



**You are invited to attend the next Wollondilly Shire Local Planning  
Panel Meeting:**

**Date:** Thursday, 25 October 2018  
**Time:** 5.30pm  
**Location:** Council Chamber  
62-64 Menangle Street  
Picton NSW 2571

# **AGENDA**

## **Wollondilly Shire Local Planning Panel Meeting**

**25 October 2018**



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**1 OPENING****2 RECORDING OF THE MEETING**

The electronic recording of the Local Planning Panel meeting and the use of electronic media during the proceedings is not permitted. This includes devices such as laptops, mobile phones, tape recorders and video cameras.

**3 WEBCAST NOTICE**

Members of the public are advised, that Local Planning Panel meetings are recorded and webcast live in line with provisions under the Environmental Planning & Assessment Act 1979 No. 203. This notice is made as required under Section 18 of the Privacy and Personal Information Protection Act 1998 (PPIPA). The webcasts are publicly available for viewing on Council's website.

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**4 ACKNOWLEDGEMENT OF COUNTRY**

The Chair will acknowledge the traditional Custodians of the Land.

**5 APOLOGIES AND LEAVE OF ABSENCE REQUESTS****6 DECLARATION OF INTEREST**

## 7 LOCAL PLANNING PANEL REPORTS – SUSTAINABLE AND BALANCED GROWTH

### 7.1 RURAL FIRE SERVICES STORAGE SHED

File Number: 10621#17

Reason for LPP Referral: Council Land

DA No: 010.2018.00000379.001

Lot & DP – Subject Site: Lot 144 DP8982 - 6 Pitt Street TAHMOOR

Proposal: RFS Storage Shed

Zoning: R3 Medium Density Residential

Permissibility: Prohibited (Permissible under SEPP Infrastructure)

Cost of Development: \$24,000

Applicant: Wollondilly Shire Council

Owner: Wollondilly Shire Council

Notification: 4 July 2018 until 19 July 2018 – 15 days notification

Submissions: No submissions have been received in relation to this proposal.

Variations: No variations are required in relation to this proposal.

Site Inspection: 20 July 2018

Recommendation: That Development Application DD010.2018.00000379.001 be approved – subject to conditions of consent.



## EXECUTIVE SUMMARY

- The purpose of this report is to provide an assessment of a proposed storage shed that is located on Council land.
- Under Section 10.4 Disclosure of political donations and gifts of the *Environmental Planning & Assessment Act 1979*, 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 application be approved subject to conditions.

## REPORT

### Background

The proposal was received on 29 June 2018 for a storage shed. The proposal was notified and referred to the building surveyors on 4 July 2018. A site inspection occurred on 20 July 2018 and no significant concerns have been identified.

### Consultation

This proposal was referred to the following internal departments:

Referral	Outcome
Building Surveyor	<p>10 July 2018.</p> <p>The applicant proposed a storage shed for the storage of equipment only.</p> <p>The following conditions of consent are recommended:</p> <p>Construction shall not commence on the site, including the placement of temporary buildings, site sheds, earthworks, site excavation, filling or other site preparation works (with the exception of site survey work), prior to the issue of a Construction Certificate by nominated Accredited Certifier.</p> <p>All construction and building work shall be restricted to between 7:00am and 6:00pm Mondays to Fridays (inclusive), 8:00am and 1:00pm Saturdays and prohibited on Sundays and Public Holidays unless written approval to vary the hours of work is granted by Council.</p> <p>Building works shall be inspected by the Principal Certifying Authority at critical stages of construction to ensure they comply with the Building Code of Australia and associated approvals. If the Principal Certifying Authority notifies the site manager or other contractor that a work or works are unsatisfactory for any reason all works on the site shall cease until the matter is resolved to the satisfaction of the PCA.</p> <p>Stormwater runoff from and through the property is to be appropriately managed so as to control nuisance, damage and hazard during storm events. The stormwater shall be discharged to the existing system and where applicable shall be in accordance with Australian Standard AS/NZS 3500.3.2 – Stormwater Drainage.</p>

Referral	Outcome
	<p>The building shall not be used for commercial or industrial purposes.</p> <p>The building shall not be occupied as a residence or domicile.</p> <p>The disturbed areas surrounding the building work shall be reinstated to the satisfaction of the Principal Certifying Authority upon completion of the work.</p> <p>The building shall not be occupied or used until an Occupation Certificate is issued by the Principal Certifying Authority.</p>
Development Engineer	<p>Consultation occurred with the Design Engineers on 2 August 2018 and they have recommended a 3,000 water tank to manage stormwater on site and all overflow to be in accordance with the adopted Design Specifications for stormwater management.</p> <p>28 August 2018</p> <p>The proposal is acceptable to the Development Engineer's provided the conditions outlined below receive compliance:</p> <p><b>CONDITIONS TO BE ADDED TO CONSENT:</b></p> <p><b>DRAINAGE/STORMWATER</b></p> <p>These conditions have been imposed to ensure drainage/stormwater is appropriately managed.</p> <ol style="list-style-type: none"> <li>(1) Stormwater runoff from and through the property is to be appropriately managed so as to control nuisance, damage and hazard during storm events.</li> <li>(2) Stormwater runoff from all impervious surfaces on the property shall be collected and conveyed to a point suitable for integration with constructed stormwater drainage system in accordance with Wollondilly Shire Council's Design Specification 2016. A piped drainage system shall be provided to convey runoff from storms up to the 10% AEP.</li> <li>(3) Stormwater management to ensure no adverse impact shall occur on the adjoining ARTC property as a result of the proposed development. Detail stormwater drainage plan shall be provided to Council or nominated Accredited Certifier for approval prior to the issue of a Construction Certificate.</li> </ol> <p><b>EROSION AND SEDIMENT CONTROL</b></p> <p>These conditions have been imposed to minimise the impact of the Development on the environment and on adjoining properties.</p> <ol style="list-style-type: none"> <li>(1) All disturbed areas are to be stabilised by turfing, mulching, paving or otherwise suitably stabilised within 30 days of completion.</li> <li>(2) Vehicle access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site has been affected by wet weather.</li> <li>(3) Erosion and sediment control devices are to be installed prior to any construction activity on the site. These devices are to be maintained for the full period of construction and beyond this period where necessary.</li> <li>(4) Topsoil stripped from the construction site is to be stockpiled</li> </ol>

Referral	Outcome
	<p>and protected from erosion until re-used during landscaping.</p> <p><b>ADVICES</b></p> <p>(1) During the course of construction, care must be taken to prevent damage to any public utility or other service and the applicant will be held responsible for any damage caused by him or his agents, either directly or indirectly. Any mains, services, poles, surface fittings etc., that require alterations shall be altered at the applicants expense and to the satisfaction of Council and the authority concerned.</p> <p>(2) At all times work is being undertaken within the public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site with a minimum of disruption.</p> <p>(3) The developer and any contractor or sub-contractor used to carry out any work authorised by or out of this approval on Council owned or controlled land, is to carry the following insurance, copies of which are to be produced to Council upon request:</p> <ul style="list-style-type: none"> <li>• Motor Vehicle Insurance (comprehensive or property damage) for all self propelled plant, as well as valid registration or RTA permit (Including CTP insurance). Primary producer's registration is not registration for use on Public Road construction work.</li> <li>• Workers Compensation Insurance.</li> <li>• Twenty Million Dollar Public Liability Insurance.</li> </ul>

### 1.1 Description of Site and Surrounding Area

The proposed site is located on the corner of Pitt Street and Thirlmere Way. This site has a primary frontage to Pitt Street with the frontage to Thirlmere Way consisting of a steep embankment. To the east of the site and rear of the property is the Main Southern Railway, with a residential property located to the south. This site is relatively flat sloping slightly to the rear of the site, and towards the train line.

### 1.2 Description of Development

The proposal is for a storage shed for the existing RFS located at Tahmoor. This shed is to be located at the rear of the property adjoining the existing car park and will be used in conjunction with the existing RFS building located on the site.

### 1.3 Section 4.15 Evaluation

#### 1.3.1 Provisions of Relevant Environmental Planning Instruments

##### State Environmental Planning Policy Infrastructure 2007

The proposed site has an adjoining boundary with the Main Southern Railway Line. The proposed structure will not affect the adjoining railway line and all stormwater will be conditioned to be piped to the proposed water tank on the site.



The proposed use of the site Emergency Services Facility is permitted with Consent within the R3 Medium Density Residential zone under the Infrastructure SEPP.

### State Environmental Planning Policy No. 55 - Remediation of Land

Question	YES		NO	
1. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)?		Proceed to Question 3	X	Proceed to Question 2
2. Does the proposal result in a change of use (that is the establishment of a new use)?		Proceed to Question 3	X	Assessment under SEPP 55 and DCP not required.
3. Does the application proposed a new: Child care facility Educational use Recreational use Health care use Place of public worship Residential use in a commercial or industrial zone		Proceed to Question 5		Proceed to Question 4
4. Review the property file and conduct a site inspection of the site and surrounding lands. Is there any evidence that the land has been used for a listed purpose?		Proceed to Question 5		Proposal satisfactory under SEPP 55 and DCP.
5. Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater?		Request contaminated site assessment		Proposal satisfactory under SEPP 55 and DCP.

The site is considered to have no potential contamination. A site inspection and a review of the property file have not identified any issues.

**Sydney Regional Environmental Plan No 20 - Hawkesbury**

Relevant Provisions	Comment
3. Aims of the Plan	The proposal is considered to be generally in accordance with the aims of the Hawkesbury Nepean Plan.
6. Planning Policies and Recommended Strategies	
(1) Total catchment management	The proposal is not considered to significantly affect the total catchment management of the areas.
(2) Environmentally sensitive areas	The proposal is not located within an environmentally sensitive area.
(3) Water quality	The water quality for this proposal is not considered to be significantly affected by the proposal.
(4) Water quantity	Conditions of consent shall control the water quantity.
(5) Cultural heritage	No cultural heritage has been identified on this site.
(6) Flora and fauna	Small shrubs are to be removed as part of this proposal. This is not considered to have a significant effect on the local environment.
(7) Riverine scenic quality	Not applicable
(8) Agriculture/aquaculture and fishing	Not applicable
(9) Rural residential development	Not applicable
(10) Urban development	Not applicable
(11) Recreation and tourism	Not applicable
(12) Metropolitan strategy	Not applicable
11. Development controls	
(7) Filling	No filling of land is required for this proposal.

**Wollondilly Local Environmental Plan 2011**

<b>Clause 1.2 Aims of Plan</b>	
<b>Objective</b>	<b>Comment</b>
(a) to provide for the management of natural resources and the protection of the natural landscape character,	The proposal is not considered to significantly affect the natural resources and the protection of the natural landscape character.
(b) to protect, conserve and enhance the built, landscape and Aboriginal cultural heritage	No heritage items have been identified on this site or any adjoining sites.
(c) to protect water quality in land that is situated within water supply catchments,	The proposal will have no significant effect on the water supply catchment.
(d) to encourage development that provides for an integrated transport and infrastructure system and adequate facilities and service provision for future growth,	The proposed development will not affect the integrated transport systems in the area.
(e) to recognise, manage and protect rural resource lands for sustainable agriculture and extractive industry practices,	This proposal is not located within a rural resource land and or sustainable agriculture.
(f) to maintain the separation between towns and villages to retain their unique character and rural and natural settings.	The proposal will not alter the separation distances between towns and or villages.
<b>Clause 1.9A Suspension of covenants, agreements and instruments</b>	
For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.	No suspension of covenants, agreements and or instruments is required as part of this proposal.

Characterisation (please note this must come from the definition in the Wollondilly Local Environmental Plan):

**Emergency services facility**

Means a building or place (including a helipad) used in connection with the provision of emergency services by an emergency services organisation.

**Emergency services organisation**

Means any of the following:

- (a) Ambulance Service of New South Wales,
- (b) Fire and Rescue NSW,
- (c) NSW Rural Fire Service,
- (d) NSW Police Force,
- (e) State Emergency Service,
- (f) New South Wales Volunteer Rescue Association Incorporated,
- (g) New South Wales Mines Rescue Brigade established under the [Coal Industry Act 2001](#),
- (h) an accredited rescue unit within the meaning of the [State Emergency and Rescue Management Act 1989](#).

**Zone of land:** R3 Medium Density Residential

**Permissibility** Permitted with consent under the Infrastructure SEPP.

**Wollondilly Local Environmental Plan 2011 Zone objectives:**

Objective	Comment
<b>R3</b>	
<ul style="list-style-type: none"> <li>To provide for the housing needs of the community within a medium density residential environment.</li> </ul>	The proposal will not provide for the housing needs of the community.
<ul style="list-style-type: none"> <li>To provide a variety of housing types within a medium density residential environment.</li> </ul>	No housing will be provided as part of this proposal.
<ul style="list-style-type: none"> <li>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> </ul>	This proposal will provide a service which is needed for the day to day needs of the residents.
<ul style="list-style-type: none"> <li>To encourage the provision of affordable housing.</li> </ul>	This proposal will not provide additional affordable housing.

Clause		Comment
<b>Part 2 Permitted or prohibited development</b>		
2.4	Unzoned land	This site is zoned R3 Medium Density Residential.
2.5	Additional permitted uses for particular land	Not applicable
2.6	Subdivision—consent requirements	Not applicable
2.7	Demolition requires consent	No demolition is required for this proposal.
2.8	Temporary use of land	Not applicable
<b>Part 4 Principal development standards</b>		
4.1	Minimum subdivision lot size	Not applicable
4.1A	Minimum lot size for dual occupancies in residential zones	Not applicable
4.1B	Subdivision of certain land in Zone E4 Environmental Living	Not applicable
4.2	Rural subdivision	Not applicable
4.2A	Erection of dwelling houses on land in certain residential, rural and environmental protection zones	Not applicable
4.3	Height of buildings	The proposed building height is 4.45 metres to the apex and is less than 9 metres, complies.
4.4	Floor space ratio	Not adopted
4.5	Calculation of floor space ratio and site area	Not adopted
4.6	Exceptions to development standards	No exceptions to development standards have been proposed.
<b>Part 5 Miscellaneous provisions</b>		
5.1	Relevant acquisition authority	Not applicable
5.1A	Development on land intended to be acquired for public purposes	Not applicable
5.2	Classification and reclassification of public land	Not applicable
5.3	Development near zone boundaries	Not applicable

Clause		Comment
5.4	Controls relating to miscellaneous permissible uses	Not applicable
5.5	Development within the coastal zone	Not applicable
5.6	Architectural roof features	No significant architectural roof features have been proposed as part of this application.
5.7	Development below mean high water mark	Not applicable
5.8	Conversion of fire alarms	Not applicable
5.10	Heritage conservation	The proposal is not located within a heritage conservation zone.
5.11	Bush fire hazard reduction	Not applicable
5.12	Infrastructure development and use of existing buildings of the Crown	Not applicable
5.13	Eco Tourist Facilities	Not applicable
Part 6 Urban release areas		
6.1	Arrangements for designated State public infrastructure	The proposal is not located within an Urban Release Area.
6.2	Public utility infrastructure	
6.3	Development control plan	
6.4	Relationship between Part and remainder of Plan	
Part 7 Additional local provisions		
7.1	Essential services	Essential services are existing on the site.
7.2	Biodiversity protection	No biodiversity protection is identified on this site.
7.3	Water protection	No water protection has been identified on this site.
7.4	Flood planning	Site is not mapped as flood prone.
7.5	Earthworks	Minimal earthworks are proposed that comply with the relevant DCP controls.
7.6	Development within a designated buffer area	The proposal is not located within any designated buffer area.

**1.3.2 Provisions of Relevant Draft Environmental Planning Instruments**

No draft environmental planning instruments are relevant to this proposal.

**1.3.3 Provisions of Relevant Development Control Plans****Wollondilly Development control Plan 2016**

Volume 1 – General		
Relevant Provisions		Comment
Part 1 - Preliminary		
1.2 Objectives of the Plan		
1.	To assist in the realisation of the aims of Wollondilly Local Environmental Plan, 2011.	The proposal is considered to meet the aims of the Wollondilly Development Control Plan 2016.
2.	The specific controls and volumes of this plan each have objectives as detailed throughout this plan.	
1.4	Application of the volumes of this plan If there is an inconsistency between the volumes of this plan then the earlier volume shall prevail over the later volume. For example, if there is an inconsistency between Volumes 2 and 5, Volume 2 would prevail because it is found earlier in this plan.	
Part 2 - General considerations for all development		
2.1 Objectives		
1.	To ensure that developments are undertaken with due regard to human safety.	The proposal is considered to meet the objects for all development.
2.	To ensure that developments do not unreasonably impact on their surrounds.	
3.	To ensure that developments achieve a satisfactory level of social equity.	
2.2 Controls		
1.	The consent authority shall consider the following safety and human health risks in assessing a development application under this volume:	
a)	Road and traffic hazards;	No road or traffic hazards have been

Volume 1 – General	
Relevant Provisions	Comment
	identified in relation to this proposal.
b) Bushfire threat;	This site is not bushfire prone.
c) Flood risk;	This site is not flood prone.
d) Noise, vibration, pollution, odour, radiation or waste from surrounding land uses;	No issues have been identified from surrounding land uses. It is noted that the train line adjoins the site to the rear and an assessment under the Infrastructure SEPP has been considered above.
e) Exposure to electricity transmission systems;	Not applicable
f) Exposure to radiation from telecommunications infrastructure;	Not applicable
g) Potential exposure to children of material (including signage) from any nearby restricted premises and/or sex services premises;	Not applicable
h) Hazards from vehicles within car parking areas; and	No issues have been identified from
i) Hazard from potential contamination of the land.	No contamination issues have been identified on this site.
<b>Part 3 - Variation</b>	
There may be situations where the strict application of the controls in this plan is inappropriate. In such cases Council may vary the controls in the plan. The controls in this part apply where a development application proposes to vary a control in this plan.	
3.1 Controls	



Volume 1 – General	
Relevant Provisions	Comment
<p>1. In cases where a variation to a control in this plan is sought, the applicant (or person acting on behalf of the applicant) must include in the development application a written request for Council to consider a variation to that control.</p> <p>The written request to vary a control in this plan must:</p> <p>Identify the control being varied</p> <p>Outline the non-compliance with the relevant control</p> <p>Include reasons and justification for the non-compliance</p> <p>Outline why compliance with the control is unreasonable or unnecessary in the case of their development</p>	No variations are required in relation to this proposal.
2. Council must be satisfied that the variation meets at least one of the following principles before issuing consent for the development:	
a) The objectives of the standard are achieved notwithstanding non-compliance with the standard;	
b) The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;	
c) The underlying object or purpose of the control would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;	
d) The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary or unreasonable;	

Volume 1 – General	
Relevant Provisions	Comment
e) The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary.	
<b>Part 4 – Community Engagement</b>	
The purpose of this part is to ensure that members of the public potentially affected by a proposed development have input into the assessment process before a final decision is made on a development application. It outlines Council's notification and advertising procedure for development applications.	
4.1 Development applications to be notified	
The proposal was notified in accordance with the DCP.	
4.2 Requirements for notification	
The proposal was notified in accordance with the DCP.	
<b>Part 5 - Colonial Heritage</b>	
5.1 Objectives	
a) To establish good design principles to guide development to and around heritage items,	
b) To ensure development is sympathetic to the overall heritage values and characteristics of the area,	
c) To identify local heritage character and heritage elements of the built environment, and	
d) To ensure the retention and management of heritage values identified for each conservation area and specific precinct.	
5.2 General Controls (refer to DCP for further details of controls)	
1. Development of heritage items and development on land within heritage conservation areas shall demonstrate consistency with the NSW Guidelines for Development in Conservation Areas 'Design in Context'. In particular the impact of the following aspects of a development should be considered:	No heritage has been identified on this site or any adjoining sites.
<b>Part 6 - Heritage (Specific Locations)</b>	
6.1 Objectives	

Volume 1 – General	
Relevant Provisions	Comment
a) To provide specific guidance and controls for development of key conservation areas in Wollondilly.	The proposal is not located within a heritage conservations zone.
6.2 Application (refer to DCP for further details of controls)	
These controls apply in addition to the controls contained in Part 6 of this volume. Where there is an inconsistency between Parts 5 and 6 of this volume Part 6 shall prevail to the extent of the inconsistency.	The proposal is not located within a heritage conservations zone.
<b>Part 7 – Aboriginal Heritage</b>	
7.1 Objectives	
a) To achieve appropriate means of conservation, management and protection for archaeological sites, Aboriginal objects and Aboriginal places of heritage significance.	No heritage has been identified on this site or any adjoining sites.
7.2 Controls	
1. There is impact or disturbance to the content, or within the immediate vicinity (100 metres) of a known Aboriginal object or Aboriginal place of heritage significance;	No heritage has been identified on this site or any adjoining sites.
<b>Part 8 – Flooding</b>	
8.1 Objectives	
To reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone property, and to reduce private and public losses resulting from floods, utilising ecologically positive methods wherever possible.	The site is not identified as flood prone land.
<b>Part 9 – Environmental protection</b>	
9.1 Objectives	
1. To improve and maintain environmental outcomes for the areas mapped as natural resources biodiversity and natural resources water under Wollondilly Local Environmental Plan, 2011.	
2. To improve and maintain environmental outcomes for unmapped areas of biodiversity	

Volume 1 – General	
Relevant Provisions	Comment
and/or riparian value.	
3. To maintain links between identified environmentally sensitive land and provide habitat and riparian corridors and appropriate buffer zones to these areas.	
9.2 Interpretation (refer to DCP for further details)	
	Noted
9.3 Controls	
1. Development carried out on areas mapped as 'sensitive land' on the Natural Resources – Biodiversity Map and the Natural Resources Water Map under Wollondilly Local Environmental Plan, 2011 shall occur so as to either avoid, minimise or mitigate any adverse impact as detailed in Clause 7.2 and 7.3 of Wollondilly Local Environmental Plan 2011.	The site has no identified environmental protection.
<b>Part 10 – Tree Removal</b>	
10.1 Objectives	
1. Identify trees and other native vegetation for the purpose of clause 5.9(3) of Wollondilly Local Environmental Plan 2011 which states the following:  “(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:  (a) development consent; or  (b) a permit granted by the Council”	
2. Identify trees and other native vegetation that:  may be removed without a permit or  development consent may be removed with a permit  may be removed only with development consent	
10.2 Interpretation (refer to DCP for further details of controls)	
	Noted
10.3 Trees/other native vegetation that may be removed without consent and without a permit (i.e. exempt) (refer to DCP for further details of controls)	
	Noted
10.4 Trees/other native vegetation that may be removed without development consent but	

Volume 1 – General	
Relevant Provisions	Comment
require a permit (refer to DCP for further details of controls)	
	Noted
10.5 Trees/other native vegetation that may be removed only with development consent (refer to DCP for further details of controls)	
	Shrubs and a small tree are proposed to be removed as part of this application. No concerns have been identified with the removal of this vegetation.
Part 11 – Landscaping	
11.1 Objectives	
1. To encourage the planting of endemic species in landscaping.	No landscaping is proposed as part of this application.
2. To reduce the impact of landscaping on the environment, infrastructure and human safety.	
3. To create a landscape character that is defined by native vegetation and not introduced species.	
11.2 Recommended Species (refer to DCP for further details of controls)	
11.3 Banned Species	
The following species are not to be used in landscaping within Wollondilly: Conifers, Species specified in Clause 10.3(1)(a) of this volume, Species identified as Noxious Weeds under the Noxious Weeds Act, Species identified as a weed under any adopted policy of Council.	Shrubs and a small tree are proposed to be removed as part of this application. No concerns have been identified with the removal of this vegetation.
11.4 Street Trees	
Street tree planting must comply with the Council's Tree Risk Management Plan.	No street trees are proposed to be removed as part of this application.
Part 12 – Signage	

Volume 1 – General	
Relevant Provisions	Comment
12.1 Objectives	
1.	To provide controls for the implementation of the Advertising structures in commercial or industrial zones section of Schedule 2 of Wollondilly Local Environmental Plan, 2011.
2.	To ensure signage that is exempt development does not have adverse impacts on traffic safety and pedestrian amenity.
3.	To ensure signage that is carried out as exempt development does not significantly detract from the amenity of the commercial and industrial built environments.
12.2 Signage as exempt development	
1.	To be an exempt advertising structures under Schedule 2 of Wollondilly Local Environmental Plan, 2011, the structure must:
a)	Not be located within a road reserve; and
b)	Be a fixed sign; and
c)	In the case of a sign attached to a building have no part of the sign higher than the part of the building on which it is attached; and
d)	Not be located within 100m of a heritage item or a heritage conservation area
e)	No be located within 100m of a classified road; and
f)	Be designed and installed in accordance with the requirements of a professional engineer; and
g)	Not be used for the promotion or advertising of any product or business other than a business operation from the site on which the structure is located; and
h)	Not be used for the promotion or advertising of any sex services premises, brothel or restricted premises; and
i)	Must not be illuminated; and
j)	Be the one and only advertising structure on the lot constructed as exempt development under this schedule.
No Signage is proposed as part of this application.	

**Volume 5 Commercial and Community Uses**

The relevant provisions of Volume 5 will be assessed below.

