

GR11 – Review of Wollondilly Development Control Plan 2016 – Housekeeping Amendments

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260803

TRIM 3615-7

EXECUTIVE SUMMARY

- The purpose of this report is to seek endorsement from Council to adopt proposed amendments to Wollondilly Development Control Plan 2016.
- The proposed amendments to the Wollondilly Development Control Plan form part of Council's Continuous Improvement Review Program and the intent of the proposed amendments are to remove or amend planning controls which cause unreasonable delays to the development application assessment process.
- The Draft Amendments to the DCP were publicly exhibited in for a period of 28 days from 20 September, 2017 to 18 October, 2017 and a total of five (5) submissions were received in relation to the proposed amendments.
- It is recommended that the proposed amendments to Wollondilly Development Control Plan 2016 be adopted by Council.

REPORT

BACKGROUND

In 2016 as part of Council's success management program and in response to amendments to the new Local Government Act a program of Continuous Improvement Reviews was established. The purpose was to review Council's systems, processes and procedures and how services are delivered to the community with a view to improving the organisation's efficiency and effectiveness.

The "Development Assessment Service" was identified as one of a number of priority areas within the organisation and due to immediate growth and resourcing demands was identified and progressed as an initial pilot review.

The review, which was facilitated by Martin Bass of Local Government NSW involved a series of workshops held with over 50 staff, along with a SWOT analysis (strengths, weaknesses, opportunities, threats) and staff surveys in November/December, 2016 to inform the preparation of a report including recommendations.

In January, 2017 the Continuous Improvement Program co-ordination team identified 14 actions along with timeframes for implementation which included an action to review Council's Development Control Plan.

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The review of the Development Control Plan was recommended to focus on:

- Streamlining documents
- Removing unnecessary administrative burden which hinders the development assessment process
- To reflect local arrangements.

COMPONENTS OF THE DCP REVIEW

The Draft Amendments to Wollondilly Development Control Plan which were placed on Public Exhibition were based on findings from the following:

1. Consultation with Internal Staff

An internal workshop was held with staff from development assessment to gain an understanding of staff experience with the DCP and to identify the key controls and processes that they believe are causing the most significant delays and administrative burden.

The key findings from this workshop were as follows:

- More flexibility is required around when development applications should be notified. Team Leaders/Managers should have discretion around when notification is not required.
- Wording needs to be clearer throughout Part 4 – Community Engagement, Volume 1 – General of the DCP to avoid the potential for confusion,
- DCP Objectives need to be reviewed and written in Plain English, and
- The role and structure of the Variations Panel need to be reviewed.

A number of changes are proposed to the DCP in response to this feedback, particularly around building in flexibility around notification and reviewing the wording of several controls.

2. Review of the table of suggested amendments to the DCP

Since the commencement of Wollondilly Development Control Plan 2016 (20 January, 2016), a table which includes suggested changes from internal staff and external stakeholders. The table is updated as suggestions are received with the intention of informing future reviews of the DCP. As part of this housekeeping review, the table of suggested amendments was reviewed to inform changes.

Some of the issues captured are not relevant as they would require further investigation or changes that are beyond the scope of the housekeeping changes.

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3. Review Variations Register

Council maintains a register of DCP variations. The register is a record of development applications where a variation to a control in the DCP has been considered by Council and whether or not the variation has been supported. A review of the DCP Variations supported by Council between May, 2016 and May, 2017 has been considered by Council. The statistics on the DCP variations is included in attachment 4.

The intention of this task is to identify controls that are being varied by Council on a regular basis, as this will be an indicator that the control may be onerous or isn't working effectively and requires amendment.

