas from the Land Reservation Acquisition Map.

1.4 GATEWAY DETERMINATION

A Gateway Determination was issued on 24 March 2016. A copy of which is provided at Attachment 1.

Council resolved on 15 June 2015:

that a further report be provided to Council detailing the requirements of any Gateway Determination and give consideration to whether the Planning Proposal should proceed.

It is understood that the reason for this related to the uncertainty around what the Gateway requirements would be and what additional financial burdens this placed on the Council.

The Gateway Determination does not require the preparation of any specialist technical studies. However it does require the planning proposal to be amended to '*demonstrate that the remaining area identified for a future car park will be sufficient to meet the current and future demands of the Thirlmere commercial area*'. This additional information can be prepared in house by Council's technical staff with minimal impact on the budget.

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It is considered prudent, that confirmation should be sought from the Department that any additional explanation is satisfactory prior to commencing formal community consultation. This will ensure against significant delays at the finalisation stage should the additional information be considered inadequate by the Department.

1.5 FURTHER CHANGES TO THE GATEWAY DETERMINATION

The Wollondilly LEP 2011 could benefit from further changes related to the acquisition of land for a public car park at Penny Lane Car Park to ensure the Plan does not include unnecessary information.

The additional changes are detailed in the table below:

Proposed Change	Land to which the proposed change applies	Reason for Change
Remove additional land from the Land Reservation Acquisition Map	Lot 100 in DP 1175654.	The land has already been acquired by Council and there is no longer a need to identify it for acquisition.
Remove reference from Clause 5.1A(3) in Column 1 and Column 2 associated with a car park and the associated development.	Zone B2 Local Centre and marked "Car park".	There would be no need for a reference in Clause 5.1A(3) as there would no longer be any land identified on the Land Reservation Acquisition Map in a B2 zone and marked for a "Car Park".
Amend the planning proposal boundary to include additional land.	Include an additional lot (Lot 100 in DP 1175654) in the planning proposal.	So that all relevant land is included within the planning proposal.

These further amendments would necessitate changes to the Planning Proposal and trigger the need for an amended Gateway Determination.

In light of the need for further correspondence with the Department detailed in section 1.4, an opportunity exists to amend the Planning Proposal without significant additional delays to the process.

A map is provided at Attachment 3 to show the additional land proposed to be included within the planning proposal.

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1.6 WOLLONDILLY DEVELOPMENT CONTROL PLAN, 2016 (WDCP 2016)

Changes will be required to the Wollondilly DCP 2016, Volume 5 – Commercial and Community Uses so the reference map for the Thirlmere Commercial Precinct in Part 4 reflects the changes sought by this Planning Proposal.

This amendment can be included in other changes to the DCP when practical rather than as a stand along change.

FINANCIAL IMPLICATIONS

This planning proposal will be dealt with through the existing strategic planning and mapping budgets with no fees being obtained from land owners.

ATTACHMENTS:

1. Gateway Determination for Penny Lane Land Acquisition Release Housekeeping LEP Amendment
2. Land identified for a car park at Thirlmere on the WLEP 2011 Land Reservation Acquisition Map
3. Map showing additional land proposed for inclusion within the planning proposal.
4. Proposed amendment to Clause 5.1A of the Wollondilly Local Environmental Plan 2011.

RECOMMENDATION

1. That Council proceed with the Penny Lane Land Acquisition Release Housekeeping LEP Amendment.
2. That the Planning Proposal be amended to:
 - a) Release Lot 100 in DP 1175654 from the WLEP 2011 Land Reservation Acquisition Map; and
 - b) Remove the reference in Clause 5.1A(3) which relates to land currently shown on the Land Reservation Acquisition Map – Sheet LRA_008C for a “Car Park”.
3. That the amended Planning Proposal be forwarded to the Department of Planning & Environment with a request for an alteration to the Gateway Determination.

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ATTACHMENT 1 – 5298– 16 MAY 2016



Contact: Mark Dennett
Phone: (02) 9860 1534
Email: mark.dennett@planning.nsw.gov.au
Postal: GPO Box 39 Sydney NSW 2001

Our ref: PP_2016_WOLLY_001 (16/02815)
Your ref: TRIM4985 CW:GR

Mr Luke Johnson
General Manager
Wollondilly Shire Council
PO Box 21
Picton NSW 2571

Dear Mr Johnson,

Planning proposal to amend Wollondilly Local Environmental Plan 2011

I am writing in response to your Council's letter dated 7 December 2015 requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) in respect of the planning proposal to rationalise the area required for a public car park at Penny Lane, Thirlmere, and remove acquisition requirements.

As delegate of the Greater Sydney Commission, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

In relation to S117 Direction 6.2 Reserving Land for Public Purposes, I have agreed to the planning proposal proceeding on the basis that Council amends the proposal in accordance with condition 1 of the Gateway determination.

Plan making powers were delegated to councils in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided not to issue an authorisation for Council to exercise delegation to make this plan. This will allow Council to seek approval for any inconsistency with S117 Direction 6.2 at the time Council submits the draft plan to the Department for the instrument to be made.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the department for administrative purposes.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, action may be under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

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Should you have any queries in regard to this matter, please contact Mark Dennett of the regional office of the department on 02 9860 1534.

Yours sincerely,



24/03/16

**Catherine Van Laeren
Director
Sydney Region West
Planning Services**

Encl
Gateway Determination

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**Planning &
Environment**

Gateway Determination

Planning proposal (Department Ref: PP_2016_WOLLY_001_00): to rationalise the area required for a public car park at Penny Lane, Thirlmere, by reducing the area identified in the acquisition.

