

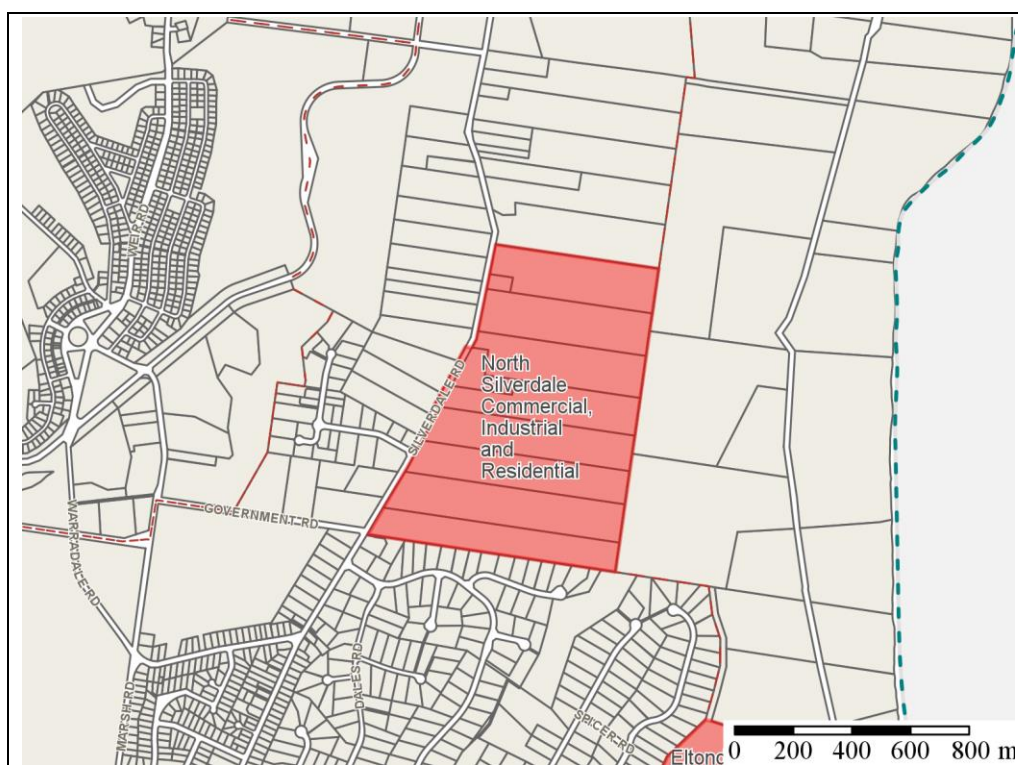
GR4 – Planning Proposal – North Silverdale Commercial, Residential and Environmental Lands

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TRIM 6454

Applicant: Siteplus Pty Ltd
Owner: D & L Hanna; K & C Mansweto; N & R Mikhael; S & A Grima; B Lopriato; S, R & M Hanna; J Cascaceli Holdings Pty Ltd; B, M R & S Hanna; J & E Mifsud



LOCATION MAP N

Growth

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EXECUTIVE SUMMARY

- At the December 2017 Ordinary Meeting of Council, it was resolved to make significant amendments to the North Silverdale Commercial, Residential and Environmental Lands Planning Proposal in a form different to that proposed by the report.
- This report seeks to inform Council of the likely implications from pursuing the December 2017 resolution on the Planning Proposal following advice from the NSW Department of Planning and Environment.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extends 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 the Planning Proposal be forwarded to the Department of Planning and Environment for an Altered Gateway Determination to enable the Planning Proposal to proceed in the manner outlined in Section 1.5 of this report.

REPORT

1.1 BACKGROUND

Council is currently considering a Planning Proposal to amend Wollondilly Local Environmental Plan 2011 (WLEP 2011) to enable an extension of the existing commercial zone on the site, with capacity to provide a full line supermarket and smaller complementary speciality shops, and also to provide approximately 350-400 Low and Medium Density Residential allotments on the site. The site would have the capacity to accommodate up to 600 additional dwellings on the site if the R3 Medium Density Residential zone is developed to full capacity.

The Planning Proposal was initially submitted to Council in October 2011 and the original proposal involved only an extension of the existing commercial zone to allow for expansion of the existing shopping village and increased car parking. The original proposal related only to two (2) lots, being Lot 199 & Lot 200 DP 1092447 Silverdale Road, Silverdale.