<b>Volume 5 – Commercial and Community Uses</b>	
<b>Relevant Provisions</b>	<b>Comment</b>
<b>Part 1 - Preliminary</b>	
1.2 Objectives	
The object of this volume is to ensure commercial and community development achieves the aims of Wollondilly Local Environmental Plan, 2011 by promoting economic activity and local job creation while ensuring developments achieve excellent planning outcomes.	
1.3 Parts of this volume	
The requirements contained within Part 2 apply to all development types to which this volume applies.	
Part 3 applies to specific land uses: Part 4 applies to specific locations:	
<b>Part 2 – General Requirements for all Commercial and Community Uses</b>	
2.1 Sustainability	
Objectives	
To ensure the application of Ecologically Sustainable Development (ESD) principles at all stages of development including demolition, construction and ongoing use over time.	
Controls	
1. Timber sourced from old growth forests may not be used in development subject to this volume.	No timber is proposed to be used as part of this application.
2. Impacts to groundwater must be minimised by:	No contamination shall occur to groundwater with this proposal.
a) Ensuring no contaminated runoff enters the groundwater system; and	
b) Retaining and protecting significant stands of native vegetation; and	
c) Minimising cut and fill; and	Minimal cut and fill has been proposed as part of this application.
d) Maximising landscaped areas that are deep soil and are hydraulically connected to the natural soil and groundwater system.	No deep soil landscaping is required as part of the proposal.
3 All development resulting in more than 200 square metres of new GFA must provide	The proposal is less than 200 square metres and will not require

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rainwater collection tank(s) to collect rainfall and runoff from roof areas. The minimum volume of the tank(s) shall be 1,000 litres per 100m <sup>2</sup> (rounded down to the nearest 100m <sup>2</sup> ) of new GFA. Such tank(s) must have their overflows connected to a point for suitable integration with the natural or constructed stormwater drainage system.	any rainwater collection tanks.  However, as it adjoins the railway, a tank is proposed to control drainage runoff.
2.2 Setbacks	
Objectives	
1. To achieve safe, attractive, equitable and functional buildings.	The proposed setbacks are not considered to significantly affect the objectives.
2. To enhance and protect the public space adjacent to commercial premises.	
3. To preserve the broader rural village character of the towns and their centres.	
Controls	
1. Buildings on sites adjoining public open space must not cast a shadow onto more than one third of that open space between the hours of 10am and 2pm during the winter solstice (measured at ground level).	The site does not adjoin any public open space.
2. Colourbond materials shall not be used in the external construction of buildings within the Business (B) Zones unless they account for less than 25% of each front elevation.	The proposal is not located within a business zone.
3. External materials used for newly constructed or extended commercial buildings within the business (B) zones shall be consistent with the materials used in adjoining commercial development or shall have a superior quality external finish.	The proposal is not located within a business zone.
4. Shipping containers shall not be used for storage within developments for commercial or community purposes.	No shipping container has been proposed.
5. Building designs must ensure that main entry and exit points are readily identifiable to intending patrons.	The proposed structure will have readability visible entry and exit points.
6. All building facades visible from a public place must be designed to reduce bulk and enhance	The proposal is considered to not have a significant appearance of



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the appearance of the building using appropriate architectural features, articulation and finishes.	bulk and scale.
7. Commercial developments must have active frontages for the majority of the total frontage of the development to public spaces including roads and reserves. An active frontage must have a minimum of 50% glazing area which must be transparent.	Not applicable to the proposal. The building is to be used for storage alone.
8. All facades must be designed in accordance with the Crime Prevention through Environmental Design (CPTED) Guidelines including allowance for casual surveillance of streets and other public places.	The proposal will not affect the existing crime prevention from the existing RFS building located on the site.
9. There must be a universally accessible and continuous path of travel to connect the public footpath to all car parking areas and the main public entry and exit point of a building.	Complies
10. Building lights shall illuminate buildings and signs from the top-down rather than the bottom-up to reduce light spill into the night sky.	No lights have been proposed as part of this storage shed.
14. Lift towers and overruns, satellite dishes, motor rooms and service plants, air conditioning units, antennae, telecommunications devices, vent pipes and the like must not be visible from any publically accessible place.	Not applicable
15. Security shutters and roller doors on primary facades to a public street are not permitted unless they are open form or transparent. Security devices must be integrated within the design of the shop front structure.	The proposed structure is located at the rear of the site and will not impact upon the street.
2.6 Landscaping	
Objectives	
1. To achieve landscaping that is integrated with the design, layout and scale of development and is sensitive to site attributes, streetscape, views and vistas.	Noted
Controls	
1. Landscaping around the external perimeter of new commercial buildings with a GFA greater	

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than 1,000m² must be provided at the rate of at least 20m² of consolidated / continuous planted area for every 500m² GFA and address the street frontages.	No additional landscaping is required for this proposal.
2. Landscaping for new commercial developments shall be in the form of garden beds and achieve the following:	
a) Use at least 50% native vegetation;	
b) Use only low maintenance vegetation;	
c) Reduce or eliminate the need for fencing;	
d) Use only vegetation that will not damage infrastructure; and	
e) Provide adequate landscaped area for plants when fully grown.	
3. All plant species in landscaping must be non-toxic and low-allergen.	
4. Contiguous landscaping areas with an area greater than 50m² shall be provided with and automatic irrigation system(s).	
2.7 External storage	
Objectives	
1. To ensure wastes are stored in a safe location that does not detract from the aesthetic qualities of commercial developments.	Noted
Controls	
1. There shall be no storage of goods or waste in areas that are visible to the public or patrons of facilities.	No external storage of equipment is proposed as part of this application.
2.9 Access and Traffic Generation	
Objectives	
1. To provide the opportunity to access development sites by the widest feasible variety of transport modes,	Noted
2. To ensure delivery areas are suitably isolated from patron traffic to promote pedestrian	

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safety.	
Controls	
3. Forward entry/exit onto the street from the loading/unloading space must be provided.	Complies, entry and exit is existing.
2.10 Parking and Manoeuvring	
Objectives	
a) To achieve vehicle parking and manoeuvring spaces that do not dominate the streetscape, and	Noted
b) To ensure developments accommodate parking demands of private land uses within private property.	
Controls	
1. The construction of vehicle parking and manoeuvring areas must comply with Council's adopted Design and Construction Specifications.	Parking is existing on this site. No additional parking is required for this proposal.
2. Vehicle parking that is located within the front setback must be physically separated by permanent safety structures from road pavement and must not detract from the aesthetics of the streetscape.	
3. Where security doors or gates are proposed to control access to vehicle parking an intercom system must be provided to facilitate access. Such doors and gates must also be positioned to ensure vehicles stand clear of the public footpath and any specified pedestrian access while the doors and gates are opening.	
4. All above ground parking areas with more than 12 parking spaces must be landscaped including shade trees provided at the rate of one (1) canopy tree for every four (4) car parking spaces of part thereof. Shade trees must be located to provide shade to parked vehicles.	
5. Manoeuvring space must be sufficient to permit all vehicles to enter and leave a site in a forward direction in accordance with relevant	

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Australian Standards.	
6. Parking areas must be linked via a pedestrian path with the nearest public footpath.	
7. Parking spaces adjoining pedestrian accesses must be provided with wheel stops or upright kerbs to protect the safety of pedestrians.	
8. Parking areas for developments that operate outside of daylight hours must be lit in accordance with relevant Australian Standards.	
9. Multi-unit complexes must provide a consolidated car parking area for patrons. No more than 50% of the total parking spaces on site shall be allocated to a single unit.	
10. Parking must be provided at the rate tabulated below. The number of spaces shall be rounded up to the nearest whole number of spaces.  Note: In a mixed use development the total number of car parking spaces shall be sum of the number of parking spaces required for each component use.  a) Numerical Parking Rates (see the DCP for further details of this control)	
11. Car parking areas shall be designed, embellished and located to minimise adverse visual impacts in the locality.	
12. Large developments for retail (or mixed use including retail) that give rise to a need for 200 or more car parking spaces shall provide one (1) space for Seniors and one (1) for parents with prams for each 100 spaces (rounded down) required by this volume. Such spaces shall measure no less than 2.8m x 5.5m and shall be signposted and marked with line marking paint. They shall be located to minimise travel distance to the entry points for the facility. The spaces required by this clause are not in addition to the spaces that are otherwise required by this plan.	
2.11 Waste Management	
Objectives	
1. To ensure appropriate waste storage and	Noted

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collection facilities,	
2. To minimise risk to health and safety associated with handling and disposal of waste and recycled material and ensure optimum hygiene,	
Controls	
1. A completed Site Waste Minimisation and Management Plan (SWMMP) complying with the template in Appendix A of the NSW Office of Environment and Heritage’s Model Waste must accompany an application for commercial buildings greater than 500m² in GFA or any commercial development that is likely to produce hazardous waste products.	Not required  Waste management is existing on the site. No further waste management is required as part of this application.
2. There must be convenient access from each tenancy and/or larger waste producing area of the development to the waste/recycling storage room(s) or area(s). There must be step-free access between the point at which bins are collected/emptied and the waste/recycling storage room(s) or area(s).	
3. Every development must include adequate waste/recycling storage area(s) to accommodate all relevant waste management processes and storage.	
4. Special arrangements for storage, collection and disposal of medical and hazardous waste must be detailed in the Site Waste Minimisation and Management Plan (SWMMP)	
5. Waste/recycling storage areas must not be visible from outside of the building or by patrons.	
2.12 On-site waste water and stormwater management	

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<p>Note: The following documents will be used by Council (without limitation) in assessing any development application:</p> <p>Managing Urban Stormwater: Soils and Construction (Volume 1 – The Blue Book provides guidance during the construction of urban subdivisions and is available from Landcom. Volume 2 provides guidance for erosion and sediment control for a range of other activities)</p> <p><a href="http://www.environment.nsw.gov.au/stormwater/publications.htm">www.environment.nsw.gov.au/stormwater/publications.htm</a></p> <p>Model Code of Practice for erosion and sediment control (A resource guide for local Councils – Landcom)</p> <p>Managing urban stormwater: harvesting and reuse  <a href="http://www.environment.nsw.gov.au/stormwater/publications.htm">www.environment.nsw.gov.au/stormwater/publications.htm</a></p> <p>Australian Runoff Quality <a href="http://www.ncwe.org.au/arg">www.ncwe.org.au/arg</a></p>	
Objectives	
1. To minimise the impacts of urban development on the environmental values of waterways, groundwater systems and bushland areas,	Noted
Controls	
1. On sites without reticulated sewer, provision shall be made for the disposal of treated effluent in a manner that minimises the risk to the natural environment and to human health.	<p>Supplied</p> <p>Stormwater is to be piped to a tank and overflow is to be managed on the site in accordance with Council requirements.</p>
2. All stormwater management systems shall comply with Council's Design & Construction Specification.	
3. For developments providing more than 1000m <sup>2</sup> of new GFA, a detailed stormwater treatment assessment shall be provided detailing how the development will result in improved stormwater quality and will achieve the principals of Water Sensitive Urban Design.	

#### 1.3.4 Draft and/or Planning Agreements Entered or Offered to Enter into

No planning agreement has been entered into or offered for this proposal.

#### 1.4 Impact of the Development

The proposal is considered to have minimal impact to the surrounding area.

#### 1.5 Suitability of the Site

This site is considered to be suitable for the proposed use.

## 1.6 Submissions

No submissions have been received in relation to this proposal.

## 1.7 The Public Interest




The proposal is considered to be within the public interest.

## Financial Implications

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

No contributions apply to this proposal as the estimated value of works is less than \$100,000.

## ATTACHMENTS

1. Design Specifications 
2. Site Plan 
3. Mine Subsidence Advisory Approval 

## RECOMMENDATION

That Consent is granted for Development Application No. 010.2018.00000379.001 to construct a storage shed for the Emergency Services Facility at Lot: 144 DP: 8982, No. 6 Pitt Street, TAHMOOR subject to the following conditions:

### 1. COMPLIANCE

**These conditions are imposed to ensure that the development is carried out in accordance with statutory requirements, the conditions of consent and the approved plans to Council's satisfaction.**

- (1) Development Consent is granted for Storage shed for the Emergency Services Facility at Lot: 144 DP: 8982, No. 6 Pitt Street TAHMOOR
- (2) Development shall take place in accordance with the submitted plans below, submitted in respect of Development Application No. 010.2018.00000379.001, except where varied by the following conditions:

Plan Name	Drawn by	Drawing No	Date Submitted
Floor Plan and Elevations	TNC Engineering Pty Ltd	#Wss180521-03	03/03/2018
Site Plan	MQ	GA-TAH- SITE PLAN -01	16/06/2018

- (3) Where any work associated with this consent has the potential to disturb neighbours through the generation of noise, dust, odour, vibration or through deliveries to the site the person with control over the works shall advise the occupants of all adjoining and potentially affected properties of the timing and duration of such works. The land owner has the ultimate responsibility for ensuring that anybody undertaking works under this development consent on their behalf is aware of this requirement and completes the task required by this condition.
- (4) Works shall not commence on the site, including the placement of temporary buildings, site excavation, filling, removal of trees or other site preparation works (with the exception of site survey work), prior to the issue of a Construction Certificate by Council or a nominated

Accredited Certifier.

- (5) All building work must be carried out in accordance with the provisions of the Building Code of Australia. This condition does not apply to the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning & Assessment Regulations, 2000, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4).
- (6) Unless permitted by another condition of this consent, there shall be no tree clearing unless the vegetation is:
  - (a) Within the footprint of an approved building, access driveway or other structure; or
  - (b) Within three (3) metres of the footprint of an approved building; or
  - (c) preventing the achievement of the minimum asset protection zone requirements under the relevant planning for bushfire protection guidelines.

## **2. BUILDING DESIGN**

**These conditions have been imposed to ensure that the appearance/construction of building works complies with the aims and objectives of Council's relevant Development Control Plans, Policies and relevant Statutory Regulations.**

- (1) All materials and colours to be used in the external construction of the proposed building shall be consistent throughout the total development and/or match those of the existing development.
- (2) Any above ground water storage tanks shall be coloured or painted in earthy colours to blend with the natural environment or building immediately adjoining the water tank to reduce their visual impact.

## **3. CONSTRUCTION GENERAL**

**These conditions have been imposed to ensure that all construction work is undertaken to an approved standard and related approvals.**

- (1) Construction shall not commence on the site, including the placement of temporary buildings, site sheds, earthworks, site excavation, filling or other site preparation works (with the exception of site survey work), prior to the issue of a Construction Certificate by Council or a nominated Accredited Certifier.
- (2) Prior to the issue of any construction certificate, sufficient information must be forwarded to Council or the nominated Accredited Certifier illustrating compliance with the relevant provisions of the Building Code of Australia. Where Council is to be the nominated Accredited Certifier Council's Building Services Section may be contacted on 02 4677 1100 if further clarification is required.
- (3) All construction and building work shall be restricted to between 7:00am and 6:00pm Mondays to Fridays (inclusive), 8.00am and 1.00pm Saturdays and prohibited on Sundays and Public Holidays unless written approval to vary the hours of work is granted by Council.
- (4) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. These facilities are to be provided prior to the commencement of any works and:
  - (a) Must be a standard flushing toilet; and
  - (b) Must be connected:
    - (i) to a public sewer, or



- (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

In this condition:

**Accredited sewage management facility** means a sewage management facility to which Division 4 of Part 2 of the *Local Government (General) Regulation 2005* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 41 of the Regulation.

**Approved by the Council** means the subject of an approval in force under Division 4 of Part 2 of the *Local Government (General) Regulation 2005*.

**Sewage Management Facility** has the same meaning as it has in the *Local Government (General) Regulation 2005*.

- (5) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed. This receptacle must have a tight fitting lid and be suitable for the reception of food scraps, papers, etc.
- (6) A demolition/construction waste storage area (bins or bays) must be provided. This area shall separate demolition/construction waste into categories such as hard waste (e.g. bricks, concrete, tiles), soft waste (e.g. timber, gyprock, metal, glass) and light waste (e.g. paper, plastic, pods). The light waste storage area must be enclosed so as to prevent the material from escaping the enclosure.
- (7) There shall be no burning of builders rubble, felled trees or other material on site.

#### 4. ENGINEERING & CONSTRUCTION SPECIFICATIONS

**These conditions have been imposed to ensure that developments within the Shire are of a standard which is both safe and acceptable to Council and members of the public.**

- (1) All works are to be designed and carried out in accordance with Wollondilly Shire Council's adopted Design and Construction Specification.

#### 5. DRAINAGE/STORMWATER

**These conditions have been imposed to ensure drainage/stormwater is appropriately managed.**

- (1) Stormwater runoff from and through the property is to be appropriately managed so as to control nuisance, damage and hazard during storm events.
- (2) Stormwater runoff from all impervious surfaces on the property shall be collected and conveyed to a point suitable for integration with constructed stormwater drainage system in accordance with Wollondilly Shire Council's Design Specification 2016. A piped drainage system shall be provided to convey runoff from storms up to the 10% AEP.

Stormwater management to ensure no adverse impact shall occur on the adjoining ARTC property as a result of the proposed development. Detail stormwater drainage plan shall be provided to Council or nominated Accredited Certifier for approval prior to the issue of a Construction Certificate.

## 6. EROSION AND SEDIMENT CONTROL

**These conditions have been imposed to minimise the impact of the development on the environment and on adjoining properties.**

- (1) All disturbed areas are to be stabilised by turfing, mulching, paving or otherwise suitably stabilised within 30 days of completion.
- (2) Vehicle access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site has been affected by wet weather.
- (3) Erosion and sediment control devices are to be installed prior to any construction activity on the site. These devices are to be maintained for the full period of construction and beyond this period where necessary.
- (4) Topsoil stripped from the construction site is to be stockpiled and protected from erosion until re-used during landscaping.

## 7. INSPECTIONS

**These conditions have been imposed to ensure that construction works are undertaken to an approved standard.**

- (1) If the Principal Certifying Authority notifies the site manager or other contractor that a work or works are unsatisfactory for any reason all works on the site shall cease until the matter is resolved to the satisfaction of the PCA.

## 8. OCCUPATION & USE

**These conditions have been imposed to ensure the development and associated activities/operation are acceptable in terms of the amenity of the neighbourhood and the public interest whilst maintaining its functional operation.**

- (1) The structure shall not be used for habitable, commercial or industrial purposes.
- (2) The structure shall not be occupied as a residence or domicile.
- (3) The premises shall be maintained in a clean and tidy state at all times.
- (4) The building shall not be occupied or used until an Occupation Certificate is issued by the Principal Certifying Authority.

## 9. PRESCRIBED CONDITIONS

**These conditions are imposed as they are mandatory under the Act.**

(1) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA AND INSURANCE REQUIREMENTS UNDER THE HOME BUILDING ACT 1989

- (a) For the purposes of [section 80A](#) (11) of [the Act](#), the following conditions are prescribed in relation to a development consent for development that involves any building work:

- (i) that the work must be carried out in accordance with the requirements of the *Building Code of Australia*,
  - (ii) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (b) For the purposes of [section 80A](#) (11) of [the Act](#), it is prescribed as a condition of a development consent for a temporary structure that is used as an entertainment venue, that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the *Building Code of Australia* .
- (c) This [clause](#) does not apply:
  - (i) to the extent to which an exemption is in force under [clause](#) 187 or 188, subject to the terms of any condition or requirement referred to in [clause](#) 187 (6) or 188 (4), or
  - (ii) to the erection of a temporary building, other than a temporary structure to which subclause (b) applies.
- (d) In this [clause](#), a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the [application](#) is made for the relevant:
  - (i) development consent, in the case of a temporary structure that is an entertainment venue, or
  - (ii) construction certificate, in every other case.

**Note:** There are no [relevant provisions](#) in the *Building Code of Australia* in respect of temporary structures that are not entertainment venues.

## (2) ERECTION OF SIGNS

- (a) For the purposes of section 80A (11) of the Act, the requirements of subclauses (b) and (c) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (b) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.
- (c) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (e) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.

- (f) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

**Note.** Principal Certifying Authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A of the *Environmental Planning and Assessment Regulation 2000* which currently imposes a maximum penalty of \$1,100).

## 10. ADVICES

- (1) During the course of construction, care must be taken to prevent damage to any public utility or other service and the applicant will be held responsible for any damage caused by him or his agents, either directly or indirectly. Any mains, services, poles, surface fittings etc., which require alterations shall be altered at the applicants expense and to the satisfaction of Council and the authority concerned.
- (2) The following service providers should be contacted before commencement of construction to establish their requirements:
- Dial before you dig (various services) 1100
  - Telstra (telephone) 1 800 810 443
  - Endeavour Energy (electricity) 131 081
  - AGL (gas) 131 245
  - Sydney Water (water & sewer) 132 092
- (3) **This Consent does not permit the commencement of construction unless a Construction Certificate has been issued. For details about obtaining a Construction Certificate contact Council's Building Services Section for building works or Council's Infrastructure Planning Section for subdivision works.**
- (4) At all times work is being undertaken within the public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site with a minimum of disruption.

**7.2 FIVE SHOP TOP HOUSING AND FIVE SHOPS AND STRATA SUBDIVISION****File Number: 10621#18**

**Reason for LPP Referral:** VPA with Council

**DA No:** 010.2017.00000578.001

**Lot & DP – Subject Site:** Lot 2 DP 1098293 – 1 Picton Avenue PICTON

**Proposal:** Five Commercial Premises, comprising five shop top houses, Strata subdivision and works

**Zoning:** B2 Local Centre

**Permissibility:** Permitted with consent

**Cost of Development:** \$1,145,117.84

**Applicant:** Precise Planning

**Owner:** Colin Swadline

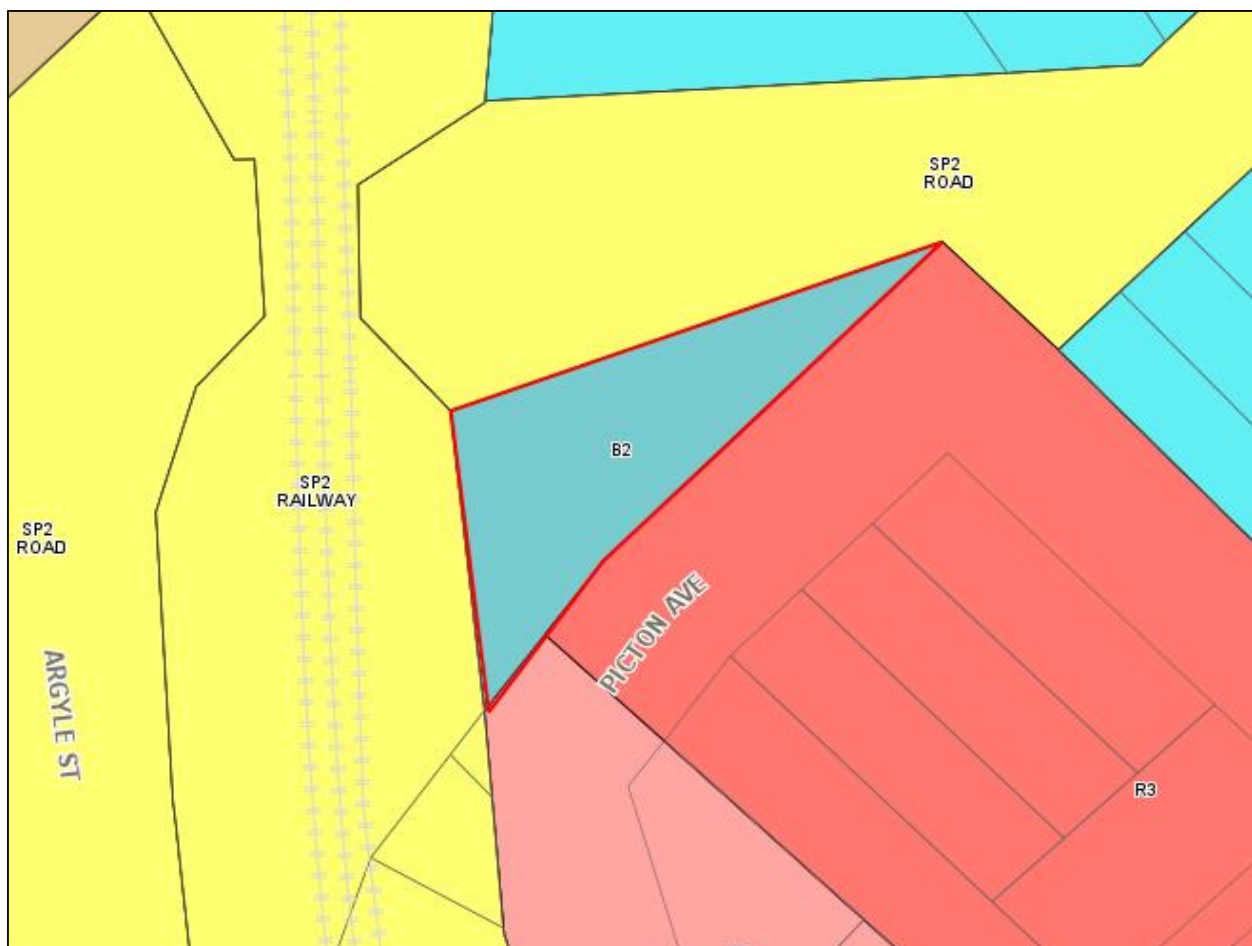
**Notification:** 18 January 2018 until 15 February 2018 – 28 days advertising

**Submissions:** Three submissions have been received in relation to this proposal.

**Variations:** Yes variations are sought.

**Site Inspection:** 4 September 2018

**Recommendation:** That Development Application DD010.2017.00000578.001 be approved – subject to conditions of consent



## EXECUTIVE SUMMARY

- This application was received on the 29 of August 2017 for Five Commercial Premises, comprising of five shop top houses, Strata subdivision and works.
- The purpose of this report is to consider a development application for the above mentioned application due to a proposed Voluntary Planning Agreement (VPA).
- Under Section 10.4 Disclosure of political donations and gifts of the *Environmental Planning & Assessment Act 1979*, 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.
- This report recommends that this application be supported subject to conditions of consent.

## REPORT

### Background

Development consent for 5 commercial terraces, signage and strata subdivision was issued on 13 February 2014. The approved site plan and external elevations are identical to those of the current application. The internal layout has altered due to the change to the first floor as the current application involves the establishment of shop top housing on that level.

The new application was received on the 29 August 2017. The application is accompanied by a Voluntary Planning Agreement (VPA) to address provisions in the Wollondilly Development Control Plan 2016 (WDCP).

### Consultation

### Integrated Development Consideration

Authority	Outcome
NSW RFS	<p>Correspondence dated 29 November 2017 stated:</p> <p><i>"This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:</i></p> <ol style="list-style-type: none"> <li><i>1. The development proposal is to comply with the subdivision layout identified on the drawing prepared by Precise Planning numbered Issue DA2, dated 31May 2017.</i></li> </ol> <p><i>Asset Protection Zones</i></p> <p><i>The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:</i></p> <ol style="list-style-type: none"> <li><i>2. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.</i></li> </ol> <p><i>Water and Utilities</i></p>

Authority	Outcome
	<p><i>The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:</i></p> <ol style="list-style-type: none"> <li>3. <i>Water, electricity and gas are to comply with the following requirements of section 4.1.3 of 'Planning for Bush Fire Protection 2006'.</i> <ul style="list-style-type: none"> <li>• <i>Fire hydrant spacing, sizing and pressures shall comply with Australian Standard AS 2419.1– 2005 'Fire Hydrant Installations'.</i></li> <li>• <i>Fire hydrants shall not be located within any road carriageway.</i></li> <li>• <i>Where the rear or most distant part of a proposed building is greater than 70 metres from the nearest hydrant, a new hydrant is required to be installed as per Australian Standard AS 2419.1– 2005 'Fire Hydrant Installations'. Locations of fire hydrants are to be delineated by blue pavement markers offset 150mm from the centre of the road. The direction of offset shall indicate on which side of the road the hydrant is located.</i></li> <li>• <i>Gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal. Polymer sheathed flexible gas supply lines to gas meters adjacent to building are not to be used.</i></li> </ul> </li> </ol> <p><i>Access</i></p> <p><i>The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:</i></p> <ol style="list-style-type: none"> <li>4. <i>Property access roads shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.</i></li> </ol> <p><i>Design and Construction</i></p> <p><i>The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:</i></p> <ol style="list-style-type: none"> <li>5. <i>New construction shall comply with Sections 3 and 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.</i></li> </ol> <p><i>Landscaping</i></p> <ol style="list-style-type: none"> <li>6. <i>Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'."</i></li> </ol>

### Referral Agencies and Internal Departments

Referral	Outcome
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Referral	Outcome
Development Engineer	<p>On 6 July 2018 it was advised that the conditions applying to the previous consent for the site 10.2013.247.1 were still applicable with some minor modifications.</p> <p>In this regard it is noted that Condition 6(2) should be altered to read 15 sealed car parking spaces.</p> <p>These recommended conditions have been included as conditions of consent.</p>
Design Engineer	<p>An email dated 5 February 2018 states:</p> <p><i>'I have no concerns or conditions with this one from a flood perspective.</i></p> <p><i>The site is not affected by the 1% AEP flood and the PMF only affects about half of the property - evacuation to flood free land is therefore available within the site.'</i></p>
Building Surveyor	<p>Final comments received on 23 May 2018 state:</p> <p><i>'Number of concerns</i></p> <ol style="list-style-type: none"> <li><i>1. Laundry in the dwellings are on the ground floor- will need fire doors to the units and the entire stair well</i></li> <li><i>2. Toilets open to the kitchen sinks/lunch room area in commercial unit 2. Mechanical ventilation required.</i></li> <li><i>3. Details of lift to be provided to PCA</i></li> <li><i>4. Recommend a full BCA report</i></li> <li><i>5. Lift shaft would be fire rated and the doors/ platforms also fire rated</i></li> </ol> <p><i>The proposal is currently considered to be a Class 5 &amp; Class 3 development under the provisions of the NCC Volume 1</i></p> <p><i>Please refer to the fire safety officer.</i></p> <p><i>There is not enough fall for a ramp, hence the required lift platform.</i></p> <p><i>The following conditions will be required to be included in the consent if approved:</i></p> <ul style="list-style-type: none"> <li><i>- Construction shall not commence on the site, including the placement of temporary buildings, site sheds, earthworks, site excavation, filling or other site preparation works (with the exception of site survey work), prior to the issue of a Construction Certificate by Council or a nominated Accredited Certifier.</i></li> <li><i>- Include all standard prescribed conditions.</i></li> <li><i>- Standard Conditions - comply with Section J requirements, 27ES11 (access erosion control), 27ES04 (erosion control), 33IN11 (PCA may stop work), - 36SE21 (Connect to the sewer prior to OC if on sewer)'</i></li> </ul>



Referral	Outcome
Fire Safety Officer	<p>The following comments have been revived by the fire safety officer</p> <ul style="list-style-type: none"> <li>• The BCA Compliance Report is defective in a few areas e.g. carpark &amp; its ventilation? stairs off balconies ? There is an issue with some windows and their distance to the boundaries (other SOU's) however this can be resolved at CC stage.</li> <li>• The required laundry facilities for each residential unit are located on the ground floor. This <u>does not satisfy the National Construction Code (BCA)</u> as the deemed to satisfy provisions require this facility to be located within each sole occupancy unit. Further, neither an external clothes drying area or heat operated dryers are indicated on the plans.</li> </ul> <p>The above mentioned concerns have been satisfied the recommended conditions of consent.</p> <p>As such the following matters have been recommended:</p> <ul style="list-style-type: none"> <li>- No works prior to the issue of a CC,</li> <li>- All building works in accordance with the BCA.</li> </ul>
Section 94 Contributions Planner	<p>The proposed VPA (playground equipment for a park in Picton) has been negotiated and a report was approved by the Executive, please see the section below on the VPA.</p>
Health Officer	<p>Advice received on 6 October 2017 included comments and suggested conditions:</p> <p><i>"It is noted that the site is able to connect to Sydney Waters Reticulated Sewage System - so there is no need for on-site sewage management.</i></p> <p><i>The site is affected by road traffic and rail noise/vibration as the greatest sources of noise.</i></p> <p><i>I have no objections to the proposed development. The following conditions are required in the consent:</i></p> <p><i>Noise Control Measures</i></p> <p><i>Noise Control Measures for air conditioners and other mechanical plant shall be in accordance with the 'Development Application Acoustic Assessment for 1 Picton Avenue Picton' by AECOM, dated 27 Jul 2017 Doc: 60549636-RPNV-01_B, section 4.1.1 Mechanical services noise.</i></p> <p><i>Glazing shall be installed to the building in accordance with the 'Development Application Acoustic Assessment for 1 Picton Avenue Picton' by AECOM, dated 27 Jul 2017 Doc: 60549636-RPNV-01_B, section 4.2.1 Glazing.</i></p> <p><i>Reverberation Control shall be installed in accordance with the 'Development Application Acoustic Assessment for 1 Picton Avenue Picton' by AECOM, dated 27 Jul 2017 Doc: 60549636-RPNV-01_B, section 4.2.2 Reverberation.' control."</i></p>