I, the Director, Sydney Region West at the Department of Planning and Environment as delegate of the Greater Sydney Commission, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* that an amendment to the Wollondilly Local Environmental Plan (LEP) 2011 to rationalise the area required for a public car park at Penny Lane, Thirlmere, by reducing the area identified for the acquisition, should proceed subject to the following conditions:

1. Prior to exhibition, Council is to amend the planning proposal:
 - a. to include an explanation to demonstrate that the remaining area identified for a future car park will be sufficient to meet the current and future demands of the Thirlmere commercial area; and
 - b. to include a red outline of the subject area in Figures 3 and 4 of the proposal.
2. Community consultation is required under sections 56(2)(c) and 57 of the *Environmental Planning and Assessment Act 1979* ("EP&A Act") as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)* and must be made publicly available for a minimum of **14 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)*.
3. No consultation is required with public authorities under section 56(2)(d) of the EP&A Act.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 24 day of March 2016.

**Catherine Van Laeren
Director, Sydney Region West
Planning Services**

Delegate of the Greater Sydney Commission

RPA PP_2016_WOLLY_001_00 (16/02815)

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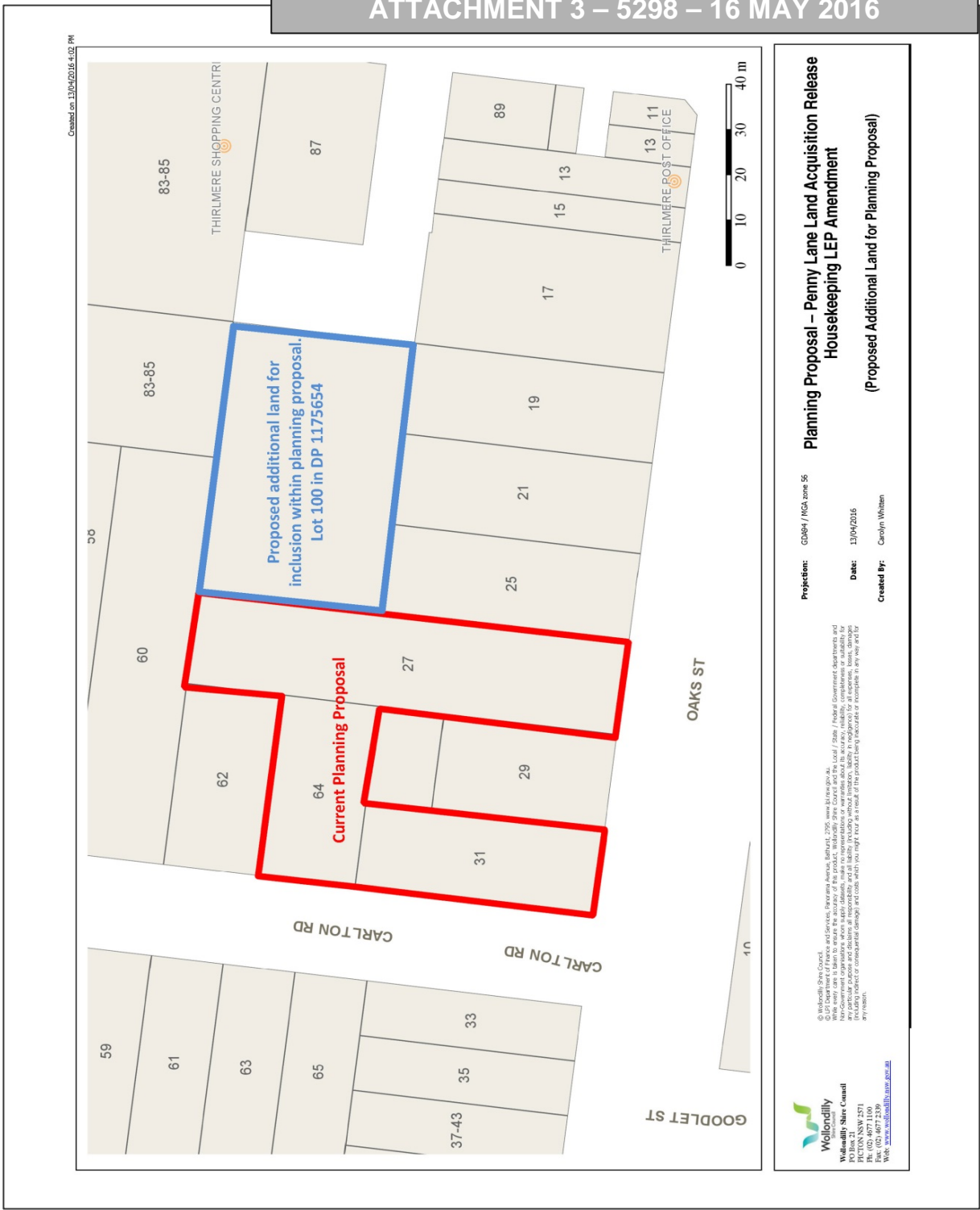
ATTACHMENT 2 – 5298 – 16 MAY 2016



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ATTACHMENT 3 – 5298 – 16 MAY 2016



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Proposed amendment to Clause 5.1A(3) of the Wollondilly Local Environmental Plan 2011

Proposed Wording – Clause 5.1A(3) <i>(Changes shown in red)</i>	Current Wording – Clause 5.1A(3)																																
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