The main controls which have been varied consistently and will be revised are as follows:

- Volume 1 - Part 9.3.4 - Mapping of Riparian Buffers (10 variations)
- Volume 4 - Part 3.9.7 - Ancillary Building Setbacks on Rural Lifestyle Lots and Rural Lots (17 variations)
- Volume 4 - Part 3.12.5 - Front setback requirements for car ports (6 variations)
- Volume 4 - Part 3.14.16 - Other setback requirements for Secondary Dwellings (10 variations)
- Volume 4 - Part 3.14.16 - Front door location on Secondary Dwellings (17 variations)
- Volume 4 - Part 3.15.18 - Maximum number of garage doors in dual occupancy developments (5 variations)
- Volume 5 - Part 2.3.7 - Glazing requirements for the front façade of commercial buildings (6 variations).

4. Review Planning Controls - Land at Bingara Gorge

A review of planning controls that relate to land at Bingara Gorge has been undertaken to amend out-dated controls. Throughout 2016 a Land and Environment Court Judgement was made which affected controls relating to land at Bingara Gorge Wilton. The current DCP limits the development of Bingara Gorge to 1165 lots; however, the court judgement had the effect of repealing this requirement and enables the site to be developed to a maximum yield of 1800 lots and also affects other controls in the DCP. As a result, many of the site specific controls in volume 2 relating to land at Bingara Gorge are now inconsistent with the findings of the court judgement and the controls will need to be updated to reflect the findings of the court judgement. If this is not undertaken, then future subdivision DA's resulting from the court judgement are unlikely to comply with the DCP and will require onerous DCP variations. The changes proposed are outlined in attachment 1.

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5. Establish experience of external stakeholders

Six (6) companies who had submitted the most number of development applications to Council in the previous twelve months were identified and were invited to meet with Council to discuss issues that were causing unreasonable delays or burden in the DCP. Only two (2) of the companies that Council approached (Abode Drafting and Accurate design) agreed to meet with Council or provide comments within the requested period. A summary of the feedback received is outlined below under consultation.

6. Review consistency with SEPP's

The proposed amendments ensure that various development is consistent with the controls in state environmental planning policies, including the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 and the State Environmental Planning Policy (Affordable Rental Housing) 2009.

In particular, DCP Volume 4 Residential Development, Part 3.14 (Secondary Dwellings) has been amended to comply with the requirements of the Affordable Housing SEPP and the proposed new section is included in attachment 3.

The section on Secondary Dwellings has been split into two (2) sections as follows:

i. Secondary Dwellings in Residential Zones:

The Affordable Housing SEPP sets particular standards for Secondary Dwellings in residential zones (other than R5 zones). This section has been made consistent with the criteria in the Affordable Housing SEPP (particularly setbacks) but with the exception of cut/excavation standards in the SEPP.

The SEPP enables excavation of 3m depth for a Secondary dwelling; however, the current maximum level of cut of 2.0m is considered more appropriate and should be retained. Allowing a 3m depth of cut in residential zones would likely impact on streetscape in many cases.

ii. Secondary Dwellings in Rural zones:

A section has been included relating to Secondary Dwellings in Rural and Environmental zones (which are not affected by the affordable housing SEPP). This section is consistent with the controls for single dwellings in rural and environmental zoned lots in the DCP.

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7. East Tahmoor Structure Plan

Council’s Engineering Team requested that a revised structure plan for the East Tahmoor Residential Lands precinct be inserted to reflect existing approved subdivision applications within this precinct and provide a more connected and usable road layout. The revised structure plan put forward by Council’s Engineering Team would reduce the number of variation requests that are likely to occur with future subdivision applications in this precinct.

CONSULTATION

The Draft Amendments to Wollondilly Development Control Plan 2016 were placed on Public Exhibition for a period of 28 days from 20 September, 2017 to 18 October, 2017. The consultation was carried out in accordance with the Community Engagement Strategy that was adopted by Council at its Ordinary Meeting in August, 2017. The consultation involved the following:

- The DCP was made available for viewing during the exhibition period online, in the foyer at Council’s administration building and at the Wollondilly Council Library
- Notification letters were sent to landowners within the East Tahmoor land release precinct as they were affected by the proposed changes to the East Tahmoor Structure Plan in the DCP (this involved 40 letters in total)
- Notification letters were sent to any applicant that has submitted more than 5 development applications to Wollondilly Shire Council over the last 3 years
- Consulting relevant Council Committees and Advisory Groups.