Referral	Outcome
Environment Officer	<p>Initial comments dated 9 November 2017 stated:</p> <p><u>'Stormwater</u></p> <p><i>I note in the SEE it is stated that stormwater will be directed the street drainage system. Council will need to be satisfied that the stormwater treatment process proposed will not result in any adverse impact to Stonequarry Creek.</i></p> <p><i>Any consent will need to include standard conditions for erosion and sediment control.</i><u>Vegetation</u></p> <p><i>The subject property is cleared and grassed land, with weeds present along the road frontage including Privet and Thistle. These weeds would be removed by the development. The site will be landscaped with native plant species as shown in the "Landscape Concept Plan", this requirement can ultimately be included as a condition of consent.</i></p> <p><i>Vegetation along the railway corridor adjacent to the site is mapped as Shale Sandstone Transition Forest and Shale Hills Woodland, both Critically Endangered Ecological Communities (CEECs). This vegetation is located behind existing fencing. No clearing of vegetation is required to provide the bushfire APZs for the development recommended by Sydney Bushfire Consultants (7 August 2017). However, the "Landscape Concept Plan" includes a notation that there will be excavation and construction of a retaining wall along the property boundary with the rail corridor. Excavation has potential to impact health and stability of native trees growing in the adjacent rail corridor. The site plan shows a car park to be constructed along this boundary, which could also have ongoing impacts on tree health if any significant roots extend below the car park.</i></p> <p><i>Further information required</i></p> <p><i>Due to potential for excavation and construction along the property boundaries to impact native trees on the adjoining railway property that are part of an CEEC, a report from a consulting arborist is required to be submitted to Council and reviewed by Environmental Outcomes prior to determination of the application. The arborist report is to assess the potential impact that excavation and construction of the car park on the eastern property boundary could have on health and stability of trees located in the railway corridor. The arborist report is to recommend any measures required to protect the health and stability of these trees.'</i></p> <p>An 'Arboricultural Development Assessment Report' dated April 2018 was submitted to Council as requested on 16 May 2018 and included the following information:</p>

Referral	Outcome
	<p><i>'3.6 The portion of the railway embankment that Council has requested to be inspected and forms part of the scope of this report, this entire area consists of Broad leaf privet (Ligustrum lucidum), Small leaf privet (Ligustrum lucidum. There are also three (3) large, over-nature specimens of Peppercorn tree (Schinus molle) near the railway line that would have calculated TPZ (Tree Protection Zone) distances of approximately six (6) metres. These will not be affected by the construction of the retaining wall however there are many scattered specimens of privet that will be on the edge of the retaining wall excavation. These privet are approximately 3.5 metres in height. They are not substantial specimens and there is nothing over thirty (30) millimetres in diameter along this edge and so it is not anticipated that the stability of these trees will be affected by the construction for the wall.</i></p> <p><i>3.7 The railway land is mapped as being Critically Endangered Ecological Communities (CEEC) of Shale Sandstone Transition Forest. This vegetation type would normally consist of tree species being Forest Red Gum (Eucalyptus tereticornis), Grey Gum (E. punctata), stringybarks (E. globoidea, E. eugenioides) and ironbarks (E. fibrosa and E. crebra). None of these species were identified as being on site.</i></p> <p><i>3.9 Impacts: The Plane tree on the road verge is recommended to have planking attached for protection during the construction period. The excavation required along the railway boundary will not affect any CEEC trees or vegetation. It is anticipated that several groups of Privet will be required to be removed for the excavation to occur.'</i></p> <p>Further comments dated 25 May 2018 concluded that the proposal would have minimal environmental impacts and is suitable for approval subject to recommended conditions in respect of trees, erosion and sediment control, landscaping and earth fill.</p>

Referral	Outcome
Heritage Adviser	<p>An email dated 29 September advised:</p> <p><i>'This is the second or third version that has been referred for heritage advice. From the start, I believed that this land should not be built on but should have been purchased by Council for public green space. So close to the railway, a pocket park could have been a good way of preserving the entrance into Picton. It appears however, that the land was zoned for dense development and as such the building shapes are generally acceptable from a heritage perspective.</i></p> <p><i>Please note the following two comments:</i></p> <p><i>As the landscape plan is for a site in the CBD, suitability of the bushland theme of lomandras, acacias and eucalyptus species is questionable. One would expect use of exotic evergreens and ornamental trees in the historic town centre.</i></p> <p><i>Where possible, pitched metal roofs and roof drainage in the conservation area should be in galvanised finish rather than Colorbond.'</i></p> <p><u>Planning Comment</u></p> <p>As the site is on the western edge of the CBD and the heritage area and is west and up the hill from Stonequarry Creek it is considered that the <i>'Landscape Plan'</i> is acceptable.</p>
RMS	<p>RMS advised on 6 October 2017:</p> <p><i>'Roads and Maritime Services (RMS) has provided the following comments.</i></p> <p><i>Picton Avenue is a regional classified road, managed by Wollondilly Shire Council.</i></p> <p><i>RMS has recently reviewed its level of involvement on classified regional roads and considers that it is more appropriate for councils to determine if proposed access arrangements are acceptable from a network perspective (i.e. acceptable in terms of safety and efficiency).</i></p> <p><i>Given the above, RMS entrusts Council to assess the traffic implications of this development application.'</i></p> <p>Council's Design Engineer has raised no objection subject to conditions.</p>
NSW Police	<p>A response dated 17 October 2017 made a number of recommendations with respect to Crime Prevention Through Environmental Design (CPTED). In terms of site risk rating the Police concluded <i>'the rating for this development has been identified as, low Crime Risk.'</i></p> <p>An extensive number of conditions are recommended in respect of surveillance, lighting, landscaping, access control, territorial re-enforcement and space/activity management.</p>

Referral	Outcome
<p>Australian Rail Track Corporation</p>	<p>A response dated 16 October 2017 requested Council consider applying conditions in respect of:</p> <ul style="list-style-type: none"> <li>• Screening to protect the railway tracks from intrusive car lights.</li> <li>• A need for security fencing along the rail corridor.</li> <li>• Stormwater so that it does not affect the rail corridor.</li> </ul> <p>Further there was a need to undertake a noise and vibration assessment; provide further details to ARTC if excavation in excess of 2m was to occur within 25m of the rail corridor and/or if cranes were to be used for construction; and, an updated design should be provided to ARTC showing how the new footpath would link with the existing footpath and the retention of the existing access via a gate off Picton Avenue.</p> <p><u>Planning Comment</u></p> <p>Amended plans received on 16 May 2018 indicate a proposed 2.2m high security screen fence is proposed to be provided along both the western (railway) and northern (Argyle Ave) property boundaries. This fence would provide security.</p> <p>Additional stormwater details are shown on the amended '<i>Concept Landscape Plan</i>'. Three (3) overflow absorption pits are shown on the plan including a detail diagram of the pits.</p> <p>A report titled '<i>Development Application Acoustic Assessment</i>' has been submitted with the application.</p> <p>It is noted on the amended '<i>Ground &amp; First Floor Site Plan</i>' that no excavation exceeds 1.78m adjacent to the western (railway) boundary of the site. Correspondence submitted with the amended plans states:</p>

Referral	Outcome
	<ul style="list-style-type: none"> <li>• <i>'Revised plans attached verifying no excavation exceeding 2 metres envisaged. The project can be constructed without the use of cranes.'</i></li> <li>• <i>'Revised plans attached for details. We see no conflict between the connection with the existing footpath and retention of the access gate. The proponent would have no objection to constructing a wider vehicular layback crossing to accommodate an angled entry by maintenance vehicles to the existing gate.'</i></li> </ul> <p>With regard to the security screen fencing on 25 May 2018 the Applicant indicated the type of fencing would be black security fencing at 2.2 metres, which does not screen the train line, however it is considered the existing vegetation screens the train line from view.</p> <p>It was also confirmed by the Applicant that the proposed 2.2m high security fencing would be provided to both the northern and eastern boundaries.</p> <p>This type of fencing does not provide screening however existing vegetation within the rail reserve would provide a screen between the proposed development and the rail line. In any event it would be appropriate to condition the DA if it was to be approved to provide design and materials details of proposed perimeter fencing for consideration and approval prior to the release of the Construction Certificate.</p>
Tharawal	No response received.
Cubbitch Barta	No response received.

### 1.1 Description of Site and Surrounding Area

The proposed site is located on the corner of Picton Avenue and Argyle Street, this site is the southernmost section of the B2 zoning in Picton. The site backs onto the train line (west) and as such acoustic issues have been considered. The site slopes towards the corner of Argyle and Picton Avenue and due to site constraints and traffic, it only has access to Picton Ave.

### 1.2 Description of Development

This application seeks consent for the following:

- Erection of five (5) ground floor commercial premises (business or retail premises) and five (5) shop top houses, including 17 onsite car parking spaces, stormwater drainage, retaining walls and landscaping as detailed on the architectural plans.
- Strata subdivision of the units, as detailed on the draft strata plans
- Road and drainage works within the public road area, across the frontage of Picton Avenue and the intended dedication of 47m<sup>2</sup> of land to Council, corner Argyle and Picton Avenue.
- Signage Strategy.

### 1.3 Section 4.15 Evaluation

#### 1.3.1 Provisions of Relevant Environmental Planning Instruments

##### State Environmental Planning Policy No 64 — Advertising and Signage

Whilst specific signage details have not been provided at this stage a signage strategy has been described on the plans. Signs for the commercial component of the development are indicated as being located below the upper storey veranda edges along the Argyle Street and Picton Avenue frontages. No wall signs are proposed. Signage would be non-illuminated.

It is highly desirable to integrate signage into the design of the building as is proposed.

Under this circumstance it would be appropriate to condition the proposal that separate applications would be required for signs if the development was to be approved.

##### Schedule 1 Assessment Criteria

Section	Requirement	Comment
1. Character of the Area	<i>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</i>	Integrating signage into the architecture of the building is consistent with the character of Picton.  The proportion and ratio of the proposed signage is appropriate.
	<i>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</i>	Location of the proposed signage below the upper storey veranda edges is sympathetic to the locality.
2. Special Areas	<i>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</i>	Signage approach proposed is compatible with the heritage nature of the Picton township.
3. Views and Vistas	<i>Does the proposal obscure or compromise important views?</i>	Free standing or above roof signs are not proposed.
	<i>Does the proposal dominate the skyline and reduce the quality of vistas?</i>	Signs would be contained to nominated areas of the building façade.
	<i>Does the proposal respect the viewing rights of other advertisers?</i>	The proposed signs do not detract from any views or vistas, compete for the skyline or restrict the uses of other advertisers or shopkeepers.  A freestanding billboard sign is located on adjacent land to the north within the Argyle Street road reserve. The proposed building would obscure the sign when viewed from Picton Avenue but this is not



Section	Requirement	Comment
		considered to be an issue as the sign is oriented to Argyle Street and can be easily viewed from that road.
4. Streetscape, setting or landscape	<p><i>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</i></p> <p><i>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</i></p> <p><i>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</i></p> <p><i>Does the proposal screen unsightliness?</i></p> <p><i>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</i></p> <p><i>Does the proposal require ongoing vegetation management?</i></p>	<p>Treatment of the proposed signage is suitable for the streetscape and townscape.</p> <p>Visual clutter would be avoided.</p> <p>No advertising structures would protrude above buildings or tree canopies.</p>
5. Site and Building	<p><i>Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</i></p> <p><i>Does the proposal respect important features of the site or building, or both?</i></p> <p><i>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</i></p>	See comments above.
6. Associated devices and logos with advertisements and advertising structures	<p><i>Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</i></p>	<p>Details are not provided at this stage.</p> <p>It would be appropriate to condition the proposal that separate applications would be required for signs if the development was to be approved.</p>



Section	Requirement	Comment
7. Illumination	<p><i>Would illumination result in unacceptable glare?</i></p> <p><i>Would illumination affect safety for pedestrians, vehicles or aircraft?</i></p> <p><i>Would illumination detract from the amenity of any residence or other form of accommodation?</i></p> <p><i>Can the intensity of the illumination be adjusted, if necessary?</i></p> <p><i>Is the illumination subject to a curfew?</i></p>	It is specified on the plans that the signs would be non-illuminated.
8. Safety	<p><i>Would the proposal reduce the safety for any public road?</i></p> <p><i>Would the proposal reduce the safety for pedestrians or bicyclists?</i></p> <p><i>Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</i></p>	Safety issues are unlikely to be triggered as a result of the signage.

### State Environmental Planning Policy Infrastructure 2007

Considerations	Comments
<b>Railway Corridors</b>	
<p>Developments potentially affected by noise and vibration:</p> <p>(a) a building for residential use,</p> <p>(b) a place of public worship,</p> <p>(c) a hospital,</p> <p>(d) an educational establishment or child care centre</p>	<p>Shop top housing consisting of five (5) dwellings is proposed for the first floor of the building.</p>
<p>The following LAeq levels must not be exceeded:</p> <p>(a) in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am,</p> <p>(b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time</p>	<p>A report titled 'Development Application Acoustic Assessment' submitted with the application concluded:</p> <p><i>'This report presents the results of an acoustic assessment of the proposed commercial development at 1 Picton Ave, Picton. Noise emission from the proposed development has been assessed. The environmental noise emission from the development is based upon the requirements of the EPA and the measured ambient noise levels at the site in accordance</i></p>

Considerations	Comments
	<p><i>with Wollondilly Shire Council.</i></p> <p><i>The impact of noise emission from new developments can be widespread when noise issues are not correctly considered. However, the acoustic assessment indicates that standard noise amelioration strategies will sufficiently treat noise emission to minimise possible acoustic impacts on neighbouring areas.</i></p> <p><i>The following strategies have been proposed by the Acoustic Consultant to comply with the above controls (a) and (b).</i></p> <p><i>Environmental noise emission from the site will be controlled at all neighbouring residential premises by standard noise control techniques.</i></p> <p><i>It is predicted that there will be no significant traffic noise increases as a result of the proposed development.</i></p> <p><i>Recommendations for glazing have been made so road and rail traffic noise intrusion will meet the requirements of State Environmental Planning Policy (Infrastructure) 2007.</i></p> <p><i>Due to the distance from the railway track vibration caused by rail traffic is unlikely to be perceptible within the development and ground-borne noise levels will comply with the appropriate criteria.</i></p> <p><i>Based upon the assessment documentation there are no undue acoustic impacts and applicable criteria will be complied with as the nearest sensitive receivers.'</i></p>
Classified Roads	
<p>Developments potentially affected by noise and vibration:</p> <p>(a) a building for residential use,</p> <p>(b) a place of public worship,</p> <p>(c) a hospital,</p> <p>(d) an educational establishment or child care centre</p>	<p>See comments above for 'Rail Corridors'.</p>

Considerations	Comments
<p>The following LAeq levels must not be exceeded:</p> <p>(a) in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am,</p> <p>(b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time</p>	See comments above for 'Rail Corridors'.
<p>2. Development consent must not be granted unless:</p> <p>(a) Where practicable, vehicular access to the land is provided by a road other than the classified road,</p> <p>(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:</p> <p>(i) the design of the vehicle access to the land, or</p> <p>(ii) the emission of smoke or dust from the development, or</p> <p>(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land.</p>	Vehicular access is proposed via Picton Avenue rather than Argyle Street.

**State Environmental Planning Policy No. 55 - Remediation of Land**

Question	YES		NO	
Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)?		Proceed to Question 3	X	Proceed to Question 2
Does the proposal result in a change of use (that is the establishment of a new use)?	X	Proceed to Question 3		Assessment under SEPP 55 and DCP not required.
Does the application proposed a new: Child care facility Educational use Recreational use Health care use Place of public worship Residential use in a commercial or industrial zone		Proceed to Question 5	X	Proceed to Question 4
Review the property file and conduct a site inspection of the site and surrounding lands. Is there any evidence that the land has been used for a listed purpose?		Proceed to Question 5	X	Proposal satisfactory under SEPP 55 and DCP.

Question	YES		NO	
Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater?		Request contaminated site assessment		Proposal satisfactory under SEPP 55 and DCP.

The site is considered to have no potential contamination. A site inspection and a review of the property file have not identified any issues.

### Sydney Regional Environmental Plan No 20 - Hawkesbury

Relevant Provisions		Comment
3.	<p>Aims of the Plan:</p> <p>The aim of this plan is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.</p>	The proposal is considered to meet the aims of the Sydney Regional Environmental Plan No 20 – Hawkesbury.
Planning Policies and Recommended Strategies		
(1)	Total catchment management	Not applicable
(2)	Environmentally sensitive areas	<p>Correspondence from Harris Environmental dated 22 June 2017 concludes:</p> <p>‘....the proponent engaged Harris Environmental Consulting to prepare the Salinity Assessment report to ensure that any future works proposed for the site are designed to avoid deterioration and damage as a result of saline soils. The report found no evidence of salinity.’</p>
(3)	Water quality	<p>It is proposed to provide new kerb and guttering along Picton Avenue incorporating a new kerb inlet pit &amp; 1.8m lintel join into existing drainage line. Three (3) overflow absorption pits are proposed to be placed on-site. Stormwater will be directed to Council’s existing system.</p> <p>Erosion and sedimentation controls are shown on the engineering plans.</p>
(4)	Water quantity	Three (3) x 3,000 litre water storage tanks are shown on the landscape plan.
(5)	Cultural heritage	Not applicable
(6)	Flora and fauna	Not applicable

Relevant Provisions		Comment
(7)	Riverine scenic quality	Not applicable
(8)	Agriculture/aquaculture and fishing	Not applicable
(9)	Rural residential development	Not applicable
(10)	Urban development	Not applicable
(11)	Recreation and tourism	Not applicable
(12)	Metropolitan strategy	Not applicable
11.	Development controls	
(7)	Filling	No filling of land is proposed as part of this application.

### Wollondilly Local Environmental Plan 2011

Clause 1.2 Aims of Plan	
Objective	Comment
(a) to provide for the management of natural resources and the protection of the natural landscape character,	The proposal is not considered to significantly affect the management of natural resources and or the protection of the natural landscape and character.
(b) to protect, conserve and enhance the built, landscape and Aboriginal cultural heritage	The proposal is considered to enhance the local built heritage culture with the proposed design of the structure.
(c) to protect water quality in land that is situated within water supply catchments,	The proposal is not considered to significantly impact upon the water supply catchments.
(d) to encourage development that provides for an integrated transport and infrastructure system and adequate facilities and service provision for future growth,	No issues have been identified in relation to integrated transport and or infrastructure systems in the local area.
(e) to recognise, manage and protect rural resource lands for sustainable agriculture and extractive industry practices,	The proposed site is not identified as rural resource land.
(f) to maintain the separation between towns and villages to retain their unique character and rural and natural settings.	This proposal is located within the existing town centre of Picton and is considered an appropriate location for shop top housing and commercial business.
Clause 1.9A Suspension of covenants, agreements and instruments	
For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent	No suspension of covenants, agreements and or instruments is required as part of this proposal.

Clause 1.2 Aims of Plan	
Objective	Comment
granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.	

### **Characterisation**

**Shop top housing** means one or more dwellings located above ground floor retail premises or business premises.

**Note.**

Shop top housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

**Commercial premises** means any of the following:

- (a) Business premises,
- (b) Office premises,
- (c) Retail premises.

**Zone of land:**                **B2 Local Centre**

**Permissibility**                **Permitted with consent**

### **Wollondilly Local Environmental Plan 2011 Zone objectives:**

Objective	Comment
B2	
To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.	Once occupied the proposed development would meet this objective as it provides for five business/retail premises enterprises on the ground floor at the southern end of the Picton commercial centre.
To encourage employment opportunities in accessible locations.	This objective is satisfied as the site is located within the Picton town centre.
To maximises public transport patronage and encourage walking and cycling.	Location on the fringe of the Picton town centre on the main street should maximise public transport patronage and encourage walking and cycling.
To provide for appropriate residential development in the form of shop top housing to support the vitality of the local area.	Five shop top housing dwellings are proposed to be located on the first floor.

Clause	Comment
Part 2 Permitted or prohibited development	
2.4    Unzoned land	Land is zoned B2 Local Centre.

Clause		Comment
2.5	Additional permitted uses for particular land	Not applicable
2.6	Subdivision—consent requirements	Strata subdivision is proposed as part of this development. The minimum lot size does not apply to Strata Subdivision.
2.7	Demolition requires consent	No demolition is proposed as part of this application.
2.8	Temporary use of land	Not applicable
Part 4 Principal development standards		
4.1	Minimum subdivision lot size	Not applicable
4.1A	Minimum lot size for dual occupancies in residential zones	Not applicable
4.1B	Subdivision of certain land in Zone E4 Environmental Living	Not applicable
4.2	Rural subdivision	Not applicable
4.2A	Erection of dwelling houses on land in certain residential, rural and environmental protection zones	Not applicable
4.3	Height of buildings	Nine (9) metres is the maximum building height.  Maximum height of the building is generally 9m or less. Please refer to the 3D attachment.
4.4	Floor space ratio	Not adopted
4.5	Calculation of floor space ratio and site area	Not adopted
4.6	Exceptions to development standards	Yes, an exception to the maximum building height development standard has been submitted.  Maximum height of the proposed building is generally 9m or less, with the exception of decorative parapets, and chimney pot element to unit 2 (being +800mm), are reasonable and acceptable.  The other variation relates to a small section of roof ridge of the of proposed unit 4 being plus 400mm tapering to zero.  The submitted clause 4.6 variation has adequately addressed those features of the roof that are over 9 metres, and overall, is considered by the assessing officer as being

Clause	Comment
	reasonable and acceptable in the circumstance.
Part 5 Miscellaneous provisions	
5.1 Relevant acquisition authority	Not applicable
5.1A Development on land intended to be acquired for public purposes	Not applicable
5.2 Classification and reclassification of public land	Not applicable
5.3 Development near zone boundaries	Not applicable
5.4 Controls relating to miscellaneous permissible uses	Not applicable
5.5 Development within the coastal zone	Not applicable
5.6 Architectural roof features	<p>The objectives of this clause are to:</p> <p>(a) encourage interesting architectural roof forms by providing for features that may exceed the building height limits set out for particular land, and</p> <p>(b) ensure that the majority of the roof features are contained within those building height limits</p> <p>The submitted plans show a diagrammatic plan at 9m above the height of the land. The diagram demonstrates that while decorative features such as chimneys may exceed the building height of 9m, the majority of the roof features are contained within the building height limit.</p> <p>Compliance with the clause is achieved because the architectural roof features:</p> <p>(i) comprise decorative elements on the uppermost portion of a building, and</p> <p>(ii) are not advertising structures, and</p> <p>(iii) does not include floor space area</p> <p>(iv) would cause minimal overshadowing</p>
5.7 Development below mean high water mark	Not applicable
5.8 Conversion of fire alarms	Not applicable
5.10 Heritage conservation	<p>The site is identified as within Precinct 1 – Commercial Centre in the Picton Conservation Area.</p> <p>A ‘Statement of Heritage Impact’ accompanying the development application</p>



Clause	Comment
	<p>identified and concluded:</p> <p><i>'The subject site is also located in the immediate vicinity of Archaeological Site A8 – Remnant sandstone kerbs, gutters and culverts, and in the vicinity of the following listed heritage items:</i></p> <ul style="list-style-type: none"> <li><i>• George IV Inn – 174 Argyle Street, Picton (I139);</i></li> <li><i>• Stonequarry Creek Bridge Piers – 167 Argyle Street (adjacent to), Picton (I140);</i></li> <li><i>• Railway Hotel (former) – 181 Argyle Street (corner Barkers Lodge Road), Picton (I141);</i></li> <li><i>• Railway Bridge (hole in the wall) – Argyle Street, Picton (I149)</i></li> </ul> <p><i>On the strength of the foregoing, we are satisfied that the pertinent consent authority, having jurisdiction over the works as proposed, would be in a position to approve such works at 1 Picton Avenue, Picton, without concern for the loss of the heritage values of the Picton Conservation Area, the adjacent Archaeological Site and the surrounding heritage items. We support this contention on the strength of the observations made in this report. The assessment comprises an evaluation of positive enhancements that are likely to be provided by the proposal measured against any potential negative heritage impacts likely to be generated.</i></p> <p><i>Heritage 21 recommends that an Archaeological Assessment is carried out prior to any works being undertaken.'</i></p> <p><i>A 'Preliminary Historical Archaeological Assessment' submitted with the application concludes and recommends:</i></p> <p><i>'Synthesis</i></p> <p><i>Historical research and the analysis of historic maps and plans by Niche indicate that the study area:</i></p> <ul style="list-style-type: none"> <li><i>• Was located on vacant land to the west of the road once known as the Main Southern Road (now known as Picton Avenue);</i></li> <li><i>• Was on vacant land situated south of The George Inn (est.1861) and another early hotel, and north of the Railway Inn (est.1861); and</i></li> <li><i>• Contained no substantial structures.</i></li> </ul>

Clause	Comment
	<p><i>The field survey found no evidence of historical archaeological relics and confirmed that the study area has been significantly disturbed by recent activities. Evidence of hand excavation of a cutting along Argyle Avenue, in the form of peck marks, was observed along the northern boundary of the study area. Given the location of these ‘works’, it appears highly unlikely that they would be impacted by proposed development of the study area.</i></p> <p><i>Based on the results of the field survey and historical research, the archaeological potential of the study area is considered to be low. Council’s Heritage Consultants agrees and recommends approval.</i></p> <p><i>Recommendations</i></p> <ul style="list-style-type: none"><li><i>• A copy of this letter should be submitted to the Heritage Branch, OEH with a completed s139 Exception Notification Form. The study area would satisfy Exception Type 1C;</i></li><li><i>• The proposed development should avoid impacting the peck marks identified on the cutting along Argyle Avenue; and</i></li><li><i>• If there is any potential for the proposed works to impact on the cutting and associated peck marks, further assessment would be required, prior to the commencement of works.’</i></li></ul>
5.11 Bush fire hazard reduction	Not applicable
5.12 Infrastructure development and use of existing buildings of the Crown	Not applicable
5.13 Eco Tourist Facilities	Not applicable
Part 6 Urban release areas	
6.1 Arrangements for designated State public infrastructure	The proposal is not located within an Urban Release Area.
6.2 Public utility infrastructure	
6.3 Development control plan	
6.4 Relationship between Part and remainder of Plan	
Part 7 Additional local provisions	
7.1 Essential services	Existing infrastructure is in place for the supply of water, electricity, and the disposal and management of sewerage. These utilities can be readily extended to service the proposed development.

Clause	Comment
7.2 Biodiversity protection	The site is not mapped as biodiversity protection.
7.3 Water protection	No water protection is mapped on this site.
7.4 Flood planning	The maximum PMF is mapped on this site, a review from the design engineer has not identified any concerns with this proposal.
7.5 Earthworks	<p>Even though the proposed development has been stepped down the site a considerable portion of the land would be excavated.</p> <p>Council's Development Engineer has recommended conditions in respect of drainage/stormwater, the need for a "Soil and Water Management Plan" and erosion and sediment control.</p> <p>It is assessed that the proposed earthworks would be unlikely to:</p> <ul style="list-style-type: none"> <li>• have any detrimental effect on existing drainage patterns and soil stability in the locality</li> <li>• adversely affect the likely future use or redevelopment of the land</li> <li>• unreasonably affect the existing and likely amenity of adjoining properties</li> <li>• disturb relics</li> <li>• cause adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area</li> </ul>
7.6 Development within a designated buffer area	Not applicable

### 1.3.2 Provisions of Relevant Draft Environmental Planning Instruments

No draft environmental planning instruments are relevant to this proposal.