Following lodgement of the proposal Council advised the proponent that:

“Council’s Growth Management Strategy identifies growth of the Silverdale Commercial Centre needs to be linked to residential development of lands adjoining the site.

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It is understood that the current planning proposal will be followed by a further proposal seeking to rezone land to the south and east of the commercial centre site for residential and environmental conservation uses.”

In March, 2012 a revised Planning Proposal was submitted to Council which included the additional land which now forms part of the Planning Proposal. The Planning Proposal received a Gateway Determination from the NSW Department of Planning and Environment (“Department”) on 1 May, 2013 and has undergone a number of amendments in the past in response to Council advice and advice from various state Government Agencies. These amendments include:

- A Gateway Alteration in May 2013 to alter a condition which required the completion of Council's Growth Management Strategy and a Masterplan for Warragamba and Silverdale prior to public exhibition of the proposal so that the proposal could proceed
- A Gateway Alteration in June, 2015 requiring the application of an odour buffer area across the lots that are within 500 metres of the adjoining poultry farm to the north of the site, in lieu of an Odour Impact Study. The land affected by the odour buffer would be subject to an LEP clause to enable development on land within that area at Council's discretion, subject to specific amenity-related criteria being met
- Removal of the proposed IN2 Light Industrial Zone which was replaced with a B4 Mixed use Zone
- Removal of the E2 Environmental Conservation Zone which was replaced with an E3 Environmental Management Zone. The environmental zone was also expanded from 11.5 ha to 17ha (which was later increased again to 21.99ha).

The proposal was placed on public exhibition from 30 August to 27 September 2017. The Planning Proposal that was exhibited proposed the following:

- *Amend the Wollondilly Local Environmental Plan 2011 Land Use Zoning Map as it applies to the site from B1 Neighbourhood Centre and RU2 Rural Landscape to R2 Low Density Residential, R3 Medium Density Residential, B2 Local Centre, B4 Mixed Use and E3 Environmental Management zone.*
- *Amend the Wollondilly Local Environmental Plan 2011 Minimum Lot Size Map as it applies to the site to provide the following minimum lot sizes:*
 - *700 square metres to the part of the site proposed to be zoned R2 Low Density Residential*
 - *975 Square metres to the part of the site proposed to be zoned R3 Medium Density Residential*

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- *1250 square metres to the part of the site proposed to be zoned B4 Mixed Use Development*
- *No minimum lot size for the part of the site proposed to be zoned B2 Local Centre and E3 Environmental Management.*
- *Amend the Wollondilly Local Environmental Plan 2011 Height of Building Map as it applies to the site to a maximum building height category of 11 metres to the proposed B2 zoned part of the site and 9 metres to the remainder of the site*
- *Include certain land on the Natural Resources Biodiversity Map under Wollondilly Local Environmental Plan 2011*
- *Include part of the site within an odour buffer map (proposed residential zoned lands within 500 metres of the adjoining poultry farm) to ensure that any development of this part of the site is subject to specific amenity criteria (if the existing poultry farm is still in operation)*
- *Include the site on the Wollondilly Local Environmental Plan Urban Release Area map.*

During the consultation period 122 submissions were received, in which 114 supported the proposal, six objected to the proposal. Two submissions were neutral, however, raised some matters with the proposal that they would like to see addressed.

A report on the outcome of the public exhibition was considered by Council at its Ordinary Meeting on 11 December 2017. The report sought Council support for minor amendments to the Planning Proposal in response to the issues raised in the exhibition so that the Planning Proposal could be finalised. The minor amendments would require an alteration to the Gateway Determination and there was also some issues which still required further information to ensure they were satisfactorily addressed.

Council had a number of concerns with the potential density and insufficient certainty around lot yield, access to public recreation land, streetscape, land use conflict and transport infrastructure. Consequently Council resolved to support the progression of the Planning Proposal in an amended form which reflected a notable change in the approach to the Proposal.

In response, Council resolved quite substantial amendments to the Planning Proposal. A copy of the December 2017 Council Report and Resolution is provided in Attachments 1 and 2.

1.2 IMPLICATIONS OF COUNCIL RESOLUTION - DECEMBER, 2017

A copy of the Department's advice based on Council's resolution is provided at Attachment 3. The following extract is taken from the Department's letter:

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“Council, as the relevant planning authority may vary the proposal as a consequence of its consideration of any submission or report during community consultation or for any other reason.