A total of five (5) submissions were received in response to the public exhibition of the plan. The issues raised are addressed below:

Issue Raised	Council Planning Team Comment
The revised East Tahmoor Structure Plan is unclear as it does not show cadastral boundaries and their relationship to proposed future roads.	It is appropriate that the structure plan indicates road layout without including cadastral boundaries, as the cadastral boundaries are likely to change with the progressive development on the site. Also, more lots will be added as the site is developed. Landowners can request a copy of the structure plan from Council with cadastral boundaries upon request to assist in their preparation of subdivision applications.



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Issue Raised	Council Planning Team Comment
<p>The property at No 80 Progress Street adjoins the East Tahmoor Precinct and was excluded from the rezoning of the land due to odour issues.</p> <p>Inghams Poultry Processing Facility is now using the Sydney Water Wastewater System and no longer using their treatment ponds which may reduce the odour issue and benefit the future rezoning of other properties previously excluded.</p> <p>Can Council advise on this issue?</p>	<p>This is not a matter relevant to the proposed amendments to the DCP review. Council's Planning team will prepare a separate response to the submitter in relation to this issue.</p>
<p>If the odour issue that prevented No. 80 Progress Street from being R2 in the future:</p> <p>a) Does Council intend to prepare a road pattern for this property?</p>	<p>This matter would be considered in greater detail when however, it is considered that a future road through this lot could feed off the proposed roads identified in the revised structure plan that is included in the DCP.</p>
<p>In relation to the revised East Tahmoor Structure Plan as it relates to land at 95 Myrtle Creek Avenue:</p> <p>Council should have considered putting new roads on the boundaries of adjacent lands such that the burden would be shared among property owners in a fair and reasonable way. Having two roads on one lot is unfair on those landowners.</p>	<p>New roads have been placed on the existing property boundaries where possible, however, the concept road layout also needs to give consideration to the current approved subdivisions in this locality.</p> <p>It is considered necessary to have the two roads currently depicted through this lot to achieve connections through to River Road to the north and Cross Street to the east.</p>
<p>In relation to the revised East Tahmoor Structure Plan as it relates to land at 95 Myrtle Creek Avenue:</p> <p>In the case of any new road cutting on the narrow side of the land should leave minimal depth (30-35</p>	<p>It is anticipated that the proposed road running north/south through No. 95 Myrtle Creek Avenue would follow on from the proposed road which passes through No. 80 River Road to the north.</p>

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Issue Raised	Council Planning Team Comment
metres) for future lot subdivision.	<p>This lot is currently the subject of a subdivision application under assessment by Council. The current subdivision application (on No. 80 River Road) identifies a road in the location specified on the proposed structure plan and lots to the west of this proposed road are 29 metres in depth.</p> <p>It is therefore anticipated that the extension of this road through the land at No. 95 Myrtle Creek Avenue could enable lots to the west with an adequate depth.</p>
The proposed East Tahmoor revised structure plan is a vast improvement to the existing structure plan.	Noted.
The revised structure plan is based on a desktop study and not from a ground survey. Once a landowner decides to have a development application prepared, and ground survey is undertaken, the additional data and consideration of the site specific details allow for a more refined layout and subsequent road network.	<p>It is acknowledged that the mapping included in the revised East Tahmoor Structure Plan is not based on a ground survey.</p> <p>The intent of the structure plan is not to provide the level of detail that would normally be obtained through a ground survey but to ensure that an integrated road network with appropriate connections are provided through the precinct which accommodate the future traffic demands and ensures that a coordinated approach to traffic infrastructure is adopted.</p> <p>The wording of the relevant controls in the DCP provide sufficient flexibility following a full survey on the ground.</p>
<p>In relation to the revised East Tahmoor structure plan:</p> <p>a) In some locations, the proposed road network shown on the structure plan isolates small sections of</p>	It is considered that the proposed road layout does enable future lots which comply with the lot dimensions requirements in the DCP. The wording of the clause does enable some flexibility to ensure that the roads are established whilst enabling lots of