### 1.3.3 Provisions of Relevant Development Control Plans

#### Wollondilly Development control Plan 2016

Volume 1 – General	
Relevant Provisions	Comment
Part 1 - Preliminary	
1.2 Objectives of the Plan	
1. To assist in the realisation of the aims of Wollondilly Local Environmental Plan,	

Volume 1 – General	
Relevant Provisions	Comment
2011.	The proposal is considered to meet the aims of the Wollondilly Development Control Plan 2016.
2. The specific controls and volumes of this plan each have objectives as detailed throughout this plan.	
1.4 Application of the volumes of this plan If there is an inconsistency between the volumes of this plan then the earlier volume shall prevail over the later volume. For example, if there is an inconsistency between Volumes 2 and 5, Volume 2 would prevail because it is found earlier in this plan.	
Part 2 - General considerations for all development	
2.1 Objectives	
1. To ensure that developments are undertaken with due regard to human safety.	The proposal is considered to meet the objects for all development.
2. To ensure that developments do not unreasonably impact on their surrounds.	
3. To ensure that developments achieve a satisfactory level of social equity.	
2.2 Controls	
1. The consent authority shall consider the following safety and human health risks in assessing a development application under this volume:	
a) Road and traffic hazards;	Access to the site would be from Picton Avenue rather than the busier Argyle Street. New kerb and guttering is proposed to be provided to Picton Avenue.  Plans submitted with the application show an area of land on the eastern corner of the site of 46.91m2 as possible dedication for a corner splay. In this regard the SoEE states:  'A traffic impact assessment was considered unwarranted for this proposal, due to its size and the minimal traffic it is likely to generate.  The main issue in relation to traffic flow is the intersection of Picton Avenue and Argyle Street. It is noted that Council was,

Volume 1 – General	
Relevant Provisions	Comment
	<p>at one time, considering the installation of a roundabout at this location. However, it is understood that this may not now be the preferred option.</p> <p>The proponent has indicated a potential land dedication on the plans .... Discussions with Council's engineers suggested that such a large dedication may not be required to accommodate future intersection treatment.</p> <p>This may be a matter for future negotiations with Council and is not being formally "offered" to Council at this time.'</p>
b) Bushfire threat;	A bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' has been issued by the RFS.
c) Flood risk;	Satisfied, refer to '7.4 Flood planning' under the heading 'LEP Clauses' earlier in the report.
d) Noise, vibration, pollution, odour, radiation or waste from surrounding land uses;	Satisfied, see 'Railway Corridors' under the heading 'State Environmental Planning Policy (Infrastructure) 2007' earlier in the report.
e) Exposure to electricity transmission systems;	Not applicable
f) Exposure to radiation from telecommunications infrastructure;	Not applicable
g) Potential exposure to children of material (including signage) from any nearby restricted premises and/or sex services premises;	Not applicable
h) Hazards from vehicles within car parking areas; and	Complies. On-site parking is separated from the building utilising landscaping, paths and walls.
i) Hazard from potential contamination of the land.	Not applicable
Part 3 - Variation	
<p>There may be situations where the strict application of the controls in this plan is inappropriate. In such cases Council may vary the controls in the plan. The controls in this part apply where a development application proposes to vary a control in this plan.</p>	
3.1 Controls	

Volume 1 – General	
Relevant Provisions	Comment
<p>1. In cases where a variation to a control in this plan is sought, the applicant (or person acting on behalf of the applicant) must include in the development application a written request for Council to consider a variation to that control.</p> <p>The written request to vary a control in this plan must:</p> <p>Identify the control being varied</p> <p>Outline the non-compliance with the relevant control</p> <p>Include reasons and justification for the non-compliance</p> <p>Outline why compliance with the control is unreasonable or unnecessary in the case of their development</p>	<p>It is proposed to vary shop top housing control 3.20.6 in 'Volume 4 – Residential Development' in relation to public open space.</p> <p>See that section below under the heading 'PART 3 –General Requirements for all Developments'. DCP control - Refer below;</p> <p><i>“Shop top housing must only be provided within 400m of an area of eligible public open space. In this clause eligible public open spaces means an area of public park with an area no less than 3,000m2 and with children’s play equipment and restrooms. Nothing in this control prevents an applicant from proposing works to enhance a public park to make it an eligible public open space.”</i></p>
2. Council must be satisfied that the variation meets at least one of the following principles before issuing consent for the development:	<p>The applicant has entered into a VPA with Council for a monetary contribution for playground equipment for a Picton Park.</p> <p>Also it is proposed to vary shop top housing controls 2.3.7 and 2.10.4 in 'Volume 5 – Commercial and Community Uses'– Active Street frontages.</p> <p>See that section below under the heading 'PART 3 –General Requirements for all Developments'.</p>
a) The objectives of the standard are achieved notwithstanding non-compliance with the standard;	
b) The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;	
c) The underlying object or purpose of the control would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;	
d) The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary or unreasonable;	

Volume 1 – General	
Relevant Provisions	Comment
e) The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary.	
Part 4 – Community Engagement	
The purpose of this part is to ensure that members of the public potentially affected by a proposed development have input into the assessment process before a final decision is made on a development application. It outlines Council's notification and advertising procedure for development applications.	
4.1 Development applications to be notified	
Notification and advertisement occurred from 18 January 2018 to 15 February 2018. Three submissions from the public have been received.	
4.2 Requirements for notification	
Notification and advertisement occurred from 18 January 2018 to 15 February 2018. Three submissions from the public have been received.  Amended plans and supporting information were received by Council on 16 May 2018 in response to a request for additional information.  The changes focussed on clarification of information rather than alterations that would have a greater impact. Under these circumstances there was no need to re-notify.	
Part 5 - Colonial Heritage	
5.1 Objectives	
a)	To establish good design principles to guide development to and around heritage items,
b)	To ensure development is sympathetic to the overall heritage values and characteristics of the area,
c)	To identify local heritage character and heritage elements of the built environment, and
d)	To ensure the retention and management of heritage values identified for each conservation area and specific precinct.
5.2 General Controls (refer to DCP for further details of controls)	
1. Development of heritage items and development on land within heritage conservation areas shall demonstrate consistency with the NSW Guidelines for Development in Conservation Areas 'Design in Context'. In particular the impact of the following aspects of a	The site is identified as within Precinct 1 – Commercial Centre in the Picton Conservation Area.  It is concluded that the impact of the development upon the heritage significance of the Heritage Conservation Area is acceptable.

Volume 1 – General	
Relevant Provisions	Comment
development should be considered:	<p>Also see the sections titled 'Heritage Advisor' in the 'Referrals' table and '5.10 Heritage conservation' under 'LEP Clauses' earlier in this report.</p> <p>Signage would not compete with the architectural features of the building or dominate the streetscape.</p> <p>Built form is acceptable. External materials and colours can be conditioned.</p> <p>Also see the section titled 'Heritage Advisor' in the 'Referrals' table.</p>
Part 6 - Heritage (Specific Locations)	
6.1 Objectives	
a) To provide specific guidance and controls for development of key conservation areas in Wollondilly.	Noted
6.2 Application (refer to DCP for further details of controls)	
These controls apply in addition to the controls contained in Part 6 of this volume. Where there is an inconsistency between Parts 5 and 6 of this volume Part 6 shall prevail to the extent of the inconsistency.	The development is sympathetic to the heritage character of both precincts and the design and materials used in the proposed new building is appropriate in scale and form.
Part 7 – Aboriginal Heritage	
7.1 Objectives	
a) To achieve appropriate means of conservation, management and protection for archaeological sites, Aboriginal objects and Aboriginal places of heritage significance.	Noted
7.2 Controls	
1. There is impact or disturbance to the content, or within the immediate vicinity (100 metres) of a known Aboriginal object or Aboriginal place of heritage significance;	Appropriate conditions of consent would be formulated if the application were to be approved.
Part 8 – Flooding	
8.1 Objectives	



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Relevant Provisions	Comment
To reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone property, and to reduce private and public losses resulting from floods, utilising ecologically positive methods wherever possible.	<p>Flood risk has been assessed under the 'Clause 7.4 Flood planning' under 'LEP Clauses' in the 'Wollondilly Local Environmental Plan 2011' section of this report.</p> <p>Council's Design Engineer has advised:</p> <p>'The site is not affected by the 1% AEP flood and the PMF only affects about half of the property - evacuation to flood free land is therefore available within the site.'</p>
Part 9 – Environmental protection	
9.1 Objectives	
1.	To improve and maintain environmental outcomes for the areas mapped as natural resources biodiversity and natural resources water under Wollondilly Local Environmental Plan, 2011.
2.	To improve and maintain environmental outcomes for unmapped areas of biodiversity and/or riparian value.
3.	To maintain links between identified environmentally sensitive land and provide habitat and riparian corridors and appropriate buffer zones to these areas.
9.2 Interpretation (refer to DCP for further details)	
9.3 Controls	
1.	<p>Development carried out on areas mapped as 'sensitive land' on the Natural Resources – Biodiversity Map and the Natural Resources Water Map under Wollondilly Local Environmental Plan, 2011 shall occur so as to either avoid, minimise or mitigate any adverse impact as detailed in Clause 7.2 and 7.3 of Wollondilly Local Environmental Plan 2011.</p> <p>Noted</p>
Part 10 – Tree Removal	
10.1 Objectives	
1.	<p>Identify trees and other native vegetation for the purpose of clause 5.9(3) of Wollondilly Local Environmental Plan 2011 which states the following:</p> <p>“(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:</p> <p>(a) development consent; or</p> <p>(b) a permit granted by the Council”</p>

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Relevant Provisions	Comment
2. Identify trees and other native vegetation that: may be removed without a permit or development consent may be removed with a permit may be removed only with development consent	
10.2 Interpretation (refer to DCP for further details of controls)	
	Not applicable
Part 11 – Landscaping	
11.1 Objectives	
1. To encourage the planting of endemic species in landscaping.	Noted, please see below.
2. To reduce the impact of landscaping on the environment, infrastructure and human safety.	
3. To create a landscape character that is defined by native vegetation and not introduced species.	
11.2 Recommended Species (refer to DCP for further details of controls)	
	<p>A 'Landscape Plan' has been submitted with the application that proposes to predominantly utilise recommended species.</p> <p>Council's Heritage Advisor has stated:</p> <p>'As the landscape plan is for a site in the CBD, suitability of the bushland theme of lomandras, acacias and eucalyptus species is questionable. One would expect use of exotic evergreens and ornamental trees in the historic town centre.'</p> <p>As the site is on the western edge of the CBD and the heritage area and is west and up the hill from Stonequarry Creek it is considered that the 'Landscape Plan' is acceptable.</p> <p>This matter can be conditioned if the application were to be approved.</p>

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Relevant Provisions	Comment
11.3 Banned Species	
<p>The following species are not to be used in landscaping within Wollondilly:</p> <p>Conifers,</p> <p>Species specified in Clause 10.3(1)(a) of this volume,</p> <p>Species identified as Noxious Weeds under the Noxious Weeds Act,</p> <p>Species identified as a weed under any adopted policy of Council.</p>	Noted
11.4 Street Trees	
Street tree planting must comply with the Council's Tree Risk Management Plan.	Not applicable
Part 12 – Signage	
12.1 Objectives	
1.	To provide controls for the implementation of the Advertising structures in commercial or industrial zones section of Schedule 2 of Wollondilly Local Environmental Plan, 2011.
2.	To ensure signage that is exempt development does not have adverse impacts on traffic safety and pedestrian amenity.
3.	To ensure signage that is carried out as exempt development does not significantly detract from the amenity of the commercial and industrial built environments.
12.2 Signage as exempt development	
1.	To be an exempt advertising structures under Schedule 2 of Wollondilly Local Environmental Plan, 2011, the structure must:
a)	Not be located within a road reserve; and
b)	Be a fixed sign; and
c)	In the case of a sign attached to a building have no part of the sign higher than the part of the building on which it is attached; and
d)	Not be located within 100m of a heritage item or a heritage conservation area
e)	No be located within 100m of a classified
<p>Not applicable</p> <p>No signage has been proposed as part of this application. The proposed locations have been indicated which have been approved by the heritage adviser.</p>	

Volume 1 – General	
Relevant Provisions	Comment
road; and	Refer above
f) Be designed and installed in accordance with the requirements of a professional engineer; and	
g) Not be used for the promotion or advertising of any product or business other than a business operation from the site on which the structure is located; and	
h) Not be used for the promotion or advertising of any sex services premises, brothel or restricted premises; and	
i) Must not be illuminated; and	
j) Be the one and only advertising structure on the lot constructed as exempt development under this schedule.	

#### **Volume 4 Residential Development**

Volume 4 – Residential Development	
Relevant Provisions	
Part 1 – Preliminary	
1.2 Objectives (Please refer to the DCP for all objectives in this regard, the below are the subject matter related to each objective)	
1.	Visual Character and Amenity
2.	Vehicular Access, Car Parking and Traffic
3.	Encouraging Healthier Lifestyles
4.	Crime Prevention Through Environmental Design
5.	Privacy
6.	Water Sensitive Urban Design
7.	Services
8.	Waste Management
9.	Ecologically Sustainable Development
10.	Environmental Protection
11.	Social Equity
12.	Housing Delivery
13.	Economic Development
14.	Appropriate Integration with State Environmental Planning Policies and Wollondilly Local Environmental Plan, 2011.

15.	Swimming Pools	
16.	Maintenance	
Part 2 – General Requirements for All Developments		
2.1 Alterations and Additions		
Objectives		
1.	To provide clarity and consistency in the assessment of applications to alter and expand development subject to this volume.	Not applicable
2.	To provide clarity and consistency in the assessment of applications for continued use of unauthorised works.	
Controls		
1.	A proposal for alterations and/or additions to an existing development shall be assessed as though both the existing and proposed development were proposed as a single application.	Not applicable
2.	The controls within this plan shall apply only to the alterations and/or additions and shall not be retrospectively applied to existing development that was lawfully undertaken.	Not applicable
3.	This control applies to development sites that include existing unauthorised works where an application seeks consent for continued use of those works. Unauthorised works shall be assessed under this plan in the same way that the works would have been assessed if the application had been made prior to the work being undertaken.	Not applicable
2.2 Residential Development in the B4 Mixed Use Zone		
Objectives		
1.	To provide clarity in the assessment of applications for Residential Development in the B4 Mixed Use Zone.	Not applicable
2.	To ensure equity and consistency of character between residential development in the B4 Mixed Use Zone and nearby residential zones of similar density.	Not applicable
Controls		

1.	Development for detached dwelling houses (including ancillary developments) in the B4 Mixed Use Zone shall be assessed as though it were undertaken in the R2 Low Density Residential Zone.	Not applicable
2.3 Effect of Building Envelopes		
Objectives		
1.	To permit and encourage the master planning of built form in subdivisions at the subdivision stage.	Not applicable
Controls		
1.	These controls apply to any allotment that is burdened by a restriction on title benefitting Council that has been imposed as the result of a condition of development consent on the subdivision of the land.	This site does not contain any building envelopes.
2.4 Conversion of Buildings		
Objectives		
1.	To ensure that buildings to be adapted or converted to a use subject to this volume achieves the same standards that would be required if a new building were erected.	Not applicable
2.	To ensure development is appropriate in its landscape.	
3.	To ensure development has a satisfactory level of amenity.	
Controls		
1.	These controls apply to development for the purpose of converting an existing building into a development type subject to this volume.	Not applicable
2.	The development shall be assessed as though the development were being proposed as a new building.	
2.5 Determining what constitutes an adjoining lot under this plan (for the purpose of calculating setbacks)		
Objectives		
1.	To provide clarity in the determination of what constitutes an adjoining lot under this plan.	Noted
Controls		

1.	In the case of a control relating to a setback from a road boundary of an allotment the adjoining lots are the lots on either side of the site that also have a boundary to that road ignoring any access handle or other road that may be present. This is represented below: (refer to DCP for further information)	Noted
2.	In the case of any other control the adjoining lots are the lots that share a boundary with the development site and the lots that would share such a boundary but for the presence of a public road or access handle. This includes lots that share a common corner of a boundary even if this is the only common boundary. This is represented below:	
2.6 Wet bars		
Objectives		
1.	To ensure that proposed wet bars are not readily adaptable to provide additional kitchens that would lead to a different use under the relevant environmental planning instruments.	Not applicable
Controls		
1.	Wet bars shall have a counter area no greater than 3m2.	No wet bars are proposed as part of this applicable
2.	Wet bars shall not be provided with ovens, cooktops or dishwashers.	
2.7 Driveways		
Objectives		
1. To ensure that residential developments are provided with suitable vehicular access.		
Controls		
1.	Driveways shall be concrete for all residential development in the R1, R2, R3 zones.	The car park and driveway is proposed to be concrete, complies.
2.	Driveways shall be bitumen sealed for dual occupancy development in the E4 zone or within rural zones if permitted by an Environmental Planning Instrument.	
3.	Driveways shall be concrete or bitumen sealed for all residential development in the R5 zone.	

4.	Driveways shall be sealed or all weather gravel for all other development under this volume.	
2.8 Setbacks		
Objectives		
1.	To clarify that a building may exceed a setback in this volume.	Noted
Controls		
1.	Where there is a setback fixed for a building anywhere in this volume a building will be taken to comply if it is setback by an amount equal to or greater than the numerical standard provided.	Complies.
2.9 Non-Residential Development		
Objectives		
1.	To ensure that residential developments are undertaken with due regard to other forms of development in the vicinity.	Not applicable
Controls		
1.	Development subject to this volume must demonstrate that it will not result in unreasonable impacts on existing non-residential development in the vicinity including (without limitation):	Not applicable
a.	Agriculture	
b.	Education Facilities	
c.	Recreation Facilities	
d.	Industries	
e.	Business Undertakings.	
2.10 Special Requirements for Parking areas near dwellings		
Objectives		
1.	To ensure that access doors located near dwelling vehicle parking areas are designed to minimise the risk of a low speed roll over incident.	Noted
2.	To ensure that dwellings have an effective barrier to prevent people from coming into conflict with motor vehicles.	
3.	To protect the safety of our children.	
Controls		



1.	Where a door is provided which has direct access (within 3 metres) to a parking area, the door shall be consistent with the following requirements:	The proposal complies with the controls with parking near dwellings.
a)	The door leaf shall swing into the dwelling and not into the garage or parking area; and	
b)	No sliding or concertina door of any type shall be used; and	
c)	The door leaf shall be fitted with a hydraulic self-closing fixture that is a minimum size 2 spring strength in accordance with AS4145.5.  Note: In the case of unusually high or heavy doors, windy or draughty conditions, or special installations a larger power size of door closer should be used; and	
d)	Any door latch or passage set shall be installed at a minimum of 1500mm above finished floor level; and	
e)	Any bolt or function that could, in normal usage, render a door leaf non-self-latching shall not be incorporated.	
	Note: A non-self-latching bolt (e.g. a dead bolt) will prevent the door from closing if left protruding while the door is open. Any electrically operated locking devices or bolts shall be self-latching in the event of power failure and any activation switches installed 1500mm above finished floor level; and	
f)	If pairs of doors are used both leaves are to be self-closing and self-latching and shall include a selective sequence closing device.	
	Note: For the purpose of this control a parking area includes, but is not limited to an attached or detached garage, car port or an open hardstand car parking space.	
2.11 Stormwater		
Objectives		
1.	To ensure that stormwater from buildings is collected and conveyed in a manner that does not cause	Noted

	environmental harm.	
2.	To retain, as far as practicable, natural stormwater flows.	
Controls		
1.	Stormwater from new dwellings (other than water to be recycled for use on site) must be directed to at least one of the following to Council's specifications:  Street drainage system;  Drainage easement;  Natural drainage path.	<p>Three (3) overflow absorption pits are proposed to be placed on-site.</p> <p>It is proposed to provide new kerb and guttering along Picton Avenue incorporating a new kerb inlet pit &amp; 1.8m lintel join into the existing drainage line. Thus stormwater will be directed to Council's existing system.</p>
	Council may consider the use of absorption trenches or similar on large lot residential or rural lots where one of the measures above cannot be satisfied.	
2.	Where common drainage treatment methods are unable to suitably convey stormwater from the dwelling to one of the systems described in control (1) above, Council may require the creation of drainage easements over adjoining properties to carry stormwater from the site.	
3.	The proposed dwelling and any associated stormwater drainage measures shall account for the existing drainage patterns of the area and shall not contribute to any localised ponding, nuisance flooding on adjoining properties, or impacts to overland flow or natural drainage paths.	
4.	All stormwater disposal systems shall be in accordance with Council's Engineering Design Specifications.	

### PART 3 SPECIFIC LAND USE CONTROLS

#### 3.20 Shop top housing - developments for Shop top housing in Wollondilly Shire.

Control		Comment
Building Design		
1	The first floor of the development shall be constructed as a commercial development in accordance with the relevant provisions of	It is proposed to use the ground floor for either business or retail premises.

	Volume 5 of this plan.	
2	The front façade of each floor of shop top housing shall be provided with at least one habitable room with a window looking out onto the public road.	Each of the dwellings has either windows or doors from living areas opening onto balconies that overlook both Argyle Street and Picton Avenue.
3	Shop top housing developments must not:	Façade design varies with effective articulation by fluctuating setbacks, materials, window and door treatment, utilisation of balconies and stepping the building to reflect topography.
<input type="checkbox"/>	Be mirror reversed;	
<input type="checkbox"/>	Have a repeated façade; nor	
<input type="checkbox"/>	Present an excessively bulky front façade.	
4	If more than 10 shop top housing units are proposed then at least one dwelling per five dwellings (rounded down) provided shall be an accessible dwellings complying with relevant Commonwealth Standards for disabilities access.	Noted, complies.
5	Shop top housing must not exceed the building footprint of the ground floor commercial part of the building.	Complies
Site Selection and Amenity		
6	Shop top housing must only be provided within 400m of an area of eligible public open space. In this clause eligible public open spaces means an area of public park with an area no less than 3,000m <sup>2</sup> and with children's play equipment and restrooms. Nothing in this control prevents an applicant from proposing works to enhance a public park to make it an eligible public open space.	<p>Apex Park is located within 150m of the site. It does not house children's' play equipment but would be an unsuitable site for a playground.</p> <p>Major recreational facilities and parks are within a kilometre of the land.</p> <p>In order to comply with this clause the proponent made the following offer by letter received on 16 May 2018:</p> <p><i>'The proponent is willing to offer, by way of a planning agreement, a contribution of \$3,000 toward the provision of playground equipment for Apex Park. This offer is made pursuant to S.7.7(3)(a) EPA Act.'</i></p> <p>This offer was rejected on the basis that Apex Park was an unsuitable area to install children's play equipment as the majority of the site is road verge or steep creek edge and the suggested contribution was too low because construction costs of playgrounds start at minimum</p>

		<p>of \$60,000.</p> <p>Correspondence to the Applicant from Council dated 3 July 2018 advised:</p> <p>An agreed figure of \$1,500 per dwelling to go towards Parks within the commercial centre of Picton and its surrounds was negotiated.</p> <p>This agreement has been signed off by Council Executive Team but not notified in the paper.</p> <p>This constitutes a variation of the requirement that shop top housing must only be provided within 400m of an area of eligible public open space. The variation is supported as the land is zoned B2 Local Centre and the proposed development is permitted in the zone with consent. Agreed VPA money would be spent on open space embellishment in and adjacent to the Picton commercial area.</p>
Private Open Space		
7	A balcony or verandah which provides a minimum principal area of private open space must be provided for each dwelling with the following characteristics:	
a)	Width no less than 2.5 metres in any direction	Complies
b)	Must be directly accessible from, and adjacent to, a habitable room, other than a bedroom	Complies
c)	Have an area no less than 8 square-metres.	Complies
d)	Must not be located in the front building setback of the ground floor	Complies
e)	Not be used for garbage storage	Garbage storage areas for both the residential and commercial components are at ground level adjacent to the car parking area and behind the building line.
Parking, Access and Vehicular Safety		
8	A minimum of One (1) car parking space shall be provided for each dwelling and one (1) visitor parking space shall be provided for every 5 dwellings (rounded up). Where this parking is located within a parking lot used by commercial development suitable measures shall be provided to ensure they are reserved for residential use to the satisfaction of the consent authority.	<p>Six (6) car parking spaces are required for the residential component of the development. Six (6) spaces are proposed to be allocated.</p> <p>It is stated in the SoEE that:</p> <p>'Signage will be used to reserve</p>

		parking for residents and their guests.'
Solar Access		
9	Sunlight is to be available to at least 50% of the dedicated private open space area of each dwelling for at least 3 hours between 9:00 am and 3:00 pm on June 21.	Shadow diagrams submitted with the application demonstrate compliance.
10	Wherever possible, the living areas within dwellings shall be given a northern orientation to maximise solar access.	Living areas within the shop top dwellings Units 1, 2 and 5 have northern orientation. Bedrooms in both Units 3 and 4 take the northern orientation.
Privacy		
11	The development must not result in unreasonable overlooking into the private open space or windows of habitable rooms in the vicinity.	Argyle Street, Picton Avenue and the railway separate the site from nearby residential development so potential impacts on privacy are assessed as being acceptable.
12	A window that has a sill height of 1.7m or more above the floor level within the room shall be taken to have no potential for overlooking.	Complies

### **Volume 5 Commercial and Community Uses**

The relevant provisions of Volume 5 will be assessed below.

Volume 5 – Commercial and Community Uses	
Relevant Provisions	Comment
Part 1 - Preliminary	
1.2 Objectives	
The object of this volume is to ensure commercial and community development achieves the aims of Wollondilly Local Environmental Plan, 2011 by promoting economic activity and local job creation while ensuring developments achieve excellent planning outcomes.	
1.3 Parts of this volume	
The requirements contained within Part 2 apply to all development types to which this volume applies.	
Part 3 applies to specific land uses: Part 4 applies to specific locations:	
Part 2 – General Requirements for all Commercial and Community Uses	
2.1 Sustainability	
Objectives	
To ensure the application of Ecologically Sustainable Development (ESD) principles at all stages of development including demolition, construction and ongoing use over time.	