However, given the date of the Gateway Determination, the number of Gateway extensions issued, the significant amendments to the proposal in 2015 and the currently proposed significant amendments, the Department would advise Council to request that the North Silverdale Planning Proposal not proceed, and submit a new Planning Proposal which clearly articulates Council's intentions for the site”.

Should Council determine to pursue the Planning Proposal in the amended form as resolved as part of the December, 2017 Council Meeting (or other significant changes which cannot be undertaken as part of the Gateway Alteration process), then it is likely that the Department will not support the request for the amendment.

Given the history of the Planning Proposal to date, the Department has also indicated that it may deny the request for a Gateway Alteration and direct another body to be the Relevant Planning Authority (RPA) for finalisation of this proposal.

If the Gateway is altered, in any way, either to amend the planning proposal or to determine that the Planning Proposal should no longer proceed, then the proponent can apply to the Department and request a Gateway determination review. It is also possible through the Gateway determination review process that the Department will be appointed as the RPA.

1.3 POTENTIAL ALTERNATIVES TO THE AMENDMENTS PROPOSED IN THE DECEMBER, 2017 COUNCIL RESOLUTION

It is clear from the Department's written and verbal advice that the amendments identified by Council's December 2017 resolution cannot be accommodated within the current Planning Proposal.

Based on the Department's advice any alternative approach needs to meet the following considerations:

- Additional new studies cannot be requested at this stage of the process, the Department has made it clear that this is unreasonable
- Amendments need to reflect minor changes so that the Planning Proposal can be finalised soon after without the risk of legal challenge
- Cannot include significant changes (for example zone changes which change the objectives of the Planning Proposal, or significant changes in potential lot yield).

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The table at Attachment 4 provides comment against each of Council's resolutions for this Proposal and (for some of the matters) suggests an alternative approach that is considered to address Council's concerns whilst allowing the current Planning Proposal to progress.

In summary, the recommended approach:

- Identifies where outcomes can be achieved through another planning mechanism such as the development control plan or by deferring elements of the Proposal
- Where zone changes can be accommodated but a compromise would be necessary on the lot size
- Identifies where resolutions can and cannot be accommodated.

It is important to note that the landowners do not support all of the amendments proposed by this report. This may affect how any request for an alteration to the Gateway Determination is considered by the Department.

If Council wants to maintain its position as resolved in December 2017, Council should resolve to no longer support the Planning Proposal. In theory this position would mean that a new Planning Proposal needs to be initiated to bring about the changes to the Wollondilly Local Environmental Plan 2011. It should be noted however that there is no certainty that the Department will agree to such a request and there is a risk that the proponent will seek a Gateway Determination Review and / or Council may lose its role as the RPA.

1.4 OPTIONS FOR MOVING FORWARD

Council's options are:

1. Resolve to support the recommendations reported to Council in December 2017 for Agenda Item GR9. This would require an alteration to the Gateway Determination.
2. Resolve to maintain Council's position as minuted for Agenda item GR9 to the December 2017 Ordinary Meeting of Council. This would require an alteration to the Gateway Determination and is unlikely to receive support from the Department of Planning and Environment.
3. Resolve to no longer support a Planning Proposal for this site. This option would require an alteration to the Gateway Determination to reflect that the proposal is not to proceed.
4. Resolve to support the Planning Proposal in an amended form as described in Section 1.5 of this report.

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Note that the applicant can apply for a Gateway determination review in accordance with the Environmental Planning and Assessment Regulations, 2000 where the Gateway Determination is altered.

Option 4 is the recommendation of this report.

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

It is considered that an appropriate path forward is to amend WLEP 2011 as described below:

- Amend the Land Zoning Map as it applies to the site from B1 Neighbourhood Centre and RU2 Rural Landscape Zone to R2 Low Density Residential, B2 Local Centre, B4 Mixed Use and E3 Environmental Management Zone and RE1 Public Recreation Zone (the changes to the proposed Land Zoning Map that was considered by Council at the December, 2017 Council Meeting are provided on a marked up plan at attachment 5).
- Amend the minimum Lot Size Map as it applies to the site as follows:
 - Apply a minimum lot size of 450 square metres to the part of the site previously proposed to be zoned R3 Medium Density Residential, 2000 square metres for future lots along the southern boundary of the site and 700 square metres for the remainder of the proposed R2 zone
 - Include a site specific clause in the LEP to impose a development cap of no more than 26 residential dwelling units in the B4 Mixed Use zone
 - Apply various minimum lot sizes to the E3 Environmental Management Zone in accordance with the map in attachment 6
 - No minimum lot size to be applied for the part of the site to be zoned either B2 Local Centre.