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<p>land that may be too small or inappropriately shaped to create lots;</p> <p>b) The current proposed draft structure plan does not work for current development applications;</p>	<p>adequate dimensions to be created within the site.</p> <p>Council's Development Engineers have raised concerns over current development applications which do not comply with the road layout in the current DCP or the proposed structure plan forming part of this amendment as part of the assessment of those applications.</p>
<p>In relation to the proposed structure plan for East Tahmoor it is suggested that a possible clause be included to allow some form of flexibility in its application as the exact position is not numerically defined. A suggested clause is as follows:</p> <p><i>"The roads depicted on the structure plan are conceptual only. The location of the roads are not intended to be prescriptive, but rather a general indication of an option for a road network over the precinct. The road network shown is intended to convey general objectives preferred by Council, which are:</i></p> <ul style="list-style-type: none"> • <i>To provide a road network that maximises access for the general public and achieves a high level of permeability;</i> • <i>To satisfactorily link with existing roads;</i> • <i>To provide satisfactory public transport links throughout the precinct;</i> • <i>To avoid isolating small sections of existing lots;</i> • <i>To avoid inappropriate road locations which would disadvantage other</i> 	<p>The objectives that have been suggested are appropriate and will be incorporated into the revised DCP.</p> <p>The remainder of the suggested changes are likely to provide too much flexibility over future road layouts. It is proposed to retain the current wording in the DCP which states that <i>Roads and pathways shall be provided generally in accordance with the structure plan...."</i></p> <p>It is considered that the wording of this current clause provides sufficient flexibility and enables some minor departures from the road layouts provided in the structure plan following ground truthing of the road locations following a full site survey.</p>

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Issue Raised	Council Planning Team Comment
<p><i>landowners in the precinct and reduce the ability of other landowners to satisfactorily develop their land in the future.</i></p> <p><i>An application to subdivide land in the precinct need not strictly adhere to the road locations depicted on the structure plan. However, all applications to subdivide land in the precinct must demonstrate regard to the aforementioned objectives.”</i></p>	
<p>In the revised controls relating to Bingara Gorge in Volume 2 Urban Release Areas, there is an error in the boundary between precinct 7 and precinct 8 on plan 2.</p>	<p>The DCP has been amended accordingly to include the revised plans with an accurate precinct boundary.</p>
<p>Consider allowing more 2ha allotments across the Shire, particularly in Theresa park.</p>	<p>This a matter for a comprehensive LEP Review and not a DCP amendment.</p>

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Council also notified Picton Buslines and invited them to make a submission in relation to the proposed amendments to the East Tahmoor Structure Plan. No response from Picton Buslines was received.

Consultation with Rural Industry Community Advisory Committee (RICAC)

The Community Engagement Strategy also recommended that Council consult with relevant Council Committees and/or advisory groups in relation to the proposed changes. A small working group known as the Rural Industry Advisory Group was established to review the Agricultural and Rural Volume of the DCP. The Rural Industry Advisory Group involved a small group of representatives from Council's RICAC committee.

The proposed amendments to the Rural Volume which are included as part of the housekeeping changes are detailed in Attachment 2 of this report. It is considered that these amendments are minor in nature and do not warrant re-exhibition of the proposal.