Volume 5 – Commercial and Community Uses	
Relevant Provisions	Comment
Controls	
1. Timber sourced from old growth forests may not be used in development subject to this volume.	Noted
2. Impacts to groundwater must be minimised by:	Stormwater would be directed to the street (Picton Avenue) drainage system.
a) Ensuring no contaminated runoff enters the groundwater system; and	No significant stands of vegetation exist on the land.  Cut is required but the extent needed is reduced as the building is stepped down the site.  Some deep soil landscape areas are provided.
b) Retaining and protecting significant stands of native vegetation; and	
c) Minimising cut and fill; and	
d) Maximising landscaped areas that are deep soil and are hydraulically connected to the natural soil and groundwater system.	
3 All development resulting in more than 200 square metres of new GFA must provide rainwater collection tank(s) to collect rainfall and runoff from roof areas. The minimum volume of the tank(s) shall be 1,000 litres per 100m <sup>2</sup> (rounded down to the nearest 100m <sup>2</sup> ) of new GFA. Such tank(s) must have their overflows connected to a point for suitable integration with the natural or constructed stormwater drainage system.	GFA is approximately 300m <sup>2</sup> so a minimum volume of tanks required would be 3,000 litres. The plans show three (3) tanks each with a volume of 3,000 litres.  Overflow absorption pits are proposed for each water tank
2.3 Building Design	
Objectives	
1. To achieve safe, attractive, equitable and functional buildings.	Noted
2. To enhance and protect the public space adjacent to commercial premises.	
3. To preserve the broader rural village character of the towns and their centres.	
Controls	
1. Buildings on sites adjoining public open space must not cast a shadow onto more than one third of that open space between the hours of 10am and 2pm during the winter solstice (measured at ground level).	Not applicable

Volume 5 – Commercial and Community Uses	
Relevant Provisions	Comment
2. Colourbond materials shall not be used in the external construction of buildings within the Business (B) Zones unless they account for less than 25% of each front elevation.	<p>Colorbond is proposed to be used on the roof only. Council's Heritage Advisor is of the view that:</p> <p>'Where possible, pitched metal roofs and roof drainage in the conservation area should be in galvanised finish rather than Colorbond.'</p> <p>This matter could be conditioned if the application was to be approved.</p>
3. External materials used for newly constructed or extended commercial buildings within the business (B) zones shall be consistent with the materials used in adjoining commercial development or shall have a superior quality external finish.	External materials are appropriate especially as the land is located in the Picton Heritage Conservation Area.
4. Shipping containers shall not be used for storage within developments for commercial or community purposes.	Not applicable
5. Building designs must ensure that main entry and exit points are readily identifiable to intending patrons.	Main entry and exit points are readily identifiable from both the car parking area and Picton Avenue.
6. All building facades visible from a public place must be designed to reduce bulk and enhance the appearance of the building using appropriate architectural features, articulation and finishes.	Façade design varies with effective articulation by fluctuating setbacks, materials, window and door treatment, utilisation of balconies and stepping the building to reflect topography.
7. Commercial developments must have active frontages for the majority of the total frontage of the development to public spaces including roads and reserves. An active frontage must have a minimum of 50% glazing area which must be transparent.	<p>An active frontage is provided without providing a minimum 50% glazing area. A combination of balconies/verandas, glazing and brick walls appropriate for a heritage conservation area is proposed.</p> <p>Heritage buildings in the Picton commercial area would not provide a minimum of 50% glazing. Satisfactory.</p> <p>Additional information received on 16 May 2018 included correspondence from Heritage 21 that addressed this issue as follows:</p> <p><i>'It is my opinion that the proposed development at 1 Picton Avenue Picton respects the Picton Conservation Area as it is sympathetic to the overall character of the conservation area, the listed heritage items contained within and the residential dwellings in the immediate</i></p>

Volume 5 – Commercial and Community Uses	
Relevant Provisions	Comment
	<p><i>vicinity. This is through its use of sympathetic architectural elements and preserving original lot boundaries.</i></p> <p><i>The requested increase of up to 50% in glazing would in my view, produce an inappropriate contemporary design. Such a design would not be considered sympathetic to the character of the Picton Conservation Area and would fail to reflect the architectural characteristics of existing buildings in the conservation area. Therefore, the integrity and consistency of the conservation area would be compromised. As such, insofar as heritage aspects are concerned, it is my opinion that the implementation of the WDCP 2016 would significantly reduce the heritage design and result in a negative impact to the character of the Picton Conservation Area. In this case, Council's request for an increase in volume would not lead to a better heritage outcome.</i></p> <p>It is also important to note that the following is noted in Part 1.4, Volume 1 of the WDCP 2016:</p> <p><i>"If there is an inconsistency between the volumes of this plan then the earlier volume shall prevail over the later volume. For example, if there is an inconsistency between Volumes 2 and 5, Volume 2 would prevail because it is found earlier in this plan."</i></p> <p><i>Pertinent heritage controls are located in Volume 1 of the WDCP 2016, while the provisions concerning glazing in commercial areas are situated within Volume 5. Consequently, the heritage controls prevail.</i></p> <p><i>For the above-mentioned reasons, I believe that the glazing area proposed in the development is appropriate and should not be increased as it provides harmony and cohesiveness to the streetscape and buildings within the Picton Conservation Area.'</i></p> <p>The proposed variation to this DCP standard is supported as the broader heritage character of Picton is reflected in the design of the proposed</p>



Volume 5 – Commercial and Community Uses	
Relevant Provisions	Comment
	development.
8. All facades must be designed in accordance with the Crime Prevention through Environmental Design (CPTED) Guidelines including allowance for casual surveillance of streets and other public places.	Complies. 'The units allow for passive surveillance of the street and there are no lanes or other entrapment areas in the development.'
9. There must be a universally accessible and continuous path of travel to connect the public footpath to all car parking areas and the main public entry and exit point of a building.	Complies
10. The applicant for any proposal for mixed use development shall demonstrate, to the satisfaction of the Consent Authority, that the development provides adequate amenity to any proposed and/or existing residential use.	Adequate amenity is provided to the shop top housing as assessed in accordance with the relevant parts of 'Volume 4 – Residential Development' of DCP 2016.
11. Building services, fittings and utilities (including, without limitation, downpipes, conduits and vents and air conditioning units and components) must be integrated with the features of any facade fronting public open space or a public street.	Plans submitted with the application demonstrate that this has been achieved.
12. Building lights shall illuminate buildings and signs from the top-down rather than the bottom-up to reduce light spill into the night sky.	There will be no upward directed external lighting.  This matter can be conditioned if the application were to be approved.
13. Lift towers and overruns, satellite dishes, motor rooms and service plants, air conditioning units, antennae, telecommunications devices, vent pipes and the like must not be visible from any publically accessible place.	None of the items identified in this control will be visible from a public space.
2.6 Landscaping	
Objectives	
1. To achieve landscaping that is integrated with the design, layout and scale of development and is sensitive to site attributes, streetscape, views and vistas.	Noted
Controls	
1. Landscaping around the external perimeter of new commercial buildings with a GFA greater than 1,000m <sup>2</sup> must be provided at the rate of at least 20m <sup>2</sup> of consolidated / continuous planted area for every 500m <sup>2</sup> GFA and address the street frontages.	A Landscape plan has been provided meeting these requirements,

Volume 5 – Commercial and Community Uses		
Relevant Provisions		Comment
2.	Landscaping for new commercial developments shall be in the form of garden beds and achieve the following:	Refer above – compliant
a)	at least 50% native vegetation;	
b)	only low maintenance vegetation;	
c)	use or eliminate the need for fencing;	
d)	Use only vegetation that will not damage infrastructure; and	
e)	Provide adequate landscaped area for plants when fully grown.	
3.	All plant species in landscaping must be non-toxic and low-allergen.	
4.	Contiguous landscaping areas with an area greater than 50m <sup>2</sup> shall be provided with and automatic irrigation system(s).	
2.7 External storage		
Objectives		
1.	To ensure wastes are stored in a safe location that does not detract from the aesthetic qualities of commercial developments.	Noted
Controls		
1.	There shall be no storage of goods or waste in areas that are visible to the public or patrons of facilities.	Garbage storage areas for both the residential and commercial components are at ground level adjacent to the car parking area and behind the building line.
2.8 Public realm		
Controls		
1.	All works within the public domain must comply with Council's adopted Design and Construction Specification, Plans of Management and any other strategy adopted by Council for public spaces.	Complies and covered by conditions advised by Council Engineering team.
2.	Where a driveway crosses a public road frontage and is 5 metres or wider the vehicle lanes on the driveway must be separated to provide a pedestrian refuge within the footpath.	Plans show the driveway crossing to be 6m wide within the Picton Avenue road reserve.
3.	Where on street parking is not already provided (including paved shoulder and kerb	It is proposed to provide kerb and gutter

Volume 5 – Commercial and Community Uses		
Relevant Provisions		Comment
	and guttering) along the full frontages of the site it shall be installed prior to the occupation of any development subject to this volume.	along the Picton Avenue frontage.
2.9 Access and Traffic Generation		
Objectives		
1.	To provide the opportunity to access development sites by the widest feasible variety of transport modes,	Noted
2.	To ensure delivery areas are suitably isolated from patron traffic to promote pedestrian safety.	
Controls		
3.	Forward entry/exit onto the street from the loading/unloading space must be provided.	The engineering department are satisfied that the proposed will comply with entry and exit.
2.10 Parking and Manoeuvring		
Objectives		
a)	To achieve vehicle parking and manoeuvring spaces that do not dominate the streetscape, and	Noted
b)	To ensure developments accommodate parking demands of private land uses within private property.	
Controls		
1.	The construction of vehicle parking and manoeuvring areas must comply with Council's adopted Design and Construction Specifications.	Is conditioned.
2.	Vehicle parking that is located within the front setback must be physically separated by permanent safety structures from road pavement and must not detract from the aesthetics of the streetscape.	Complies.
3.	Where security doors or gates are proposed to control access to vehicle parking an intercom system must be provided to facilitate access. Such doors and gates must also be positioned to ensure vehicles stand clear of the public footpath and any specified pedestrian access while the doors and gates are opening.	Complies.

Volume 5 – Commercial and Community Uses	
Relevant Provisions	Comment
4. All above ground parking areas with more than 12 parking spaces must be landscaped including shade trees provided at the rate of one (1) canopy tree for every four (4) car parking spaces of part thereof. Shade trees must be located to provide shade to parked vehicles.	<p>The twelve (12) spaces along the western boundary are not provided with shade trees (other than space 1). Shade is provided by trees within the adjacent railway corridor. Some of these are likely to remain.</p> <p>Notwithstanding above, it is considered that this DCP non-compliance is acceptable in the circumstance.</p> <p>Proposed car space 7 has now been replaced with planting.</p>
5. Manoeuvring space must be sufficient to permit all vehicles to enter and leave a site in a forward direction in accordance with relevant Australian Standards.	Complies
6. Parking areas must be linked via a pedestrian path with the nearest public footpath.	Complies.
7. Parking spaces adjoining pedestrian accesses must be provided with wheel stops or upright kerbs to protect the safety of pedestrians.	Conditioned.
8. Parking areas for developments that operate outside of daylight hours must be lit in accordance with relevant Australian Standards.	This is conditioned.
9. Multi-unit complexes must provide a consolidated car parking area for patrons. No more than 50% of the total parking spaces on site shall be allocated to a single unit.	Complies - Commercial units - 7
10. Parking must be provided at the rate tabulated below. The number of spaces shall be rounded up to the nearest whole number of spaces.  Note: In a mixed use development the total number of car parking spaces shall be sum of the number of parking spaces required for each component use.  a) Numerical Parking Rates (see the DCP for further details of this control)	<p>Complies - Shop top housing – 5 &amp; 1 visitor</p> <p>Fifteen (15) spaces are provided. 2 accessible spaces included. Car parking is located along the western boundary of the site adjacent to the rail corridor. Complies.</p>
11. Car parking areas shall be designed, embellished and located to minimise adverse visual impacts in the locality.	Complies.
12. Large developments for retail (or mixed use including retail) that give rise to a need for 200	

Volume 5 – Commercial and Community Uses	
Relevant Provisions	Comment
or more car parking spaces shall provide one (1) space for Seniors and one (1) for parents with prams for each 100 spaces (rounded down) required by this volume. Such spaces shall measure no less than 2.8m x 5.5m and shall be signposted and marked with line marking paint. They shall be located to minimise travel distance to the entry points for the facility. The spaces required by this clause are not in addition to the spaces that are otherwise required by this plan.	Not applicable
2.11 Waste Management	
Objectives	
1. To ensure appropriate waste storage and collection facilities,	Noted
2. To minimise risk to health and safety associated with handling and disposal of waste and recycled material and ensure optimum hygiene,	
Controls	
1. A completed Site Waste Minimisation and Management Plan (SWMMP) complying with the template in Appendix A of the NSW Office of Environment and Heritage’s Model Waste must accompany an application for commercial buildings greater than 500m² in GFA or any commercial development that is likely to produce hazardous waste products.	Even though the commercial component of the development has less than 500m2 GFA a waste management plan has been submitted.
2. There must be convenient access from each tenancy and/or larger waste producing area of the development to the waste/recycling storage room(s) or area(s). There must be step-free access between the point at which bins are collected/emptied and the waste/recycling storage room(s) or area(s).	Complies.
3. Every development must include adequate waste/recycling storage area(s) to accommodate all relevant waste management processes and storage.	Complies.
4. Special arrangements for storage, collection and disposal of medical and hazardous waste must be detailed in the Site Waste Minimisation and Management Plan (SWMMP)	Use of the commercial units are unknown at this stage.
5. Waste/recycling storage areas must not be	Garbage storage areas for both the residential and commercial components

Volume 5 – Commercial and Community Uses	
Relevant Provisions	Comment
visible from outside of the building or by patrons.	are at ground level adjacent to the car parking area and behind the building line. They would not be highly visible but it is considered appropriate to provide screen walls around them.
2.12 On-site waste water and stormwater management	
Objectives	
1. To minimise the impacts of urban development on the environmental values of waterways, groundwater systems and bushland areas,	Noted
Controls	
1. On sites without reticulated sewer, provision shall be made for the disposal of treated effluent in a manner that minimises the risk to the natural environment and to human health.	Conditions of consent from the development engineering's control this.
2. All stormwater management systems shall comply with Council's Design & Construction Specification.	
3. For developments providing more than 1000m <sup>2</sup> of new GFA, a detailed stormwater treatment assessment shall be provided detailing how the development will result in improved stormwater quality and will achieve the principals of Water Sensitive Urban Design.	

#### 1.3.4 Draft and/or Planning Agreements Entered or Offered to Enter into

A VPA has been proposed as part of this application.

The VPA has been approved to be publically exhibited by Council's Executive and may be required to be reported to a Council meeting for completion.

Clause 3.21.6 of Volume 4 – Residential Development of Development Control Plan 2016 (DCP) states:

'Shop top housing must only be provided within 400m of an area of eligible public open space. In this clause eligible public open spaces means an area of public park with an area no less than 3,000m<sup>2</sup> and with children's play equipment and restrooms. Nothing in this control prevents an applicant from proposing works to enhance a public park to make it an eligible public open space.'

In order to comply with this clause the proponent made the following offer by letter received on 16 May 2018:

*'The proponent is willing to offer, by way of a planning agreement, a contribution of \$3,000 toward the provision of playground equipment for Apex Park. This offer is made pursuant to S7.7(3)(a) EPA Act.'*

This offer was rejected on the basis that Apex Park while located within 400 metres of the proposed site was an unsuitable area to install children's play equipment as the majority of the site is road verge or steep creek edge and the suggested contribution was too low because construction costs of playgrounds start at minimum of \$60,000.

Apex Park is an existing 'pocket park' located on the corner of Argyle Street and Barkers Lodge road, this park already has existing toilet facilities and parking area. The park contains no existing playground equipment and due to site constraints mentioned above an alternative park in Picton and its surrounds would benefit more from the proposed contribution.

Correspondence to the Applicant from Council dated 3 July 2018 advised:

'The proposed figure has not been accepted by the Contributions Planner and it is suggested that a starting point of \$15,000 is a more reasonable offer (\$3,000 per proposed dwelling). In addition John Shepherd Memorial Apex Park is not an appropriate park for a children's play equipment. Council suggests the contribution to go towards Parks within the commercial centre of Picton and its surrounds.'

Council's logic in applying the figure of \$3,000 per dwelling was that this is 50% of the applicable Section 7.11 contribution for open space of \$6,000. It acknowledged that a portion of the Section 7.11 contribution went towards land acquisition. It should be noted that the VPA figure would be in addition to the Section 7.11 charges.

On 16 July 2015 a counter offer was received:

'The proponent has no objection to making a contribution that goes toward parks within the commercial centre of Picton, although it should be pointed out that the original suggestion of the John Shepherd Apex Memorial Park came from Council in its letter dated 21 November 2017. However, the contribution amount suggested by Council as a starting point seems to be an arbitrary figure. Our estimate of the cost for the equipment was around half the \$60,000 estimated by Council and so the proponent's offer of \$3,000 was based on a percentage of that amount (being an estimate of the potential demand from the development). Council's estimate suggests that this development would utilize the facilities 25% of the time, which is, in our view, excessive. This style of housing, whilst able to accommodate a small family, is unlikely to utilize a playground that would be open to the public, 25% of the time.

Nevertheless, the proponent is hereby agreeable to lift the offer to \$7,500, in order to resolve the matter.'

This offer the equivalent of \$1,500 per dwelling was considered appropriate by Council's Contributions Planner and approved by Executive on the 23 of August 2018.

The following is a summary of the minutes from the meeting:

The Executive Leadership Team:-

1. Agree to a condition being included in any consent issued for the development requiring a Planning Agreement to be prepared that is consistent with the tabled Letter of Offer.
2. Agree for any minor changes to the letter to be resolved by the Director Planning without further reference to the Executive Leadership Team.
3. That funds under the VPA shall be used for the embellishment of open space in and around Picton.

#### **1.4 Impact of the Development**

The proposal is considered to be consistent with the existing commercial setting of the Local centre zoning while having an appropriate approach to the heritage conservation of the township.

#### **1.5 Suitability of the Site**

The proposed site is considered to be suitable for five shop tops dwellings and five commercial units.

## 1.6 Submissions

Three submissions have been received in relation to this proposal. Their issues are provided below

Concerns	Comment
<ul style="list-style-type: none"> <li>• Prominent site visible to anyone entering or leaving Picton.</li> <li>• A traffic study required.</li> <li>• Driveway opposite our house. Suggest a round-about.</li> <li>• Given the visibility of the land and the height of the proposed building it is considered that the proposal is a gross overdevelopment of the site.</li> </ul>	<p>Externally the building is the same as the one approved under 010.2013.00000247.001 on 13 February 2014. When this application was assessed there was concern about the building height.</p> <p>It is considered that the proposed development is generally consistent with the previous development with the exception that it is was all commercial with no residential component. It is also noted that the finished roofline RL's of the previously approved development in 2014, are consistent with the new proposal.</p> <p>Maximum height of the building is generally 9m or less, with the exception of decorative parapets, and chimney pot elements (being +800mm) are reasonable and acceptable.</p> <p>While limited decorative features exceed the building height of 9m under Clause 5.6 of LEP 2011 the majority of the roof features do not present as a dominate feature when viewed from the public place.</p> <p>Compliance with the clause is achieved because the architectural roof features:</p> <ul style="list-style-type: none"> <li>(i) comprise decorative elements on the uppermost portion of a building, and</li> <li>(ii) are not advertising structures, and</li> <li>(iii) do not include floor space area</li> <li>(iv) would cause minimal overshadowing</li> </ul> <p>A clause 4.6 variation has been submitted to address those features of the roof that are over 9 metres, and is considered unreasonable and acceptable.</p> <p>The floor area and building height is generally compliant and is very similar to the previous approval.</p>
<p>Traffic hazard and parking impacts are unacceptable.</p> <p>The developer should be willing to make the street safer by constructing 'Perhaps a roundabout in front of the driveway or speed humps further around the corner to slow traffic coming around the blind corner and a mirror opposite us at the blind spot, where the new development driveway will be.'</p>	<p>Council's Engineering section do not require a traffic study based on the traffic movements per day for such a development.</p> <p>Council's Development Engineer has assessed the application and concluded that subject to conditions the location of the driveway servicing the proposed development would have acceptable traffic visibility along Picton Avenue without the need for a round-about. A corner splay at the intersection of Picton Avenue and Argyle Street is required.</p>



Would residents dry their washing on the balconies thus creating an unacceptable visual impact in a heritage precinct?	Clothes dryers would be located in residential laundries.
Vibration and noise from trains would not be imperceptible in terms of impacting the shop top housing.	A 'Development Application Acoustic Assessment' report was submitted with the application. Its conclusion is included in the table earlier in this report under the heading 'State Environmental Planning Policy (Infrastructure) 2007 [SEPP 2007]'  Glazing recommendations are included in the report for the shop top dwellings being 'one layer of 6.38 mm laminated glass.'
Bin noise during construction is perceived to be an issue so the construction timeframe should be provided	Construction timeframes can vary substantially and this information is not typically provided with a development application.
Permanent bin storage areas should be screened	Bin storage areas are screened by landscaping and the building when viewed from the street.  They would not be highly visible but it is considered appropriate to provide screen walls around them.

## 1.7 The Public Interest

The proposal is considered to be in the public's interest.

### Financial Implications

This proposal will require payment of a Contribution for four (4) dwellings in accordance with the Wollondilly Section 94 Contribution Plan 2011, the cost of which will be determined and payable at the time of the release of the Construction Certificate.

The current amount payable is:


(i) Open Space, Sport & Recreation (Shire)	\$815
(ii) Open Space, Sport & Recreation (Precinct)	\$33,310
(iii) Library & Community Facilities (Shire)	\$3,845
(iv) Library & Community Facilities (Precinct)	\$4,960
(v) Transport & Traffic (Roads & Intersections)	\$23,775
(vi) Transport & Traffic (Cycleways)	\$200
(vii) Bushfire Protection	\$95
(x) Plan Administration	\$3,350
<b>TOTAL</b>	<b>\$70,350</b>

These figures are reviewed quarterly in accordance with the provisions of the Contributions Plan and an updated figure must be obtained from Council at the time of payment.

In addition a VPA has been proposed which will not offset the Contributions. This additional contribution will total \$7,500 which will be utilised for the embellishment of open space in and around Picton.

## ATTACHMENTS

### 1. Roof and Site plan

2. **Ground and first floor site plan** 
3. **Site and building cross sections** 
4. **Elevations Plan** 
5. **Landscape plan** 
6. **Shadow diagram (1) June 21** 
7. **Shadow diagram (2) June 21** 
8. **Shadow diagram (3) June 21** 
9. **Shadow diagram (4) June 21** 
10. **Shadow diagram (5) June 21** 
11. **Adaptable dwelling detail** 
12. **Draft strata plan** 
13. **Rail - ARTC** 
14. **NSW Police** 
15. **RFS GTA's** 

## RECOMMENDATION

### 1. COMPLIANCE

**These conditions are imposed to ensure that the development is carried out in accordance with statutory requirements, the conditions of consent and the approved plans to Council's satisfaction.**

(1) Development Consent is granted for 5 shop top housing and 5 commercial buildings, strata subdivision and works at Lot: 2 DP: 1098293, No. 1 Picton Avenue PICTON

(2) Development shall take place in accordance with the submitted plans below, submitted in respect of Development Application No. 010.2017.00000578.001, except where varied by the following conditions:

Plan Name	Drawn By	Drawing Number	Dated
Roof & Site Plan	Jefferson Robinson	Architect DA1	31/05/2017
Ground & First Floor Site Plan	Jefferson Robinson	Architect DA2	31/05/2017
Elevations	Jefferson Robinson	Architect DA3	31/05/2017
Site and Building Cross Sections	Jefferson Robinson	Architect DA4	31/05/2017
Landscape Concept Plan	Jefferson Robinson	Architect DA4	31/05/2017
AS4299 Adaptable Dwelling floor Plans	Jefferson Robinson	Architect DA8	31/05/2017
Draft Strata Plan Location Plans	Australian Survey Solutions	170618	31/05/2017
Draft Strata Plan Ground Floor Plan	Australian Survey Solutions	170618	31/05/2017
Draft Strata Plan First Floor Plan	Australian Survey Solutions	170618	31/05/2017

(3) Development shall take place in accordance with the recommendations of the following reports:

- Access Compliance Report, Complete Certification Pty Ltd, May 2017,
- BCA Compliance Report, Complete Certification Pty Ltd, May 2017,
- Bushfire Assessment and Recommendations, Sydney Bushfire Consultants, 7 August 2017,
- Statement of Environmental Effects, Precise Planning, July 2017,
- Flood Study, D & M Consulting Pty Ltd, 26 September 2012 and a Flood report Update, D & M Consulting, 26 June 2017,
- Statement of Heritage Impact, Heritage 21, June 2017,
- BCA Section J Deemed to Satisfy Compliance report, eco certificates, 2016,
- Preliminary Historical Archaeological Assessment, niche Environment and Heritage, 12 January 2013,
- Acoustic Assessment, AECOM Australia Pty Ltd, 27 July 2017,
- Salinity Assessment for Proposed Commercial Premises, Harris Environmental Consulting, September 2011 and Salinity Assessment update, Harris Environmental Consulting, 22 June 2017.

(4) The person having benefit of Development Consent No. 010.2013.00000247.001 shall surrender that consent in accordance with Clause 97(1) of the Environmental Planning and Assessment Regulation, 2000, prior to the issue of any Construction Certificate for Development Consent No. 010.2017.00000578.001.

(5) Where any work associated with this consent has the potential to disturb neighbours through the generation of noise, dust, odour, vibration or through deliveries to the site the person with control over the works shall advise the occupants of all adjoining and potentially affected properties of the timing and duration of such works. The land owner has the ultimate responsibility for ensuring that anybody undertaking works under this development consent on their behalf is aware of this requirement and completes the task required by this condition.

(6) Works shall not commence on the site, including the placement of temporary buildings, site excavation, filling, removal of trees or other site preparation works (with the exception of site survey work), prior to the issue of a Construction Certificate by Council or a nominated Accredited Certifier.

(7) All building work must be carried out in accordance with the provisions of the Building Code of Australia. This condition does not apply to the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning & Assessment Regulations, 2000, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4).

## **2. VOLUNTARY PLANNING AGREEMENT DEVELOPER CONTRIBUTIONS**

**These conditions have been imposed to ensure the adequate provision of public facilities required as a result of the development.**

(1) Pursuant to Section 7.7(3) of the Environmental Planning and Assessment Act 1979, prior to the issuing of the first **Construction Certificate** for any part of the development authorised by this consent, the 'developer' (within the meaning of s7.7 of that Act) is to enter into a voluntary planning agreement with the Council in accordance with the offer made by Colin Swadling to the Council date 30 July 2018 in connection with the development application to which this consent relates, being DA 578/2017. At the same time, the 'developer' is also to provide to the Council the written consent of each person whose consent is required under s7.6 of the Act to the registration of the a planning agreement.

(2) The applicant shall observe and complete their obligations with regard to the Planning Agreement with Wollondilly Shire Council. Written confirmation shall be obtained from Wollondilly Shire Council for the satisfactory completion of the developer's obligation prior to the release of the **Occupation Certificate**.

### 3. INTEGRATED DEVELOPMENT

**These conditions have been imposed to ensure that the development is carried out in accordance with the requirements of other Approval Authorities:**

(1) The attached General Terms of Approval issued by the Rural Fire service (RFS) are included below as conditions of this Consent:

#### Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

2. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

#### Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

3. Water, electricity and gas are to comply with the following requirements of section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

- Fire hydrant spacing, sizing and pressures shall comply with Australian Standard AS 2419.1– 2005 'Fire Hydrant Installations'.
- Fire hydrants shall not be located within any road carriageway.
- Where the rear or most distant part of a proposed building is greater than 70 metres from the nearest hydrant, a new hydrant is required to be installed as per Australian Standard AS 2419.1–

2005 'Fire Hydrant Installations'. Locations of fire hydrants are to be delineated by blue pavement markers offset 150mm from the centre of the road. The direction of offset shall indicate on which side of the road the hydrant is located.

- Gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal. Polymer sheathed flexible gas supply lines to gas meters adjacent to building are not to be used.

#### Access

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

4. Property access roads shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.

#### Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

5. New construction shall comply with Sections 3 and 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

#### Landscaping

6. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

### **4. NSW POLICE**

- (1) The attached recommendations of the NSW Police are included as conditions of consent.

### **5. RAIL**

- (1) The attached recommendations of the ARTC are included as conditions of consent:

### **6. BUILDING DESIGN**

These conditions have been imposed to ensure that the appearance/construction of building works complies with the aims and objectives of Council's relevant Development Control Plans, Policies and relevant Statutory Regulations.

- (1) All materials and colours to be used in the external construction of the proposed building shall be consistent throughout the total development and/or match those of the existing

development.

## 7. CONSTRUCTION GENERAL

**These conditions have been imposed to ensure that all construction work is undertaken to an approved standard and related approvals.**

(1) Construction shall not commence on the site, including the placement of temporary buildings, site sheds, earthworks, site excavation, filling or other site preparation works (with the exception of site survey work), prior to the issue of a Construction Certificate by Council or a nominated Accredited Certifier.

(2) All construction and building work shall be restricted to between 7:00am and 6:00pm Mondays to Fridays (inclusive), 8.00am and 1.00pm Saturdays and prohibited on Sundays and Public Holidays unless written approval to vary the hours of work is granted by Council.

(3) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. These facilities are to be provided prior to the commencement of any works and:

(a) Must be a standard flushing toilet; and

(b) Must be connected:

(i) to a public sewer, or

(ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

In this condition:

Accredited sewage management facility means a sewage management facility to which Division 4 of Part 2 of the Local Government (General) Regulation 2005 applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 41 of the Regulation.

Approved by the Council means the subject of an approval in force under Division 4 of Part 2 of the Local Government (General) Regulation 2005.

Sewage Management Facility has the same meaning as it has in the Local Government (General) Regulation 2005.

(4) Prior to the issue of any construction certificate, sufficient information must be forwarded to Council or the nominated Accredited Certifier illustrating compliance with the relevant provisions of the Building Code of Australia. Where Council is to be the nominated Accredited Certifier Council's

Building Services Section may be contacted on 02 4677 1100 if further clarification is required.

(5) Any damage to the Council footway, road or other land shall be restored in accordance with Council's specifications prior to the issue of any Occupation Certificate for the development.

(6) An appropriate fence preventing public access to the site shall be erected for the duration of construction works.

(7) All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(8) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed. This receptacle must have a tight fitting lid and be suitable for the reception of food scraps, papers, etc.

(9) A demolition/construction waste storage area (bins or bays) must be provided. This area shall separate demolition/construction waste into categories such as hard waste (e.g. bricks, concrete, tiles), soft waste (e.g. timber, gyprock, metal, glass) and light waste (e.g. paper, plastic, pods). The light waste storage area must be enclosed so as to prevent the material from escaping the enclosure.

(10) There shall be no burning of builders rubble, felled trees or other material on site.

(11) Dust shall be controlled so that it will not leave the construction site.

(12) The PCA is to furnish with documentation and plans that confirm compliance with the a class 5 and 3 development of the NCC.

(13) A detailed BCA report is to be prepared and submitted to the satisfaction of the PCA prior to the issue of a Construction Certificate.

(14) Comply WITH Section J requirements, 27ES11 (access erosion control), 27ES04 (erosion control), 33IN11 (PCA may stop work), - 36SE21 (connect to the sewer prior to OC if on sewer).