The changes proposed to the Minimum Lot Size Map that was considered by Council at the December, 2017 Council Meeting are provided on a marked up plan at attachment 6.

- Amend the Wollondilly Local Environmental Plan 2011 Height of Building Map as it applies to the site to a maximum building height category of 11 metres to the proposed B2 zoned part of the site and 9 metres to the remainder of the site
- Include the site on the Urban Release Area Map that form a part of Wollondilly Local Environmental Plan 2011
- Include certain land on the Natural Resources - Biodiversity Maps under Wollondilly Local Environmental Plan 2011.

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FINANCIAL IMPLICATIONS

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

ATTACHMENTS INCLUDED IN SEPARATE BOOKLET

1. Council Meeting Minutes – Item GR9 - December, 2017
2. Council Meeting Agenda – Item GR9 - December, 2017
3. Advice from Department of Planning and Environment - January, 2018
4. Table explaining alternative options to address Council's December Resolution
5. Land Use Zoning Comparison map (that was considered by Council in December, 2017) with proposed marked up changes
6. Minimum lot size comparison map (that was considered by Council in December, 2017) with proposed marked up changes

RECOMMENDATION

1. That a request for an Altered Gateway Determination be made to the Greater Sydney Commission requesting the following amendments to the Planning Proposal:
 - (a) A minimum lot size be inserted into the E3 Environmental Management zone in accordance with the revised minimum lot size map in attachment 5 in order to address the concerns raised by OEH during the Government Agency consultation.
 - (b) Include a site specific clause in the LEP to impose a development cap of no more than 26 residential dwelling units in the B4 Mixed Use zone.
 - (c) A Land Use Zoning of RE1 Public Recreation be applied to the area on the site that is nominated for future use as a park.
 - (d) An R2 Low Density Residential Zone be applied to the site in lieu of the previously proposed R3 Medium Density Residential zone.
 - (e) A minimum lot size be applied to the R2 Low Density Residential Zone as follows:
 - 450 square metres for the part of the site that was previously proposed to be zoned R3 Medium Density Residential
 - 2000 square metres for future lots along the southern boundary of the site
 - 700 square metres be applied to the remainder of the R2 Low Density residential land.
 - (f) Land within the odour buffer area be deferred from the proposal.

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2. That the proponent provide an updated Traffic Impact Assessment to address:
 - (a) The RMS advice dated 19 September, 2017 provided in attachment 11 of this report.
 - (b) The concerns raised by Council's Infrastructure Planning Team.
 - (c) The intersections of Silverdale Rd and Mulgoa Rd and Silverdale Rd and Bents Basin Rd are included in this assessment, and
 - (d) Alternative traffic management options be examined and utilised over signalised intersections where possible.
3. That the proponent be advised that they may wish to consider negotiating a Voluntary Planning Agreement (VPA) at the Planning Proposal stage to address issues surrounding land dedication and allocation of costs among landowners for future traffic infrastructure works required as part of the proposal.
4. That if the proponent indicates a willingness to enter into a VPA council seek to address the following as part of those negotiations:
 - (a) Issues surrounding land dedication.
 - (b) Provision of a foot/bike path joining the proposed B2 zone with the existing village of Silverdale.
 - (c) Road widening and general improvements to Silverdale Rd.
 - (d) Provision of kerb & guttering.
 - (e) Provision of other infrastructure as required.
 - (f) Allocation of costs among landowners for future traffic infrastructure works required as part of the proposal.
5. That draft development control plan controls be developed for the site and this process include a councillor workshop. Further the draft development control plan be exhibited at the same time as the revised version of the planning proposal. These controls shall include provisions to allow public access to the existing RE1 zone to the south east corner of the site.
6. That a further report be provided to Council once an altered gateway Determination has been received and the above matters have been satisfactorily addressed.
7. That the proponent and those who made a submission on the Planning Proposal be notified of Council's decision.