Proposed Amendments which do not fall within proposed housekeeping amendments and will be subject to separate review process include the following:

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- Amend the volume title from ‘Agricultural and Rural Uses’ to ‘Agriculture’
- Remove the controls for an Animal Boarding or Training Establishment from the Rural and Agricultural Volume and insert in the Commercial Volume
- Add the following text under objectives:

Reduced setbacks to those prescribed in this volume may be considered for existing, established and lawful agricultural uses which already contain a setback less than that prescribed under this volume.
- Amend the setback controls in part 3.4.1 for Intensive Plant Agriculture so that the setback requirement is relevant to the height of the crop
- Consider additional controls regarding shed clean-outs and include controls which enable the partial clean out of sheds in particular situations
- Consider amendments to the landscaping controls to provide more flexibility and include diagrams etc to assist in the applications of these controls.

It is recommended that these suggested amendments be considered as part of a more comprehensive review of the rural volume.

PROPOSED AMENDMENTS TO EXHIBITED VERSION

The following amendments are proposed from the exhibited version of the document:

1. Add the following to proposed controls for Secondary Dwellings:
 - *Where the Secondary Dwelling is located in front of the principal dwelling on the site and has street frontage, the Secondary Dwelling must be provided with an entry door on the street elevation.*
 - *The Secondary Dwelling shall be provided with an easily identifiable personal access door in an appropriate location.*
2. Amend DCP Volume 4 (Part 3.17 Medium Density Development), Control 22 as follows:

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This control currently states the following:

The minimum rear setback for any dwelling from land not included in the development shall be 8.0m for a two storey dwelling and 3.0m for a single storey dwelling or a single storey part of a two storey dwelling.

It is proposed to add the following text:

For the purposes of this control, the rear boundary of any dwelling within the development is taken to be the boundary opposite the front elevation of the dwelling.

It is considered that the above amendments to the exhibited version of the proposal are minor and do not constitute re-exhibition of the proposal.

3. Amend the Precinct Allotment Allocation Map in Volume 2 Urban Release Areas for land relating to Bingara Gorge, Wilton to correct an error in the exhibited version, where there was a minor anomaly in the precinct boundary separating precincts 7 and 8.

4. Insert additional objectives relating to the controls for the concept road layout for the East Tahmoor Precinct contained in Volume 3 Subdivision to address issues raised during the public consultation period.

5. Proposed amendments resulting from consultation with the Rural Industry Advisory Committee as detailed in Attachment 2 of this report.

RELEVANT CONSIDERATIONS

Environmental Planning and Assessment Regulations, 2000

In order to meet the requirements of the Environmental Planning and Assessment Regulations 2000 Council is required to undertake the following in order to adopt the DCP 2016:

- The Council must give public notice of its decision to adopt the plan in a local newspaper within 28 days after a decision is made. The DCP comes into effect on the date that public notice is given in a local newspaper, or on a later date specified in the notice.

FINANCIAL IMPLICATIONS

This matter has no financial impact on Council's adopted budget or forward estimates.

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ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET

1. Table summarising proposed DCP Amendments
2. Table outlining housekeeping amendments to Volume 8 (Agricultural and Rural Uses) arising from consultation with rural industry working group.
3. Amended table outlining development that does not require neighbour notification.
4. Table outlining when an application to modify consent should be notified to adjoining landowners.
5. Amended list of development controls for Secondary Dwellings.
6. DCP variation statistics (May, 2016 to May, 2017).
7. Wollondilly Development Control Plan 2016 in full. (Attachment is available on line with Ordinary Meeting of Council documents for this meeting)

RECOMMENDATION

1. That Council adopt Wollondilly Development Control Plan 2016 in the form attached to this report.
2. That Council advertise this decision as soon as practicable to ensure that the new provisions commence promptly.
3. That Council write to all submitters advising them of this outcome.
4. That workshops be undertaken with Councillors and relevant internal staff to inform the scope of a comprehensive review of Wollondilly Development Control Plan, 2016.
5. That Council commence a more comprehensive review of DCP Volume 8 (Agricultural and Rural Uses) in 2018. This review will, in part give consideration to the suggested amendments from the Rural Industry Advisory Group which were outside the scope of this housekeeping review.