(15) SUPPORT FOR NEIGHBOURING BUILDINGS/STRUCTURES

(1) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

(a) must preserve and protect the building from damage; and

(b) if necessary, must underpin and support the building in an approved manner; and

(c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- (2) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this Clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this Clause, allotment of land includes a public road and any other public place.

#### (16) PROTECTION OF PUBLIC PLACES

- (1) If the work involved in the erection or demolition of a building:
- (a) Is likely to cause pedestrian or vehicular traffic in a place to be obstructed or rendered inconvenient, or
- (b) Building involves the enclosure of a public place;
- A hoarding or fence must be erected between the work site and the public place.
- (2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

### 8. ENGINEERING & CONSTRUCTION SPECIFICATIONS

**These conditions have been imposed to ensure that developments within the Shire are of a standard which is both safe and acceptable to Council and members of the public.**

- (1) All works are to be designed and carried out in accordance with Wollondilly Shire Council's adopted Design and Construction Specification.

- (2) Engineering Design Plans for the car parking, manoeuvring area, access, kerb & gutter, associated shoulder works and stormwater drainage shall be submitted to and approved by the nominated principal certifying authority, prior to issue of a Construction Certificate for any works associated with this development.

Drainage calculations are to be carried out in accordance with "Australian Rainfall and Runoff" published by the Institution of Engineers Australia, and is to include a contoured catchment diagram and delineation of flow paths for storms of average recurrence interval of 1:100 years (1% AEP) where appropriate.

- (3) Where Council's Construction Specification require that density tests, beam tests or CBR tests be undertaken, the results shall be forwarded to Principal Certifying Authority within 7 days. A NATA registered laboratory shall carry out the tests. When testing for density, the Standard Compaction testing method is to be used.

Failure to submit test results may result in Council refusing to issue completion certificates and hence may result in additional works being required.

- (4) A defects liability period of twelve (12) months will apply from the date of issue of the Certificate of Practical Completion by Council and for Public Roads the twelve (12) months is dated from the date of registration of the road as public Road. A 10% maintenance bond, or a minimum



of \$1,000, whichever is greater, is to be lodged in accordance with council's Construction Specification for all work that is to become the property of Council.

(5) A certified "Works as Executed" plan from a Chartered Professional Engineer or Registered Surveyor is to be submitted to Principal Certifying Authority before the final inspection for the Certificate of Practical Completion. The "Works as Executed" plan must certify that the works have been constructed in accordance with the approved drawings and to the levels specified.

(6) All reasonable efforts shall be taken to protect the public footway and road pavement from damage during the course of construction. Restoration of any damaged road or footway shall be at the applicant's expense. A builder's security deposit is to be lodged with Council prior to any work being undertaken on the property. Any costs incurred by Council as a result of repairing damages caused directly or indirectly by the development will be deducted from the security deposit.

(7) A "Soil and Water Management Plan" (SWMP) that outlines the measures that will be taken to limit and contain sediment laden runoff during construction shall be submitted to Principal Certifying Authority. The measures shall be in accordance with Council's Construction specification and the Department of Housing's "Blue Book". The plan is to be approved by Principal Certifying Authority with the Engineering Plans.

(8) A "Traffic Management Plan" that details suitable safety measures that will be implemented whenever work is being undertaken in the public road reserve shall be submitted to Principal Certifying Authority. The safety precautions are to be in accordance with the requirements of the RTA's "Traffic Control at Work Sites" manual. The plan is to be prepared and endorsed by a person with current RTA certification and provided to the Principal Certifying Authority before the issue of a Construction Certificate for development.

(9) This consent authorises both engineering and building works to be undertaken. A separate Construction Certificate shall be issued for each category of works, that is, a separate Engineering Construction Certificate (for any on-site detention, inter-allotment drainage, public road works, etc.) and a separate Building Construction Certificate (for all works relating to the erection and fit-out of a structure).

A CONSTRUCTION CERTIFICATE FOR THE CIVIL WORKS MUST BE ISSUED PRIOR TO THE ISSUE OF A BUILDING CONSTRUCTION CERTIFICATE WITH THE CERTIFIED PLANS OF THE CIVIL ENGINEERING WORKS ALSO INCORPORATED INTO THE BUILDING PLANS.

(10) Engineer's Certification shall be provided to the Principal Certifying Authority for all civil works carried out within the private property prior to any occupation of the development or the issue of any Occupation Certificate.

## **9. DRAINAGE/STORMWATER**

**These conditions have been imposed to ensure drainage/stormwater is appropriately managed.**

(1) Stormwater runoff from and through the property is to be appropriately managed so as to

control nuisance, damage and hazard during storm events.

(2) A drainage system shall be provided that ensures appropriate management of stormwater from the constructed carpark, roadworks and buildings. A drainage system shall be provided to collect and convey runoff from storms up to the 10% AEP to a point suitable for integration with the extended existing stormwater drainage system. Defined overland flow paths shall be provided to safely convey runoff from storm events up to the 1% AEP.

(3) The person who has the benefit of this consent shall, at no cost to Council, carry out any necessary amplification or upgrading of the downstream drainage system.

(4) Drainage shall be extended along Picton Avenue from the existing pit at Argyle St. and placed under the new kerb and gutter. The extent to be determined with the drainage calculations for the engineering plans together with consideration of existing upstream concentrated flows. These plans shall be approved by Council as the road authority prior to the issue of a Construction Certificate by the Principle Certifying Authority.

## **10. CARPARKING/LOADING/ACCESS**

**These conditions have been imposed to:**

**(a) Ensure that adequate provision is made for off street parking, appropriate to the volume and turnover of traffic generated by the development.**

**(b) Ensure that adequate manoeuvring space is provided for parking areas, loading bays and entry facilities.**

(1) A commercial standard concrete vehicular footway crossing shall be provided at all locations where vehicles cross the footway.

(2) In accordance with the provisions of Development Control Plan 2016 – Off Street Carparking – 16 sealed car parking spaces and access thereto shall be provided for the proposed development. Such spaces are to measure not less than 2.6m x 5.5m and are to be marked on the pavement in white line marking paint.

(3) One of the required car parking spaces shall be reserved for people with mobility impairment in accordance Australian Standard AS2890.6. The space shall have dimensions as required by AS2890.1 and shall be appropriately signposted and marked on the pavement.

(4) The entry /exit shall be located to provide maximum sight distance around the bend in Picton Ave.

Note: Any adjustment to services shall be at the expense of the applicant and is additional to the contributions required by Council.

## 11. PUBLIC ROADS

**These conditions have been imposed to ensure all public works required by the development are provided to an adequate standard.**

- (1) Provision of Kerb & gutter and sealed road shoulder from the edge of exiting bitumen to the lip of the gutter shall be constructed along the frontage of the proposed development, including associated drainage works. All works shall be to Council's Design Specification and Construction Specifications.
- (2) No reverse gutter cross fall as shown on the concept plan is accepted, drainage shall be directed away from road.
- (3) The road carriageway pavement shall be constructed to provide a road width of 12.0 metres kerb to kerb in Picton Avenue. In conjunction with the road shoulder construction, the existing section of failed pavement shall be reconstructed; the extent of this work is 7.0 metres from the opposite existing kerb. This will provide a total new and upgraded pavement width of 5.0 metres including the new gutter section.
- (4) Provision of Vehicular Access to the site through the construction of layback gutter crossings/concrete footpath crossings in accordance with Council's Construction Specifications. All obsolete vehicular crossings must be reconstructed as kerb.
- (5) Road pavement widening to achieve adequate site distance from the access shall be constructed at the bend in Picton Avenue and provide for a solid double barrier lines. Details shall be shown on the engineering plans for approval by Council as the road authority prior to the issue of a Construction Certificate by the Principle Certifying Authority.
- (6) In accordance with Section 138 of the Roads Act a 138 Consent Certificate must be obtained from Council's Infrastructure Planning prior to commencement of work. A fee is payable for issue of this Consent Certificate.
- (7) The applicant shall no cost to Council; construct a concrete footpath 1.5m wide from the existing path at the southern end of the site to the last proposed building at the northern end and connect to the kerb with a pram ramp provided in the new kerb and gutter.
- (8) The applicant shall, dedicate to Council as public road 47 sqm land located at the corner of Argyle St and Picton Ave as shown on proposed plans prior to the issue of an Occupation Certificate.
- (9) Street Lighting shall be provided in Picton Ave on the existing poles No. 98 and 108, prior to the issue of an Occupation Certificate.
- (10) An Occupation Certificate shall not be issued until such time as all civil engineering works (such as public road works, stormwater drainage, footpath, access, etc), have reached practical completion and Certificate of Practical Completion of the civil works have been issued by the

Principal Certifying Authority.

## **12. EROSION AND SEDIMENT CONTROL**

**These conditions have been imposed to minimise the impact of the development on the environment and on adjoining properties.**

- (1) All disturbed areas are to be stabilised by turfing, mulching, paving or otherwise suitably stabilised within 30 days of completion.
- (2) Vehicle access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site has been affected by wet weather.
- (3) Erosion and sediment control devices are to be installed prior to any construction activity on the site. These devices are to be maintained for the full period of construction and beyond this period where necessary.
- (4) Topsoil stripped from the construction site is to be stockpiled and protected from erosion until re-used during landscaping.
- (5) A Soil and Water Management Plan (SWMP), in accordance with Council's Design & Construction Specifications and satisfying the requirements of the guideline "Soils and Construction – Managing Urban Stormwater", 1st edition (the "Blue Book") published by Landcom March 2004, shall be submitted to Council or a nominated Accredited Certifier for approval prior to the release of any Construction Certificate for the development.
- (6) The installation of the erosion and sediment control devices identified on the Soil and Water Management Plan shall be completed prior to any clearing, earthworks or construction taking place on the site. These devices are to be maintained so as to prevent the discharge of silt into adjoining bays, rivers, creeks, streams, gutters or drains.
- (7) Stockpiles of construction and landscaping materials, and site debris are to be located clear of drainage lines and in such position that they are within the erosion containment boundary or are equivalently protected from erosion and do not encroach upon any footpath, natural strip or roadway.

## **13. EARTH FILL**

**These conditions have been imposed to ensure the safe disposal of fill.**

- (1) Only fill characterised as VENM or ENM under the guidelines of the NSW Environmental Protection Authority may be used in this development. Copies of validation reports for all fill used shall be retained and presented to Council on request.

## 14. INSPECTIONS

**These conditions have been imposed to ensure that construction works are undertaken to an approved standard.**

(1) If the Principal Certifying Authority notifies the site manager or other contractor that a work or works are unsatisfactory for any reason all works on the site shall cease until the matter is resolved to the satisfaction of the PCA.

## 15. SERVICES

**These conditions have been imposed to ensure that an adequate level of services and infrastructure are provided for this development.**

(1) Electricity supply is to be made available to all proposed dwellings in accordance with the requirements of Endeavour Energy. In this regard, written confirmation from Endeavour Energy that suitable arrangements have been made shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

(2) Prior to the issue of the Subdivision in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

(a) The installation of fibre-ready facilities to all individual lots and/or premises in the development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and

(b) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in the development project demonstrated through an agreement with a carrier. (Note real estate development project has the meanings given in section 372Q of the Telecommunications Act).

(3) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Co-ordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate for the development.

(4) All power and services provided to the development within the site shall be underground.

(5) All of the letter boxes for the development shall be contained in the one structure which shall be constructed from materials that are complimentary to those used in the buildings on the site. The letter box structure shall be to the satisfaction of Australia Post and shall be positioned so that it does not obstruct sight lines for vehicles entering or leaving the site or adjoining land. A concrete or other pathway constructed from materials complementary to the development shall link the letter box structure to the rest of the development.

(6) The proposed development shall be connected to the reticulated sewerage system prior to the release of the Occupation Certificate.

## **16. OCCUPATION & USE**

**These conditions have been imposed to ensure the development and associated activities/operation are acceptable in terms of the amenity of the neighbourhood and the public interest whilst maintaining its functional operation.**

(1) The disturbed areas surrounding the building work shall be reinstated to the satisfaction of the Principal Certifying Authority upon completion of the work.

(2) The premises shall be maintained in a clean and tidy state at all times.

(3) The footpaths shall be kept clear of signs, fixtures and goods at all times.

(4) The building shall not be occupied or used until an Occupation Certificate is issued by the Principal Certifying Authority.

## **17. LANDSCAPING**

**These conditions have been imposed to reduce the impact of any development activity on the landscape/scenic quality through vegetation works and maintenance.**

(1) Landscaping is to be installed in accordance with the Approved Plan prior to the release of the occupation certificate. The landscaping must be maintained in accordance with the details provided on that Plan at all times.

(2) Landscaping is to be comprised of native tree, shrub and groundcover species listed as suitable in PART 11 – Landscaping of Wollondilly DCP 2016. NOTE: By resolution of Council on 19 July 2010 all plants used in landscaping must be native species endemic to the area and the planting of conifers is not permitted. Known weed or invasive species are not to be used in landscaping.

(3) The London Plane tree located on the road verge will require trunk protection in accordance with the requirements of the “Arboricultural Development Assessment Report” by Moore Trees dated April 2018. This trunk protection is only to be removed when all construction is complete.

(4) The London Plane tree on the road verge has a radial Tree Protection Zone (TPZ) of five (5) metres and a Structural Root Zone (SRZ) of two (2) metres. No trenching for services is to occur within these distances.

(5) No excavation or soil stockpiling is to occur within a 5 metre radius of the drip line of trees or vegetation nominated for retention.

## 18. FENCING

**These conditions are imposed to ensure that any fencing has a minimal effect on the landscape/streetscape/environment of the locality.**

(1) All fencing is to be installed in accordance with the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

## 19. SECTION 7.11 CONTRIBUTIONS

**These conditions have been imposed to ensure the adequate provision of public facilities required as a result of the development.**

(1) Payment of a Contribution for 4 dwellings in accordance with the Wollondilly Development Contribution Plan 2011, the cost of which will be determined and payable at the time of the release of the Construction Certificate:

The current amount payable is:

(i) Open Space, Sport & Recreation (Shire)	\$815
(ii) Open Space, Sport & Recreation (Precinct)	\$33,310
(iii) Library & Community Facilities (Shire)	\$3,845
(iv) Library & Community Facilities (Precinct)	\$4,960
(v) Transport & Traffic (Roads & Intersections)	\$23,775
(vi) Transport & Traffic (Cycleways)	\$200
(vii) Bushfire Protection	\$95
(x) Plan Administration	\$3,350
TOTAL	\$70,350

These figures are reviewed quarterly in accordance with the provisions of the Contributions Plan and an updated figure must be obtained from Council at the time of payment.

## 20. STREET ADDRESSING

**These conditions are imposed in order to ensure the development complies with the requirements of the New South Wales Address Policy as published by the Geographical**

**Names Board of New South Wales.**

- (1) Prior to the issue of a Construction Certificate for the development an application for an additional street address shall be submitted to Council in accordance with Section 5.2 of the NSW Address Policy.

**21. SUBDIVISION PLANS**

**These conditions have been imposed:**

**(a) To ensure the submission of Subdivision Plans to the specifications of Land and Property Information for registration.**

**(b) To submit the required documentation for the creation of property restrictions and easements as specified.**

- (1) A letter from a Registered Surveyor shall be submitted to Council certifying that no services of Public Utility or waste water disposal presently connected to existing buildings straddle proposed boundaries after subdivision.
- (2) Submission to Council of the Linen Plan of Subdivision together with five (5) copies suitable for certification by the General Manager and lodgement at Land and Property Information. A fee for the release of the Subdivision Certificate applies.
- (3) The development shall be completed in accordance with the relevant plans and conditions of consent prior to the release of the Subdivision Certificate.

**22. PRESCRIBED CONDITIONS**

**These conditions are imposed as they are mandatory under the Act.**

**(1) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA AND INSURANCE REQUIREMENTS UNDER THE HOME BUILDING ACT 1989**

**(a) For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:**

- (i) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
- (ii) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.



(b) For the purposes of section 80A (11) of the Act, it is prescribed as a condition of a development consent for a temporary structure that is used as an entertainment venue, that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the Building Code of Australia .

(c) This clause does not apply:

(i) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or

(ii) to the erection of a temporary building, other than a temporary structure to which subclause (b) applies.

(d) In this clause, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application is made for the relevant:

(i) development consent, in the case of a temporary structure that is an entertainment venue, or

(ii) construction certificate, in every other case.

Note: There are no relevant provisions in the Building Code of Australia in respect of temporary structures that are not entertainment venues.

## (2) ERECTION OF SIGNS

(a) For the purposes of section 80A (11) of the Act, the requirements of subclauses (b) and (c) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.

(b) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

(i) showing the name, address and telephone number of the principal certifying authority for the work, and

(ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

(iii) stating that unauthorised entry to the work site is prohibited.

(c) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(d) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

(e) This clause does not apply in relation to Crown building work that is certified, in accordance

with section 109R of the Act, to comply with the technical provisions of the State's building laws.

(f) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note. Principal Certifying Authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A of the Environmental Planning and Assessment Regulation 2000 which currently imposes a maximum penalty of \$1,100).

### (3) NOTIFICATION OF HOME BUILDING ACT 1989 REQUIREMENTS

(a) For the purposes of Section 80A (11) of the Act, the requirements of this condition are prescribed as conditions of a Development Consent for development that involves any residential building work within the meaning of the Home Building Act 1989.

(b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

(i) in the case of work for which a principal contractor is required to be appointed:

(aa) the name and licence number of the principal contractor; and

(ab) the name of the insurer by which the work is insured under Part 6 of that Act.

(ii) in the case of work to be done by an owner-builder:

(aa) the name of the owner-builder; and

(ab) if the owner-builder is required to hold an owner-builder permit under the Act, the number of the owner-builder permit.

(c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under sub-condition (b) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.

## 23. ADVICES

(1) During the course of construction, care must be taken to prevent damage to any public utility or other service and the applicant will be held responsible for any damage caused by him or his agents, either directly or indirectly. Any mains, services, poles, surface fittings etc., which require

alterations shall be altered at the applicants expense and to the satisfaction of Council and the authority concerned.

(2) The following service providers should be contacted before commencement of construction to establish their requirements:

- Dial before you dig (various services) 1100
- Telstra (telephone) 1 800 810 443
- Endeavour Energy (electricity) 131 081
- AGL (gas) 131 245
- Sydney Water (water & sewer) 132 092

(3) This Consent does not permit the commencement of construction unless a Construction Certificate has been issued. For details about obtaining a Construction Certificate contact Council's Building Services Section for building works or Council's Infrastructure Planning Section for subdivision works.

(4) The developer and any contractor or sub-contractor used to carry out any work authorised by or out of this approval on Council owned or controlled land, is to carry the following insurance, copies of which are to be produced to Council upon request:

- Motor Vehicle Insurance (comprehensive or property damage) for all self-propelled plant, as well as valid registration or RMS permit (Including CTP insurance). Primary producer's registration is not registration for use on Public Road construction work.
- Workers Compensation Insurance.
- Twenty Million Dollar Public Liability Insurance.

**7.3 PROPOSED INTENSIVE LIVESTOCK AGRICULTURE (POULTRY FARM) INCLUDING THE CONSTRUCTION OF 8 POULTRY SHEDS AND ASSOCIATED WORKS****File Number: 10621#21**

**Reason for LPP Referral:** Designated Development and more than 10 unique submissions

**DA No:** 010.2016.00000852.001

**Lot & DP – Subject Site:** Lot 22 & DP 751250 – 290 Arina Road, Bargo

**Proposal:** Designated, Integrated Development – Proposed Intensive Livestock Agriculture (Poultry farm) including the construction of 8 poultry sheds and associated works

**Zoning:** RU1 – Primary Production

**Permissibility:** Permissible with Council Consent

**Cost of Development:** \$5.4 million

**Applicant:** Tattersall Lander

**Owner:** Jamie & Josette Grech

**Notification:** 30 days notification from 27 April 2017.

**Submissions:** Total 58 submissions comprising 40 letters plus a petition with 48 signatures objecting to the development and 18 letters in support.

**Variations:** None

**Site Inspection:** July 2017 & February 2018

**Recommendation:** That Development Application DD010.2016.00000852.001 be refused



## EXECUTIVE SUMMARY

- The purpose of this report is to consider a Development Application to construct sheds and ancillary structures to establish a new poultry farm.
- The development application is referred to the Local Planning Panel (Panel) due to objections exceeding 10 submissions. The application is also deemed to be designated development. In accordance with the Ministerial Direction the development proposal must be determined by the Panel.
- Under Section 10.4 Disclosure of political donations and gifts of the *Environmental Planning & Assessment Act 1979*, 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.
- This report recommends that the application be refused.

## REPORT

### Background

The Development Application (DA) was formally lodged with Council on 14 November 2016. The applicant filed a Class 1 Appeal with the Land & Environment Court of NSW on the 4 August 2017. A conciliation conference was held onsite on 9 February 2018 before Commissioner Bish.

After hearing from objectors, the Commissioner and the party representatives carried out an inspection of the surrounding area, adjoining properties and subject property. Without prejudice discussions were held between the parties in the presence of the Commissioner. In that regard it was noted that the applicant had provided various documents the day prior to commencement of the conciliation for discussion purposes including:

- amended plans reducing the number of poultry sheds to 6 and making other changes including changes to the footprint and location of dams, changes to the road layout and road works proposed, deletion of the wetland and provision of a mound near to the boundary with No 276 Arina Road;
- an air quality report prepared by Geordie Galvin of Astute Environmental Consulting Pty Ltd;
- a traffic report prepared by McLaren Traffic Engineering.

After discussions took place between the corresponding experts, the Applicant indicated that further information would be provided, including:

- a revised traffic report showing the upgrading works required along the proposed haul route together with a road safety audit;
- a farm management plan dealing with biosecurity and composting activities;
- revised plans providing for the required setbacks of the sheds and a visual assessment incorporating the proposed mounding and the ventilation stacks on the roofs of the sheds (noting that up to fifteen ventilation pipes may be required on each shed up to 10m above ground level);
- a revised air quality report dealing with the precise shed locations and including other odour sources;
- a revised ecological report
- a soil and water management plan including details of what happens in the event of flooding and overflow of the dams.

Council indicated to the Commissioner that the conciliation should be terminated because of the amount of further information that would need to be provided and assessed. The Commissioner agreed that the conciliation should be terminated and the Applicant agreed to discontinue the Appeal.

A discontinuance of proceedings is a withdrawal of the proceedings and does not impact upon the ability of the Council to continue assessing the development application. Once the Applicant discontinues the proceedings the "DA comes back to Council for determination.

Council's continued assessment of the development application is the subject of this report to the Panel.

### **Consultation**

- The consultation undertaken with the community, state agencies and internal staff is detailed as follows:

- 

1. On 14 November 2016, the subject development application was lodged with Council.
2. Approval of the Mine Subsidence Board was issued on 6 September 2016.
3. On 2 December 2016, the Council sent a letter to the applicant requesting clarification regarding the consultative process undertaken and requiring additional consultation to satisfy the requirements of the SEARs.
4. On 22 December 2016, the Applicant's consultant provided a response to the nominated matters.
5. On 13 February 2017, the DA was referred to the relevant Council Departments for comment.
6. On 27 April 2017, the DA was publicly notified for a period of 30 days. A total of 58 submissions were received comprising 40 objections, 18 in support and 1 petition.
7. On 1 May 2017, the DA was referred to relevant State Agencies.
8. On 11 May 2017, correspondence received from NSW DPI identifying the following concerns:
  - i. the site is constrained in terms of proximity to nearby sensitive receptors especially in terms of noise and odour. DPI Agriculture recommends that the proponent and council confer with the NSW Environmental Protection Agency (EPA) to validate the findings presented by the consultant;
  - ii. the proposed water supply dams for the development create a potential biosecurity risk; through close proximity to the proposed sheds and also by being attractants to waterfowls.
9. On 25 May 2017, correspondence was received from NSW EPA identifying concerns regarding the submitted air, noise and vibration assessment reports.
10. On 5 July 2017, there was email correspondence from both Council and the Applicant's Consultant regarding whether the requirements for public consultation as required by the SEAR's had been satisfied.
11. On 10 July 2017, an email from Council's Senior Environmental Health Officer was sent to the Applicant's consultant advising that the application does not adequately address the issues of noise management, air quality and waste management.
12. On 7 July 2017, Council Officers attended the land to conduct a site inspection.

### 1.1 Description of Site and Surrounding Area

The site is described as Lot 22 DP: 751250, No.290 Arina Road, Bargo.

The land is located on the south-western side of Arina Road at its intersection with Dwyers Road Bargo. It is 16.19 hectares in size and irregular in shape.

The land contains a dwelling house, large shed, and four (4) dams and operates as a rural farm with horses on agistment and some cattle.

The surrounding properties comprise a mix of rural and residential land uses. There are 2 poultry farms located approximately 1kilometre to the south at 80 Johnston Road (Lot 83 DP 619054), Bargo and 430 Arina Road (Lot 222 DP 1206433) Bargo.

The south-eastern boundary adjoins unformed road reserve and a residence is located on the property immediately adjoining the northern boundary. To the northwest and south the adjoining land contains remnant vegetation (Crown Reserve 88929 & 92819).

There are two minor unnamed watercourses; one in the in the north-western corner of the site traversing in a westerly direction from the existing dam; and the second in the south-eastern corner traversing in a south-westerly direction. Both watercourses connect to Dogtrap Creek to the west.

The southern and western boundary contains Final Cumberland Subregion (BIO Map) vegetation and Koala habitat survey area.

### 1.2 Description of Development

The proposal incorporates the following:

- Construction of 8 poultry sheds (tunnel ventilated).
- Capacity of 480,000 birds destined for meat production.
- Production cycle of 5.5 batches per year with a 54 day growing cycle.
- Birds are grown on approximately a 54 day cycle with thinning's occurring from around day 32 to 34 and up to 5.5 batches of birds are grown per year. Generally these thinnings are undertaken at night to cater for bird welfare reasons and it is usual for only 2 trucks to be on site at any one time. It is possible that bird removal could extend into the early hours of a morning.
- Feed trucks will make deliveries twice to three times a week and this is undertaken normally during daylight hours. Bird delivery would be undertaken during daylight hours and over several days.
- Operation of the farm will require 4 full-time on-farm staff and 3 x labourers, 3 x full time transport workers and 15 fulltime processing staff with all of these on farm workers being located within the immediate local area.
- Each shed has dimensions of 167.95 metres by 18.5 – 22.5 metres (total floor area of 3,107m<sup>2</sup>) and overall height of 4.64 metres.
- Filling of 2 small farm dams and excavation of 2 other existing dams to provide increased water capacity 2 x 350,000ltr above ground reservoirs.
- Installation of twelve silos.
- Construction of machinery shed 800m<sup>2</sup> (40m x 20m). Overall height of 6.5 metres.
- Construction of composting shed 90m<sup>2</sup> (15m x 6m). Overall height of 5.25 metres.
- Bulk earthworks to create pads for sheds, dams, noise/odour mounds (5 metres high).
- Enlargement of 2 existing dams (proposed capacity of 33,105m<sup>3</sup> and 12,940m<sup>3</sup>).



- Construction of noise/odour mound (5 metres high) along part of the northern side of the property generally for the extent of the sheds.
- Plant landscape screen on the northern, eastern and western sides of the property.
- Gas tanks
- Staged Construction – works will be undertaken in stages: Stage 1 will consist of the dam upgrades and water treatment measures, construction of the noise and odour mound, machinery shed and sheds 7 & 8. Subsequent stages will include the sheds 6 to 1, with the sheds to be constructed in either 2's or 3's.
- The proposed development constitutes Integrated Development. The following approvals are required:
  - Approval for a licence under s91 of the Water Management Act 2000 is required from the Department of Primary Industries - Water; and
  - Approval for a licence under s43 (a) of the Protection of the Environment Operations Act 1997 is required from the NSW Environment Protection Authority.



Proposed shed locations



## Section 4.15 Evaluation

### Permissibility

The site is zoned RU1 Primary Production under the Wollondilly Local Environmental Plan 2011 ("WLEP 2011"). The poultry farm is a permissible land use as defined as an Intensive livestock agriculture, subject to Council approval.

### **"Zone RU1 Primary Production"**

#### **1 Objectives of zone**

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To provide for a range of land uses (including tourism-related uses) that support the agriculture industry.*
- *To provide areas within which the density of development is limited in order to maintain a separation between urban areas.*

#### **2 Permitted without consent**

- *Extensive agriculture; Home occupations*

#### **3 Permitted with consent**

- *Agriculture; Air transport facilities; Animal boarding or training establishments; Bed and breakfast accommodation; Cellar door premises; Cemeteries; Community facilities; Crematoria; Depots; Dual occupancies (attached); Dwelling houses; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Funeral homes; Group homes; Home-based child care; Home businesses; Home industries; Home occupations (sex services); Information and education facilities; **Intensive livestock agriculture**, Intensive plant agriculture; Landscaping material supplies; Open cut mining; Places of public worship; Plant nurseries; Recreation areas; Research stations; Roads; Roadside stalls; Rural industries; Rural supplies; Rural workers' dwellings; Secondary dwellings; Signage; Transport depots; Truck depots; Veterinary hospitals; Water recreation structures; Water supply systems*

#### **4 Prohibited**

- *Any development not specified in item 2 or 3."*

## Assessment

With respect to the Court proceedings, the applicant/owner indicated on termination of the conciliation, and later via emails, that additional information would be submitted to Council for continued assessment. No additional information has been submitted by the Applicant to address these matters.

The Contentions and relevant particulars raised by Council during the court conciliation is discussed as follows:

### **Amenity – Air Quality and Odour Impacts**

*The development application should be refused because insufficient information has been submitted to enable a proper assessment of potential odour impacts arising from the development.*

### **Particulars**

- 1. The dispersion modelling does not incorporate surface observations, despite a good quality meteorological station located approximately 4km from the site (OEH Bargo site). Instead, modelling relies on simulated meteorology using a synthetic meteorology file derived from the MM5 model. Prognostic models tend to under predict calm wind speed conditions, and this is the case for the modelling presented in the air quality assessment. For example, measurements at Bargo show 8% calm conditions during summer, compared with 1.4% predicted by the modelling. The underestimated calm wind conditions has likely underestimated potential odour impacts in the modelling.*
- 2. The approach in the air quality assessment for modelling how emissions are released from the sheds is not appropriate and has likely over stated initial plume rise and dispersion and underestimated potential impacts. For high ventilation requirements, using an elevated 6m 'pseudo' stack with an exit velocity of 10m/s is not appropriate and not in accordance with modelling guidance. For low ventilation requirements using an eight horizontal discharge chimney fans along the length of the shed roof with an exit velocity of 8m/s is not appropriate for a horizontal release.*
- 3. Not all odour sources are included in the air quality assessment. Odour from proposed composting on-site has not been included in the report.*
- 4. The air quality impact assessment has not fully addressed the Department of Planning and Environment Secretary's Environmental Assessment Requirements (SEARs) with regard to cumulative impacts. There are at least six (6) other poultry farms within 2 km of the proposed development and the potential for cumulative impacts from these other facilities has not been assessed. In fact, the highest odour predictions are predicted at residences that sit between the facility at 290 Arina Rd and other poultry operations.*
- 5. The modelling presented in the air quality impact assessment has not been conducted in accordance with the NSW EPA's document "Generic Guidance and Optimum Model Settings for the Calpuff Modelling System for Inclusion into the 'Approved Methods for the Modelling and Assessment of Air Pollutants in NSW, Australia ". For example, the modelling uses the ISC building downwash algorithm instead of the recommended PRIME method and the model uses PG dispersion coefficients instead of the recommended turbulence based dispersion coefficients.*
- 6. The predicted short term dust impacts result in additional exceedances of the 24-hour average impact assessment criteria. The report explains that the exceedances are caused by wheel generated dust from trucks used to collect birds at the end of a growing cycle. Given the technical flaws identified above, these impacts may have been underestimated and could be even worse.*

- **COMMENT:**

- The NSW EPA has reviewed the air quality impact assessment and identified a number of issues, similar to those identified above. Council's Senior Environmental Officer has provided the following comments;
1. The Air Modelling and Assessment was based on 'Approved Methods for Modelling and Assessment of Air Pollutants 2005'. This is not the most recent version as the document has been updated to 'Approved Methods for Modelling and Assessment of Air Pollutants in New South Wales 2016, Published by NSW EPA'.
  2. The meteorological data referred to on page 115 of the aforementioned report relates to data collected over the 2007-2013 period at Bankstown monitoring station. It is considered that more recent data, collected at monitoring stations in the vicinity of the proposed poultry farm would have been more appropriate to the development, with OEH stations being located at Bargo, Camden, Oakdale and Campbelltown West.
  3. The Air Quality Assessment states that no odour is generated during clean out phases of the shed on page 128 of the report, where lower on the same page it describes "The main source of odour from poultry farms is typically the litter within the chicken sheds. As the litter (made up of dry organic litter, manure, dust and feathers) begins to break down odorous compounds are created which then volatilise." It stands to reason that once the litter cake is disturbed during clean out, that some odour would be generated.
  4. Odour from proposed composting on site has not been included in the report.
  5. Poultry mortality losses have not been considered as a potential odour source.
  6. No cumulative assessment has been carried out despite several poultry farms being located in the vicinity.

**Amenity – Noise and Vibration Impacts**

*The development application should be refused because insufficient information has been submitted to enable a proper assessment of the potential noise and vibration impacts of the development.*

**Particulars**

1. *The site is constrained in terms of proximity to nearby sensitive receptors especially in terms of noise and odour. DPI Agriculture recommends that the proponent and Council confer with the NSW Environmental Protection Agency (EPA) to validate the findings presented by the consultant.*
2. *The operational noise is predicted to exceed the noise criteria at the closest receivers during the filling of silos and operation of the ventilation fans during daytime operations and is predicted to exceed the sleep disturbance criteria at two receivers during night time bird pick up, with one receiver experiencing 4dB above acceptable levels during sleep disturbance.*
3. *Tattersall Lander previously provided an Environmental Assessment Report dated February 2017 for a poultry farm at 440 Cawdor Road, Cawdor. In this report Table 7.18 refers to Sound Power Levels of 118 dB(A) LAMax for the telescopic handler (forklift), the aforementioned report for this proposal, Table 7.15, makes reference to a Sound Power Level of 111 dB(A) LAMax for the forklift with no explanation as to why these Sound Power Levels are different. This difference would in effect, increase sleep disturbance at the most affected receiver to LA1 (1min) 11dB above acceptable levels.*
4. *The noise level predictions are considered to be unreliable given significant errors found in the Cawdor Road report. The errors should be identified and corrected for this proposal.*
5. *Back-up generators are proposed, which do not appear to be included in the noise assessment.*
6. *Table 7.7 Recommended LAeq noise levels from industrial noise sources, does not include the acceptable and recommended maximum noise levels at a residence in a rural noise amenity area as per the Industrial Noise Policy Table 2.1 Amenity Criteria, which is more sensitive than Suburban and Urban interfaces.*

7. *The Noise and Vibration Assessment does not include additional noise generated from workers on site during the operational bird pick up phases occurring at night, such as talking, banging of plastic crates, loading of trucks, radios etc.*
8. *No cumulative assessment has been carried out, despite another poultry farm being located approximately 1km to the South on the same road.*
9. *The report assumes that if windows are closed on residential receivers, during colder periods in which temperature inversions are likely to occur, then the noise impact may be lessened. It should not be assumed that the windows will remain closed.*
10. *No information has been provided to demonstrate compliance with 'Best Practice Management for Meat Chicken Production in NSW (Manual 1 & 2)' as published by NSW Department of Primary Industries and the development of a Noise Management Plan, to ensure that noise impact is reduced to receiving premises.*

- **COMMENT:**

- Council is not convinced that the noise issues have been resolved. Council's Senior Environmental Officer has raised concerns on noise associated with forklift trucks and activities, which will exceed the prescribed sound noise level at the closet receiver from filling of silos during the daytime operations and will exceed sleep disturbance criteria at 2 receivers during night time bird pick up.
- It should also be noted that the Noise and Vibration Assessment does not include additional noise generated from workers on site during the operational bird pick up phases occurring at night, such as talking, banging of plastic crates, loading of trucks, radios etc.

### **Amenity - Waste Management Impacts**

*The development application should be refused because insufficient information has been submitted to enable a proper assessment of the potential waste impacts of the development.*

#### **Particulars**

1. *The proposal includes the development of a composting shed.*
2. *The air quality assessment and waste management section of the report do not address how odours will be controlled from the composting facility proposed to be located on the site.*
3. *Section 14.4, General Safeguards and Management, page 239 of the aforementioned report, states that poultry litter will be generally processed off site, with minor on farm use of litter for bird rendering and minor pasture improvement. The amount of litter to be retained on site and where it will be stored has not been defined, or how the odour from storage of litter on site will be managed.*

#### **COMMENT:**

Council's Senior Environmental Officer has raised concerns.

1. The proposal includes the development of a composting shed.
2. The air quality assessment and waste management section of the report do not address how odours will be controlled from the composting facility proposed to be located on the site.
3. The General Safeguards and Management report, states that poultry litter will be generally processed off site, with minor on farm use of litter for bird rendering and minor pasture improvement. The amount of litter to be retained on site and where it will be stored has not been defined, or how the odour from storage of litter on site will be managed.

**Biosecurity**

*The development application should be refused because insufficient information has been submitted to enable a proper assessment of the potential Biosecurity impacts of the development.*

**Particulars**

1. *The proposed water supply dams for the development create a potential biosecurity risk; through close proximity to the proposed sheds and also by being attractants to waterfowls.*

**COMMENT:**

There are surrounding poultry farms that may be affected by this new operation, but no real evidence has been furnished to satisfy Council's concerns. The accumulative impact of all the unresolved associated activities pose a possible threat to other local poultry farms.

**Amenity - Traffic Impacts**

*The development application should be refused because insufficient information has been submitted to enable a proper assessment of the potential traffic impacts arising from the proposal.*

**Particulars**

1. *No traffic counts have however been undertaken on the road network utilised by the proposed development in order to properly understand existing traffic movements including the level of heavy vehicle activity and consequently the operational and amenity impacts of the development.*
2. *There is a lack of analysis of the suitability and capacity of Arina Road and surrounding rural road network to accommodate the required 26metre B-doubles or 19metre semi-trailers that are proposed to service the development.*
3. *Further analysis is required to assess the traffic impacts of the proposal upon the local residents from an operational capacity and safety perspective.*

- **COMMENT:**

- The development application should be refused because insufficient information has been submitted to enable a proper assessment of the potential traffic impacts of the development. The RMS have raised concerns associated with construction traffic and the service vehicle size entering and leaving the site.

**Visual Amenity**

*The development application should be refused because insufficient information has been submitted to enable a proper assessment of the visual impacts arising from the proposal.*

**Particulars**

1. *There are no sectional drawings or photographic analysis to assess the visual impacts of the proposed sheds and structures when viewed from surrounding residences.*
  - **COMMENT:**
  - The visual obstruction associated with 8 poultry sheds with up to 10 vertical vent stacks and earth mounds is objectionable.

**Public Consultation**

*Insufficient evidence has been submitted with the proposed development prior to consultation with surrounding landowners and occupiers that are likely to be impacted by the proposal.*

**Particulars**

- 1. Schedule 2 part 2, subclause 3(8) of the Environmental Planning and Assessment Regulation 2000 provides that 'The responsible person must ensure that an environmental impact statement complies with any environmental assessment requirements that have been provided in writing to the person in accordance with this clause'.*
- 2. The SEARS requires evidence of consultation with surrounding residents. The applicant has advised that 'due to the isolated nature of this development and the impacts being with acceptable industries standards it is likely that the general notification processes of Council will be more effective in obtaining responses from the local community, under these circumstances, consultation with the local community will be undertaken as part of the DA notification process'.*
- 3. A number of submissions received have stated that consultation has not occurred.*

**Precedent**

*The development application should be refused because approval of the application will set an undesirable precedent for similarly inappropriate development in the locality.*

**Public Interest**

*The development application should be refused because approval of the application is not in the public interest having regard to the contentions raised above.*

**1.3.1 Provisions of Relevant Environmental Planning Instruments****State Environmental Planning Policy No. 55 – Remediation of Land**

The applicant has indicated that the site is not contaminated and does not need remediation. The applicant has not provided sufficient information to support this comment.

**Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River**

The applicant has provided the following comment;

*"The development is seeking a new poultry bird production facility and at the same time will upgrade current infrastructure to a modern theme. Food production should always be considered within a regional context and processors are seeking all growers to increase production as the growth in consumption is continuing to rise and production levels are only marginally responding to the market trends."*

*Water quality. The detailed engineering design clearly shows the intention of the development and its approach to water quality. Stormwater from the development is being directed away from an uncontrolled discharge to the surrounding environment and through an arrangement of grass swales and a constructed wetland, stormwater is directed into an enlarged farm dams for reuse back into sheds.*

*Given that the proposed operation is for shed bird, the only pollutants are in the increased Nitrogen, Phosphorus, Total Suspended Solids (TSS) and Gross Pollutants that are likely to be generated from the sheds. Current industry standards would be to undertake a MUSIC Model to empirically determine compliance with a Nil or Beneficial Effect but Council does not have this as a requirement within its current DCP Codes. Preliminary sizing of the reconstructed farm dams are predicted to fully contain the additional flows and the proposed bird numbers will provide the required drawdown of the available water. It is expected that this arrangement satisfies the aims and objectives of subclause 3."*

*The applicant further comments on water Quantity and Agriculture/aquaculture and fishing. The outcome is that the proposal is compliant and outside adverse impacts are not likely to occur.*

**COMMENT:**

The DPI Water had raised no objections subject to GTA's being included in any development consent.

**Sydney Regional Environmental Plan No 44 — Koala Habitat Protection**

A Flora and Fauna Assessment has been submitted prepared by "Wildthing".

This report intended to indicate the likelihood of the action not having a significant effect on threatened species of flora, fauna, populations, ecological communities and to fulfil other requirements of the Environmental Planning and Assessment Act (EPA Act) 1979, and the Threatened Species Conservation Act (TSC Act) 1995. Considerations have also been given to SEPP 44 — 'Koala Habitat Protection' and the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

Bat, amphibian and reptile surveys were carried out including spotlight surveys.

The report states that an area of native vegetation where trees of the type listed in Schedule 2 (Koala feed tree species) constitute at least 15% of the total number of trees in the upper or lower strata of the tree component. No listed Koala Feed Tree Species were found within the site. Therefore no further provisions of this policy apply to the site.

**Wollondilly Local Environmental Plan 2011**

**Zone objectives:**

Relevant Objective	Comment
<b><u>RU1</u></b>	
<i>To encourage sustainable primary industry production by maintaining and enhancing the natural resource base</i>	The proposed poultry farm will generally meet this objective, however, it's impact on the subject site and those surrounding is detrimental.
<i>To encourage diversity in primary industry enterprises and systems appropriate for the area.</i>	The proposed use is permissible subject to being appropriate to the surrounding land uses and the natural environment.
<i>To minimise the fragmentation and alienation of resource lands.</i>	It is viewed that the poultry farm infrastructure will impact on surrounding residential land uses and is not sustainable. It is further noted that other poultry farms are located within a 1 kilometre radius of the subject site.
<i>To minimise conflict between land uses within this zone and land uses within adjoining zones</i>	As mentioned above, the poultry farm will have a detrimental environmental impact on the subject and surrounding lands.
<i>To provide for a range of land uses (including tourism-related uses) that support the agriculture industry</i>	The poultry farm is a permissible use within the zoning, but is viewed by Council and the community that its location is inappropriate with regards to its impact on the natural environment.
<i>To provide areas within which the density of development is limited in order to maintain a separation between urban areas.</i>	Not applicable, no residential is proposed.

2011 LEP Clauses

Relevant Clause	Comment
Part 2 Permitted or prohibited development – the proposed use is permissible	
2.7 Demolition requires consent	Noted. There is minimal demolition of structure proposed.
5.10 Heritage conservation	The subject site is not mapped under Council's GIS as within a heritage conservation area or has aboriginal or archaeological items onsite or surrounding properties.
5.11 Bush fire hazard reduction	<p>The vegetation within and around the proposed poultry farm development is identified as partly bush fire prone on the Wollondilly Shire Council bush fire prone land map as (<i>Category 1, Category 2 and Buffer</i>). Accordingly, under Section 79BA of the EP&amp;A Act, the development proposal is required to address the requirements of the <i>Rural Fires Act 1997</i>, and in particular the document <i>Planning for Bush Fire Protection</i> (NSW Rural Fire Service, 2006).</p> <p>As the site does not contain new residential dwellings, the objectives of 'Planning for Bushfire Protection must be addressed.</p> <p>The applicant has indicated that protection measures will be incorporated into the operations for the new sheds.</p>
Part 7 Additional local provisions	
<p>7.2 Biodiversity protection.</p> <p><i>The objective of this clause is to maintain terrestrial and aquatic biodiversity including: protecting native fauna and flora, and protecting the ecological processes necessary for their continued existence, and encouraging the recovery of native fauna and flora and their habitats, and protecting water quality within drinking water catchments.</i></p> <p><i>This clause applies to land identified as "sensitive land" on the Natural Resources—Biodiversity Map.</i></p> <p><i>Before determining a development application for land to which this clause applies, the consent authority must consider any adverse impact of the proposed development on the following:</i></p>	<p>Under the Council GIS mapping, the site adjoining to the south is mapped as Natural Resources Water (NRW) - 10 and 30 metres. The proposed poultry sheds are proposed to be located adjacent to the common southern property boundary with this site (300 Arina Road, which is Crown Reserve 88929 &amp; 92819).</p> <p>Correspondence dated 11 August 2017 from the DPI – Water provided GTAs of which included the following:</p> <p><i>"Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtained a Controlled Activity Approval (CAA) under the Water Management Act from DPI Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top the bank or shore of the river identified.</i></p> <p><i>Council's Environmental services provided the following comments taken from the flora &amp; fauna assessment</i></p> <ul style="list-style-type: none"> <li><i>Water: Headwaters of two streams to be relocated, artificial wetland to be installed. Two first order streams will be significantly impacted by the project.</i></li> <li><i>Threatened species Myotis macropus (is a species</i></li> </ul>



Relevant Clause	Comment
<p>native ecological communities,</p> <p>the habitat of any threatened species, populations or ecological community,</p> <p>regionally significant species of fauna and flora or habitat,</p> <p>habitat elements providing connectivity,</p> <p>water quality within drinking water catchments.</p> <p>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that: the development is designed, sited and will be managed to avoid any adverse environmental impact, or if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact.</p>	<p><b>of vesper bat</b>) was recorded on site during the bat survey. It hunts over the dams.</p> <ul style="list-style-type: none"> <li>• The removal of approximately 0.6ha of a total 1.32ha of Shale/Sandstone Transition Forest a Critically Endangered Community listed under both state and national legislation.</li> <li>• Approximately 121 of 204 remnant trees within the site will require removal</li> <li>• Up to 5 of a total of 8 hollow-bearing trees will require removal.</li> <li>• A vegetated buffer is to be planted to the north of the sheds to screen the operation from properties to the north.</li> </ul> <p>The report further concludes;</p> <p>Secondary impacts in the form of increased weed incursion and soil nutrient levels within the remaining areas of Shale/Sandstone Transition Forest including a larger area of this Critically Endangered Community over the southern boundary within the Metropolitan Waste Disposal Authority Land.</p> <p>Notwithstanding the above, it is viewed by Council that the proposal is not suitable for the site and poses significant risk to the ecological community and not consistent with clause 7.2 of WLEP 2011.</p>
Part 7 Additional local provisions	
7.1 Essential services	<p>Reticulated water and electricity are available to the site.</p> <p>On-site waste management would be required.</p>
<p>7.3 Water protection</p> <p>The objective of this clause is to maintain the hydrological functions of riparian land, waterways and aquifers, including protecting the following: water quality,</p> <p>(b) natural water flows,</p> <p>(c) the stability of the bed and banks of waterways,</p> <p>(d) groundwater systems.</p>	<p>Notwithstanding the DPI GTAs granted for the development, there is still concern with the development with the mapped natural resources – water (dog trap creek) located to the west &amp; south of the site on 300 Arina Road.</p>
<p>7.5 Earthworks</p> <p>The objectives of this clause are as follows:</p> <p>(a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or</p>	<p>There are to be significant bulk earthworks that involve the dams, construction of noise and odour mounds.</p> <p>The amount of works are considered to have an impact on the site and surrounding properties by;</p> <ul style="list-style-type: none"> <li>• disruption existing drainage patterns and soil stability in the immediate locality.</li> <li>• detrimentally impact the existing and likely amenity of adjoining properties.</li> <li>• create the potential for adverse impacts on dog</li> </ul>

Relevant Clause	Comment
features of the surrounding land, (b) to allow earthworks of a minor nature without requiring separate development consent.	trap creek, drinking water catchment.

### 1.3.2 Provisions of Relevant Draft Environmental Planning Instruments

- None

### 1.3.3 Provisions of Relevant Development Control Plans

- Wollondilly Development Control Plan 2016

DCP 2016 Volume	Relevance
Volume 1 – General	✓
Volume 8 – Primary Agricultural and Rural Uses	✓

### Volume 1 – General

Relevant Provisions	Comment
2.1 General considerations for all development objectives	The development proposal will have an unreasonable environmental impact on surrounding properties
2.2 General considerations for all development controls.	<p>Consideration has been given to the relevant controls including road and traffic hazards, noise, vibration, pollution, odour, waste, which has the potential to impact surrounding residential properties and their environment.</p> <p>Concurrence subject to conditions has been received from the Mines Subsidence Board.</p> <p>Wastewater management is proposed to be provided on-site.</p> <p>DPI - Water has been consulted as the site adjoins the Sydney Drinking Water Catchment.</p>
3. Variations to the plan	No variation is required.
4. Community engagement	<p>DCP requirements in respect of advertising the proposed development have been implemented. Exhibition took place from 27 April 2017 to 29 May 2017. Adjoining land owners were also notified.</p> <p>A Total of 58 submissions were received.</p> <p>40 individual objections</p> <p>18 in support, and</p> <p>1 Petition with 48 signatures in objection</p> <p>Comments are provided later in the report.</p>
7. Aboriginal Heritage	There is no known Aboriginal object or Aboriginal place of heritage significance on the site.
9. Environmental	Dog trap creek runs within the southern adjoining property at No.

Relevant Provisions	Comment
Protection	<p>300 Arina Road and is mapped as <i>Natural Resources Water (NRW)</i> - 10 and 30 metres.</p> <p>Elsewhere in the report, Council is of the view that the proposed poultry farm would have an impact on the environment, waterways and dams on the subject site.</p> <p>The comments above that support this view are reiterated below;</p> <ul style="list-style-type: none"> <li>• Water: Headwaters of two streams to be relocated, artificial wetland to be installed. Two first order streams will be significantly impacted by the project.</li> <li>• Threatened species <i>Myotis macropus</i> (<b>is a species of vesper bat</b>) was recorded on site during the bat survey. (It hunts over the dams)</li> <li>• The removal of approximately 0.6ha of a total 1.32ha of Shale/Sandstone Transition Forest a Critically Endangered Community listed under both state and national legislation.</li> <li>• Approximately 121 of 204 remnant trees within the site will require removal</li> <li>• Up to 5 of a total of 8 hollow-bearing trees will require removal.</li> </ul>
11. Landscaping	A vegetated buffer is to be planted to the north of the sheds to screen the operation from properties to the north.

### Volume 8 – Primary Agricultural and Rural Uses

Relevant Provisions	Comment
<b>Part 3 – Specific Land Use Controls</b>  <b>3.3 – Intensive Livestock agriculture</b>	
<b>3.3.1 Siting and Design</b>  <i>(a) To ensure that the impacts of development such as air, dust, water, odour, noise and visual amenity are minimised by identifying minimum buffer or setback requirements, and</i>  <i>(b) To allow for the development of intensive livestock agriculture in locations which are suited to sustainable production.</i>	<p>The development proposal will have an unreasonable environmental impact on surrounding properties in terms of air quality, dust, water and odour.</p> <p>The applicant has not provided additional information that satisfies Council's concern as to ameliorating these matters.</p>
<b>Controls.</b>  50 m to:  front boundary  side or rear boundary  dwelling on same property	<p>Consideration has been given to the relevant controls including road and traffic hazards, noise, vibration, pollution, odour, waste, which in Council's opinion will impact surrounding residential properties and their environment.</p> <p>Although it is not clear from the submitted plans, setbacks are generally compliant for the front and side boundaries.</p>

<b>Relevant Provisions</b> <b>Part 3 – Specific Land Use Controls</b> <b>3.3 – Intensive Livestock agriculture</b>	<b>Comment</b>
<p>neighbouring property all residential zones 500m</p> <p><i>Note Where rural land uses emit odour, the above separation distances are minimums only. Consideration will be given to OEH's policy on 'Assessment and management of odour from stationary sources in NSW' (November 2006) taking into consideration the site characteristics and the merits of each application. 2. Development must be in accordance with the relevant NSW Department of Primary Industry Codes of Practice. 3. Sites with a slope greater than 3-4% must not be used for intensive livestock agriculture. 4. Sites that have residual chemicals in the soil such as organochlorides and arsenic must not be used for intensive livestock agriculture. 5. Development must be located having regard to the topography and microclimate of the area to ensure concentration of odours cannot occur.</i></p>	<p>The rear southern boundary has a proposed 24 metres setback that is non-compliant (50m).</p> <p>From Council's GIS it appears that the 500m radius from other residential zones is compliant.</p> <p>The applicant has provided commentary on the bio-security of the development, but it is unclear as to its compliance with the DPI code of conduct.</p> <p>Council's Environmental Health Officer has furnished the following comments;</p> <ol style="list-style-type: none"> <li>1. The Air Modelling and Assessment was based on 'Approved Methods for Modelling and Assessment of Air Pollutants 2005'. This is not the most recent version as the document has been updated to 'Approved Methods for Modelling and Assessment of Air Pollutants in New South Wales 2016, Published by NSW EPA'.</li> <li>2. The meteorological data referred to on page 115 of the aforementioned report relates to data collected over the 2007-2013 period at Bankstown monitoring station. It is considered that more recent data, collected at monitoring stations in the vicinity of the proposed poultry farm would have been more appropriate to the development, with OEH stations being located at Bargo, Camden, Oakdale and Campbelltown West.</li> <li>3. The Air Quality Assessment states that no odour is generated during clean out phases of the shed on page 128 of the report, where lower on the same page it describes "The main source of odour from poultry farms is typically the litter within the chicken sheds. As the litter (made up of dry organic litter, manure, dust and feathers) begins to break down odorous compounds are created which then volatilise." It stands to reason that once the litter cake is disturbed during clean out, that some odour would be generated.</li> <li>4. Odour from proposed composting on site has not been included in the report.</li> <li>5. Poultry mortality losses have not been considered as a potential odour source.</li> <li>6. No cumulative assessment has been carried out despite several poultry farms being located in the vicinity.</li> <li>7. There would be exceedence of 24hour PM10 impact assessment criteria at nearby sensitive receivers produced by wheel generated particulates during depopulation of birds at the end of a growing cycle.</li> <li>8. A criteria of 4 Odour Units (OU) was used for the assessment, with one receiver receiving 3.3OU. EPA Victoria state in their Publication 1643, January 2017, 'Odour Assessment for Victorian broiler farms', that 1 odour unit is able to be detected in a laboratory environment with no background odour. 5-9 OU will be detected and recognised in the ambient environment and at this</li> </ol>

<b>Relevant Provisions</b> <b>Part 3 – Specific Land Use Controls</b> <b>3.3 – Intensive Livestock agriculture</b>	<b>Comment</b>
	<p><i>recognition level, odour is likely to be offensive.</i></p> <p>9. <i>There has been no odour management plan and no mitigation measures provided.</i></p> <p>To this end, it is considered that this section of the DCP has not been met.</p>
<p>3.3.2 Noise, odour and dust Objectives</p> <p>(a) <i>To minimise noise, odour and dust impacts from Intensive livestock keeping establishments on the amenity of surrounding land uses, and</i></p> <p>(b) <i>To encourage healthy, sustainable practices to minimise the impact of development.</i></p>	<p>Although the development proposal generally complies with the DCP setbacks, the issues associated with dust and sustainable practices are questionable.</p> <p>The amenity of surrounding land uses will be impacted, which is evident from the concerns raised by a number of State agencies including RMS and EPA and Council's Environmental Health Officer.</p>
<p>3.3.3 Soil, waste and water management.</p> <p>Objectives</p> <p>(a) <i>To minimise the impact of stormwater and surface run-off on receiving water courses or water bodies and on adjacent lands, and</i></p> <p>(b) <i>To ensure drainage systems efficiently control water flows and minimise the impact on natural drainage patterns of the site.</i></p>	<p>The applicant has signalled the intention of the use of the farm dams and constructed wetland designed to capture and contain the additional flows.</p> <p>The plans indicate that the existing dams will be increased in capacity.</p> <p>The submitted plans indicate the location of the proposed wetland adjacent to the existing western dam but no details are provided.</p> <p>It is this reason that Council is of the view that such work being unclear, has the potential to gravely impact the natural environmental and dog trap creek.</p>
<p>3.3.4 Traffic and access</p> <p>Objectives</p> <p>(a) <i>To minimise the noise and environmental impacts of vehicle movements to and from the site, and</i></p> <p>(b) <i>To ensure adequate access to the development is provided.</i></p>	<p>The RMS have provided comments objection to the proposal.</p> <p>The RMS is of the opinion that the application does not provide sufficient information to enable an assessment of the impacts of the development in terms of access to and from the classified road network.</p> <p><i>"The submitted Traffic Impact Assessment prepared by SECA Solutions provided limited information on construction traffic. It is noted in the EIA report that approximately 42,000m<sup>3</sup> of material will need to be brought onsite. Additional details are required to address this component of the construction process.</i></p> <p><i>In addition, the submitted Traffic Impact Assessment details that the largest vehicle to service the site will be a semi-trailer (19m).</i></p>

Relevant Provisions	Comment
<b>Part 3 – Specific Land Use Controls</b> <b>3.3 – Intensive Livestock agriculture</b>	
	<p><i>This conflicts with the supporting plans submitted with the DA that indicate that the site will be serviced by a B-Double (26m)."</i></p> <p>Therefore, it is determined by Council that the application would not meet clause 3.3.4 objectives or satisfy the RMS concerns.</p>
<b>3.3.5 Landscaping.</b> <b>Objectives</b> <i>(a) To mitigate the potential noise, dust and odour impacts of proposed intensive livestock developments, and</i> <i>(b) To minimise the visual impacts of development on the surrounding landscape.</i>	<p>A vegetated buffer is proposed to be planted to the north of the sheds to screen the operation from properties to the north.</p>

### **The Regulations**

Not applicable.

### **The Likely Impacts of That Development**

Head of Consideration	Comment
Natural Environment	<p>Vegetation removal would be required to facilitate the proposed poultry farm and associated structures.</p> <p>The overall impact is viewed as deleterious to the site, dams, dog trap creek and local fauna.</p>
Built Environment	<p>The proposed ventilation method being stacks on top of the poultry sheds would have a detrimental visual impact on the natural environment and surrounding properties.</p>
Social Impacts	<p>Social impacts would be negative as the proposal results in a cumulative effect on the site and surrounding lands.</p>
Economic Impacts	<p>Although it is acknowledged that the proposed poultry farm may have a positive economic impact for jobs and the poultry industry, the environmental impacts out way any economic benefit.</p>



**1.3.4 Draft and/or Planning Agreements Entered or Offered to Enter into**

None

**1.4 Impact of the Development**

Council is of the opinion that the proposed poultry farm to accommodate 480,000 chickens within 8 poultry sheds would have a detrimental impact on the natural environment in terms of odour, air/water quality, noise, traffic, biosecurity and will wholly contribute to the loss of amenity for adjoining and surrounding residents. Further details will be discussed through the planning assessment report below.

**1.6 Submissions**

Resulting from public notification, Council received a total of 58 submissions, comprising 40 objections, a petition with 48 signatures and 18 submissions in support.

Concern	Comment
Summary of concerns	
The bulk of submissions raised issue with; Noise levels, environmental grounds, air quality, traffic and loss of lifestyle.	Subsequent to the onsite conciliation and assessment of the DA material, Council maintains the view that the overall development proposal and its operations contributes to these concerns raised by residents, and are evident from the lack of detail submitted by the applicant.
As part of the SEARS, the applicant should have consulted with residents prior to the lodgement of the DA.  This did not take place.	It appears that this process did not take place by the applicant. The applicant stated the following;  <i>“Due to the relative remoteness of the location and the scattered rural nature of the adjoining farms, the consultation process with the local community will be undertaken with the advertising that will be undertaken with Council's usual Development Application Process.”</i>  Council raised this matter with the Court at the onsite conciliation, but no further discussion took place, as it was generally agreed that due to Council notification/advertisement of the DA and the Court process, consultation had taken place.
Health concerns	Residents have an issue with potential tank water contamination. As their tank/s are used for drinking water, the close proximity of the poultry farm and the spread of dust is imminent, as a result, there is a high risk for water contamination.
Visual impact from silos and vents	The proposed vents above the poultry sheds will be intrusive and will be approximately twice the height of the sheds. Greater than 10 metres.
Animal welfare and environmental concerns.  The Greens Submission	The submission states that:  <i>“The ‘Greens’ are strongly opposed to the</i>

Concern	Comment
	<p><i>concept of factory farming and intensive animal production for the purpose of producing cheap animal protein at the expense of animal welfare.</i></p> <p><i>Factory farms can present a significant environmental hazard to the environment. If operated with stringent environmental controls, the risk of harm may be reduced but cannot be eliminated. The adverse impact to the environment with respect to greenhouse gas emissions remains significant given the very large number of animals these farms produce. At worst, the pollution of water resources and land degradation caused by unsustainable effluent management and overstocking can cause irreversible damage.</i></p> <p><i>The proposal concludes that the larger amount of Remnant Shale/Sandstone Transition Forest on the Southern Boundary would preclude any localised extinction. But since the proponent seeks to locate the eight sheds very close to this boundary, the intensive operations are bound to have a negative impact on the Forest and its habitat, including noise and other disturbance."</i></p>
18 support submissions	The general view is that poultry farms contribute to the local community in terms of jobs and produce.

### 1.7 The Public Interest

The number of submissions demonstrate that a large section of the local community feels that the development proposal for 8 poultry sheds with 480,000 chickens would have a detrimental environmental impact on their lifestyle.

### Financial Implications

This matter has no significant financial impact on Council's adopted budget or forward estimates if no future legal appeal is sought by the applicant.

### ATTACHMENTS

#### 1. Example of ventilation stacks

### RECOMMENDATION

That the Development Application 010.2016.00000852.001 for a proposed intensive livestock agriculture (poultry farm) comprising 480,000 chickens, the construction of 8 poultry sheds and associated works at 290 Arina Road, Bargo be refused on the following grounds;

1. The proposal is not consistent with the Wollondilly Local Environmental Plan 2011 aims; Clause 1.2 (a), (b) & (c).
2. The proposal is not consistent with the Wollondilly Local Environmental Plan 2011 RU1 zone objectives.
3. The development application must be refused because it is in respect of designated



development and was not accompanied by an environmental impact statement prepared by or on behalf of the applicant in the form prescribed by the Environmental Planning and Assessment Regulation 2000.

4. The development proposal will have a detrimental impact on adjoining and surrounding residential properties with regards to odour, noise, traffic generation, health and loss of visual amenity.
5. The proposed modifications to water supply dams for the proposed development create a potential biosecurity risk; through close proximity to the proposed poultry sheds and also by being attractants to waterfowl.
6. The natural environment, dog trap creek, flora and fauna will be significantly impacted by the operations of the proposed poultry farm and associated operations.
7. The use of Arina Road on the approach from the north (bend) for access is not appropriate to accommodate semi-trailers and or B-Double trucks.
8. Insufficient information provided to determine the type of vehicles to be used, number of movements, the road network that these vehicles will use to access the site. (e.g. where will they access to and from The Hume Highway).
9. The increase in traffic generation during the day and night will have a damaging impact to surrounding residential properties in terms of safety, noise, dust and amenity.
10. Not in the public interest.

**7.4 DEVELOPMENT ASSESSMENT REPORT - MARSH ROAD, WARRADALE ROAD AND GOVERNMENT ROAD, SILVERDALE****File Number: 10621#23**

**Reason for LPP Referral:** Development application in which the developer has offered to enter into a planning agreement

**DA No:** 010.2014.00000675.001

**Lot & DP – Subject Site:** Lots 100, 101, 102 & 104 in DP 1237882

**Proposal:** 4-stage subdivision to create 87 residential lots, 1 super lot (proposed Lot 88) for future residential development, 1 super lot (proposed Lot 89) for future industrial development, drainage works on existing Lots 101 & 102, 1 road lot (existing Lot 104), bulk earthworks, removal of vegetation, construction of drainage basins and stormwater drainage works, road construction, street tree planting and landscaping

**Zoning:** Wollondilly Local Environmental Plan 2011 - Part zoned R2 Residential Low Density Residential, part E2 Environmental Conservation and part IN2 Light Industrial

**Permissibility:** Permissible with consent

**Cost of Development:** \$4,923,929.45

**Applicant:** Site Plus Pty Ltd

**Owner:** TJ + RF Fordham Pty Ltd

**Notification:** Notified twice for a period of 30 days commencing 6 November 2014 and 9 March 2016

**Submissions:** Two

**Variations:** Nil

**Site Inspection:** 19 June 2017

**Recommendation:** That Development Application DD010.2014.00000675.001 for a 4-stage subdivision to create 87 residential lots, 1 super lot (proposed Lot 88) for future residential development, 1 super lot (proposed Lot 89) for future industrial development, drainage works on existing Lots 101 & 102, 1 road lot (existing Lot 104), bulk earthworks, removal of vegetation, construction of drainage basins and stormwater drainage works, road construction, street tree planting and landscaping at Lots 100, 101, 102 & 104 DP 1237882 Marsh Road, Warradale Road & Government Road, Silverdale is approved subject to conditions.



Figure 1 - Locality Plan (Source: Wollondilly Shire Council Geographic Information System)

## EXECUTIVE SUMMARY

- Consent is sought for a 4-stage subdivision to create 87 residential lots, 1 super lot (proposed Lot 88) for future residential development, 1 super lot (proposed Lot 89) for future industrial development, drainage works on existing Lots 101 & 102, 1 road lot (existing Lot 104), bulk earthworks, removal of vegetation, construction of drainage basins and stormwater drainage works, road construction, street tree planting and landscaping at Lots 100, 101, 102 & 104 Marsh Road, Warradale Road and Government Road, Silverdale.
- A total of two submissions were received.
- Under Section 10.4 Disclosure of political donations and gifts of the *Environmental Planning & Assessment Act 1979*, 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.
- The Draft Voluntary Planning Agreement (VPA) was exhibited in 2016. It provides for the dedication of land containing the OSD basin and the payment of maintenance contributions. The outcome of the exhibition were reported back to Council on 17 September 2018.
- This report recommends that this application be approved subject to conditions (see Attachment 2 draft conditions of consent).

## REPORT

### Background

DD010.2014.00000675.001 was lodged in October 2014 for a subdivision of Lot 5 in DP 261728 to create 91 residential lots, 2 lots for drainage reserves and open space (proposed Lots 201 & 202), 2 lots for fire trails (proposed Lots 203 & 204) and 3 residue lots (proposed Lot 501 zoned R2 Low Density Residential subject to future DA, proposed Lot 502 zoned IN2 Light Industrial and proposed Lot 401 zoned E2 Environmental Conservation). The development site has a total site of approximately 20 hectares.

The Wollondilly Local Environmental Plan 2011 (WLEP 2011) commenced on 23 February 2011. The plan confirmed the zoning as partly R2 Residential Low Density, E2 Environmental Conservation and IN2 Light Industrial (see Figure 2 Zoning Map). The Lot Size Map shows a minimum lot size of 700m<sup>2</sup> applying to the R2 zoned land, 1500m<sup>2</sup> for the IN2 zoned land and 100 hectares for the E2 zoned land on this site.

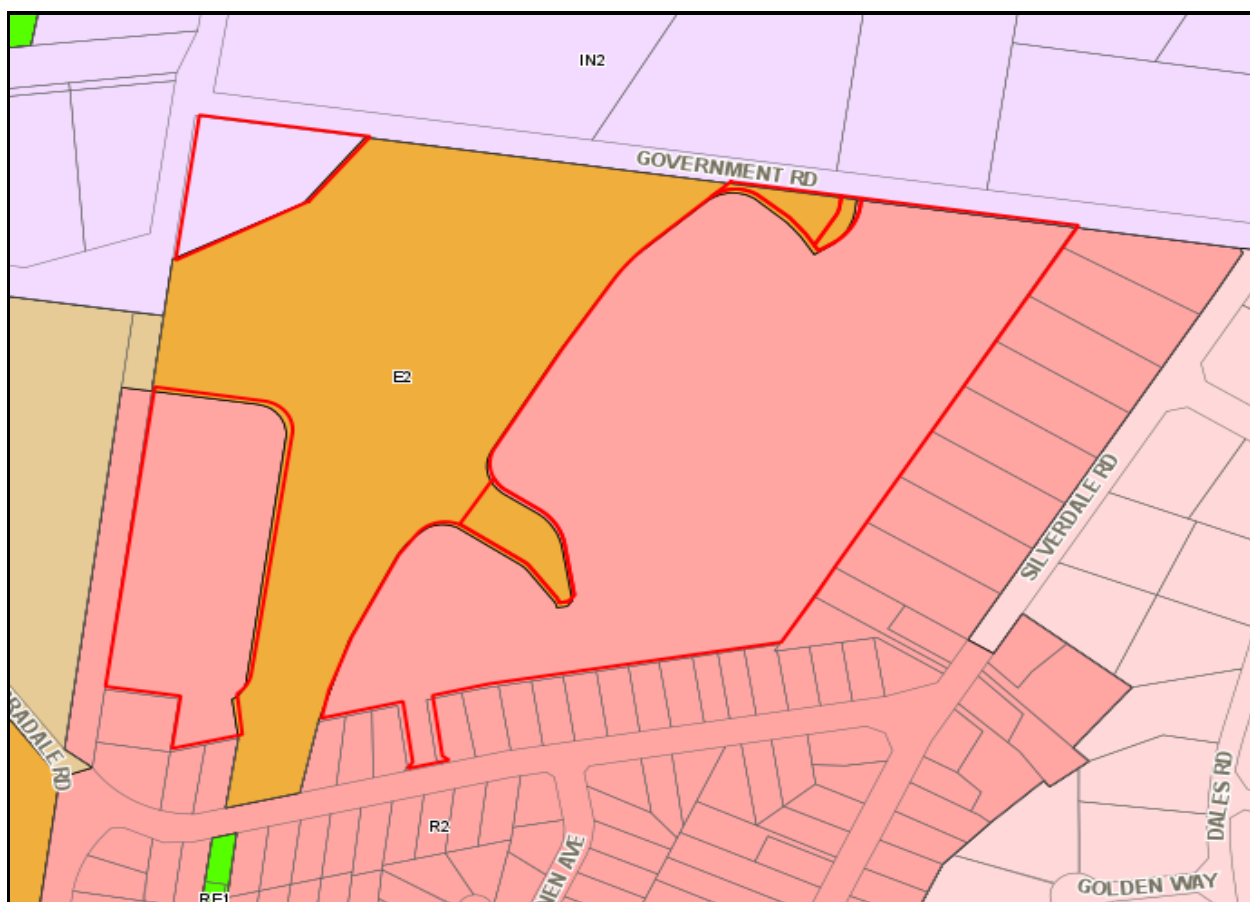


Figure 2 - Zoning Map (Source: Wollondilly Local Environmental Plan 2011)

In response to Council's legal advice dated 13 October 2017 regarding management of minimum lot sizes applying to E2 Environmental Conservation land and to enable the residential subdivision to proceed, the applicant excised the E2 zoned land from the development site under section 2.75 Subdivision 38 Subdivision of *State Environmental Planning Policy (Exempt and Complying Development)* 2008. The E2 zoned land has been further subdivided into 4 lots to facilitate construction of drainage works and access road to support the proposed residential subdivision.

The above subdivision was registered with NSW Land Registry Services (LRS) on 24 July 2018. As a result of the subdivision and registration with LRS, the property description of the development site has to be revised from Lot 5 in DP 261728 to Lots 100, 101, 102, 103 & 104 in DP 1237882 (see Figure 3 Plan of Subdivision of Lot 5 in DP 261728 below).



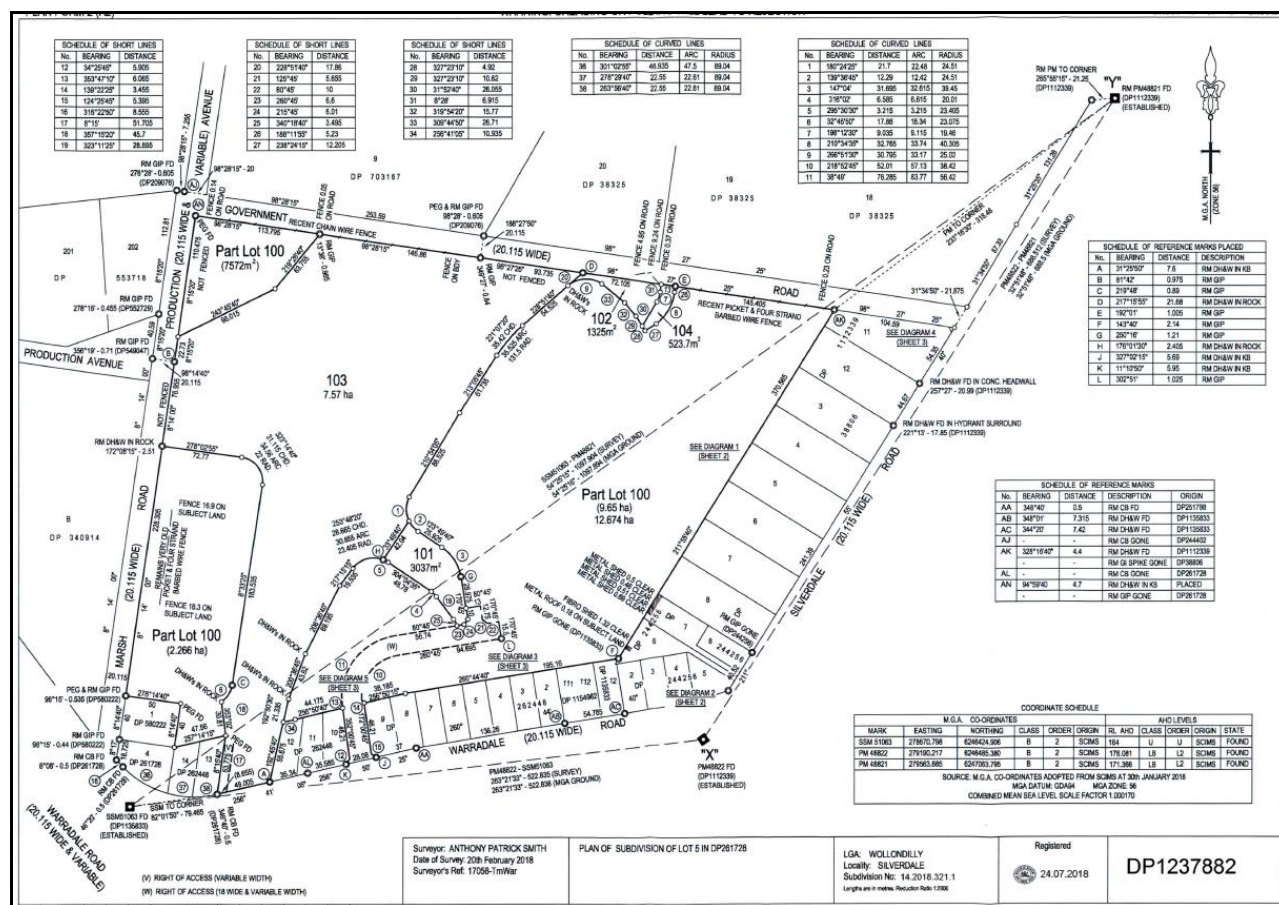


Figure 3 – Plan of subdivision of Lot 5 in DP 261728

Furthermore, the Applicant has amended the proposal to exclude the E2 Environmental Conservation land (Lot 103) from the DA. The subdivision layout has also been amended which resulted in a reduction in the number of lots to address various issues, such as bush fire, identified during assessment of the proposal.

The amended proposal now seeks approval for a subdivision of Lots 100, 101, 102 & 104 in DP 1237882. The total site area is approximately 13.16ha. Details of the proposal is outlined below.

Lot/DP	Zoning	Proposed works
Lot 100 DP 1237882	Part zoned R2 Low Density Residential and part IN2 Light Industrial	Proposed residential subdivision to create 87 lots (proposed Lots 1 - 87)
Lots 101 and 102 DP 1237882	E2 Environmental Conservation	Proposed drainage reserve lots (proposed Lots 101 and 102)
Lot 104 DP 1227882	E2 Environmental Conservation	Proposed dedicated road (proposed Lot 104)

The amended proposal consists of:

- 87 residential subdivision (Lots 1 to 87)
- 2 lots for the construction of drainage works (existing Lots 101 & 102)
- 1 super lot (proposed Lot 88) for future residential development (subject to a separate development application)
- 1 super lot (proposed Lot 89) for future industrial development (subject to a separate development application)

- 1 road lot (existing Lot 104)
- bulk earthworks
- removal of vegetation
- road construction
- stormwater drainage works
- street tree planting and landscaping

The Biobanking statement approved on 11 November 2016 permits clearance of vegetation in Lots 100 & 104 in DP 1237882 of the development site.

### Consultation

The development application has been referred to the following internal and external referral bodies:

Internal Referrals	Response
Building surveyor	No objection subject to conditions
Development Engineer	<p>Council's Development Engineer has made a number of recommendations for the subject proposal.</p> <p>The conditions of consent relate to the required road widths which must all be constructed in accordance with Council's Design and Construction Specifications.</p>
Environment Officer	<p>Council's Environment Officer initially identified the presence of Shale Sandstone Transition Forest within the R2 zoned land which was subsequently confirmed with the submission of a Biodiversity Assessment Report, prepared by Biosis, dated 9 July 2015. Officer recommended that the applicant obtain a biobanking agreement from OEH as one option to address the presence of threatened species on the site.</p> <p>Council's Environmental Officer has provided recommended conditions of consent for the subdivision application based on the Biobanking Statement issued by the Office of Environment and Heritage. Council's Environment Officer also provided comments in relation to the draft Biobanking Agreement applying to the E2 lands which has been lodged with the NSW Office of Environment and Heritage (OEH) by the proponent. The Biobanking Agreement was subsequently approved by OEH on 30 July 2018.</p> <p>It should be noted that Council's draft Land Dedication Policy has a basic position that biobanking land only be accepted if all relevant Staff are satisfied with the Agreement, management actions and associated costing, and that the total cost of the actions (known as the Total Fund Deposit) has been paid in full to the Biodiversity Conservation Trust.</p>

Internal Referrals	Response
	<p>However, Council officers were not provided with the opportunity to review the costing of management actions prepared by the proponent and addressing of potential concerns over the Biobanking Agreement. The option for Council to accept the land is therefore no longer available.</p>
Property	<p>Note that at the Extraordinary Meeting of Council on 8 August 2016 in relation to PE2 - Acquisition of Land at Warradale Road Silverdale to Council, Council resolved as follows:</p> <ol style="list-style-type: none"> <li>1. That Council make application to the Governor for approval to acquire Lots 401, 919, 201 &amp; 202 within Lot 5 DP 261728 for the purpose of drainage reserve and Environmental Conservation area by compulsory process under section 186 (1) and Section 186(2)(a) of the Local Government Act.</li> <li>2. That Council resolve to classify the site as Community Land under the Local Government Act, 1993 once the site is in Council ownership.</li> <li>3. That Council compulsory acquire the land under Division 4, Section 30 of the Land Acquisition (Just Terms Compensation) Act 1991 by agreement from TJ &amp; RF Fordham Pty Ltd for \$1.00.</li> <li>4. That Council authorise the General Manager to process the acquisition once all required documentation (including but not limited to the BioBanking and Land Acquisition Agreements) has been provided by TJ and RF Fordham Pty Ltd and assessed by Council staff as adequate.</li> <li>5. That once the Contract of Sale is finalised, that the Mayor and General Manager be authorised to execute all necessary documents, including those requiring the Common Seal of Council.</li> </ol> <p>On this basis it is unlikely that the land dedication will be required to go back to the Land and Property Panel for further consideration.</p> <p>The Property Department's input is related to action Council's resolution for compulsory acquisition. However, the latest advice is that any compulsory acquisition will cancel any agreement registered on the title and this would include biobanking agreement.</p> <p>A report has been prepared to Council's Executive Meeting to determine future actions in respect to the resolution of Council (No. 162/2016) to compulsory</p>

Internal Referrals	Response
	acquire land at Warradale Road, Silverdale.
Section 94	The VPA has been publically exhibited and the outcome of the exhibited VPA have been reported back to Council.
Contamination	<p>The application was accompanied by a Detailed Site Investigation for contamination. This report was examined by Council's Contamination Officer who formed the view that the site is contaminated and can be remediated to make it suitable for residential use. This remediation should be supervised by a site auditor.</p> <p>It is recommended that a condition be imposed that the development requires a category "A" site audit statement declaring that the site is suitable for residential development and this is to be provided prior to the issue of a Subdivision Certificate.</p>
Health	<p>No objection subject to conditions.</p> <p>It should be noted that all residential lots will be conditioned to be connected to the reticulated sewer. The remaining lots do not require wastewater treatment at this stage.</p>
Heritage	<p>Aboriginal heritage assessment declared one newly found site on the subject land.</p> <p>This is one of many registered sites near the development. An AHIMS search found 114 registered sites near the location including open scatters ("camp sites"), rock shelters with deposits and cave paintings. It is understood that the registered site will be on public land and that the terrain is steep.</p> <p>Council's Heritage Advisor has raised no concerns, nor made any heritage recommendations for this proposal, stating <i>"I consider that no action needs to be taken by Council to manage the site. It is part of the landscape and will remain so, provided it is not excavated or paved as part of the development."</i></p>

External Referrals	Response
Department of Primary Industries - Water	The Department of Primary Industries – Office of Water issued General Terms of Approval (17 December 2014) for the development application.
RFS	The NSW Rural Fire Service issued a Bushfire Safety Authority dated 20 July 2015 for the subject development.
Sydney Water	This proposal was referred to Sydney Water for comment. They have made a number of comments regarding availability of services and requirements for extensions to service the newly created lots and a Section 73 Certificate be obtained.
Office of Environment and Heritage	The Biobanking Agreement was approved on 30 July 2018.



External Referrals	Response
Department of the Environment (Australian Government)	<p>The presence of SSTF triggered a referral to the Department of Environment for consideration. The proposal was advertised in accordance with the provisions of the Environment Protection &amp; Biodiversity Conservation Act 1999 (EPBC Act).</p> <p>Approval under the EPBC Act was granted and contained in the approval (EPBC 2015/7578) issued by the Commonwealth Department of Environment &amp; Energy (dated 25th August 2016).</p>

### 1.1 Description of Site and Surrounding Area

The land is legally identified as Lots 100, 101, 102 & 104 in DP 1237882 and described as Marsh Road, Warradale Road and Government Road, Silverdale (subject site) as shown in Figure 1.

The subject site is an irregular shaped parcel of land which is made up of the following:

- E2 Environmental Conservation (E2) - Approximately 0.489 hectares
- IN2 Light Industrial Zone (IN2) - Approximately 0.757 hectares
- R2 Low Density Residential (R2) - Approximately 11.92 hectares.

The land is located approximately 800 metres southeast of Warragamba, and approximately 55 kilometres west-southwest of the Sydney CBD. It is located within the township of Silverdale, bounded by the unformed Government Road to the north, Warradale Road and private residences to the south, Silverdale Road and private residences to the east and Marsh Road to the west.

Developments in the area consist of a mix of residential developments to the south and east and areas of remnant bushland located to the north and west. A former waste recycling facility is located to the northwest of the site.

The allotment is an irregular shaped lot with a combined site area of approximately 13.16 hectares. The site is situated on the lower eastern slopes of a hill. The ground surface slopes gently from the west to the east approximately 4m. The site lies at elevations between 168m and 172m above Australian Height Datum (AHD).

The western site boundary is adjacent to the Warragamba Dam Catchment managed by Water New South Wales (ex Sydney Catchment Authority). The site is within the Megarrity's Creek Catchment. This catchment drains to Megarrity's Creek located east of the site. Megarrity's Creek drains into the Warragamba River downstream of the Warragamba dam located to north-west of the site.

Megarrity's Creek forms a second order stream within the centre of the Biobank site (E2 zoned land) of the approved Biobanking Agreement, with the headwaters of this creek located within the Biobank site, immediately north of Warradale Road.

The site supports remnants of Shale Sandstone Transition Forest and Nattai Sandstone Dry Shrub Forest. Vegetation within the eastern portion of the site is significantly disturbed due to past clearing, use of the site by recreational trail bike riders, with some rubbish dumping occurring. This site is identified as being partially bushfire prone.

### 1.2 Description of Development

The amended proposal seeks development consent for a 4-stage subdivision to create 87 residential lots, 1 super lot (proposed Lot 88) for future residential development, 1 super lot (proposed Lot 89) for future industrial development, drainage works on existing Lots 101 & 102, 1 road lot (existing Lot 104), bulk earthworks, removal of vegetation, construction of drainage basins

and stormwater drainage works, road construction, street tree planting and landscaping as depicted in Figure 4 below (refer to Attachment 1 for the proposed subdivision layout, proposed release plan and dwelling footprint plan).

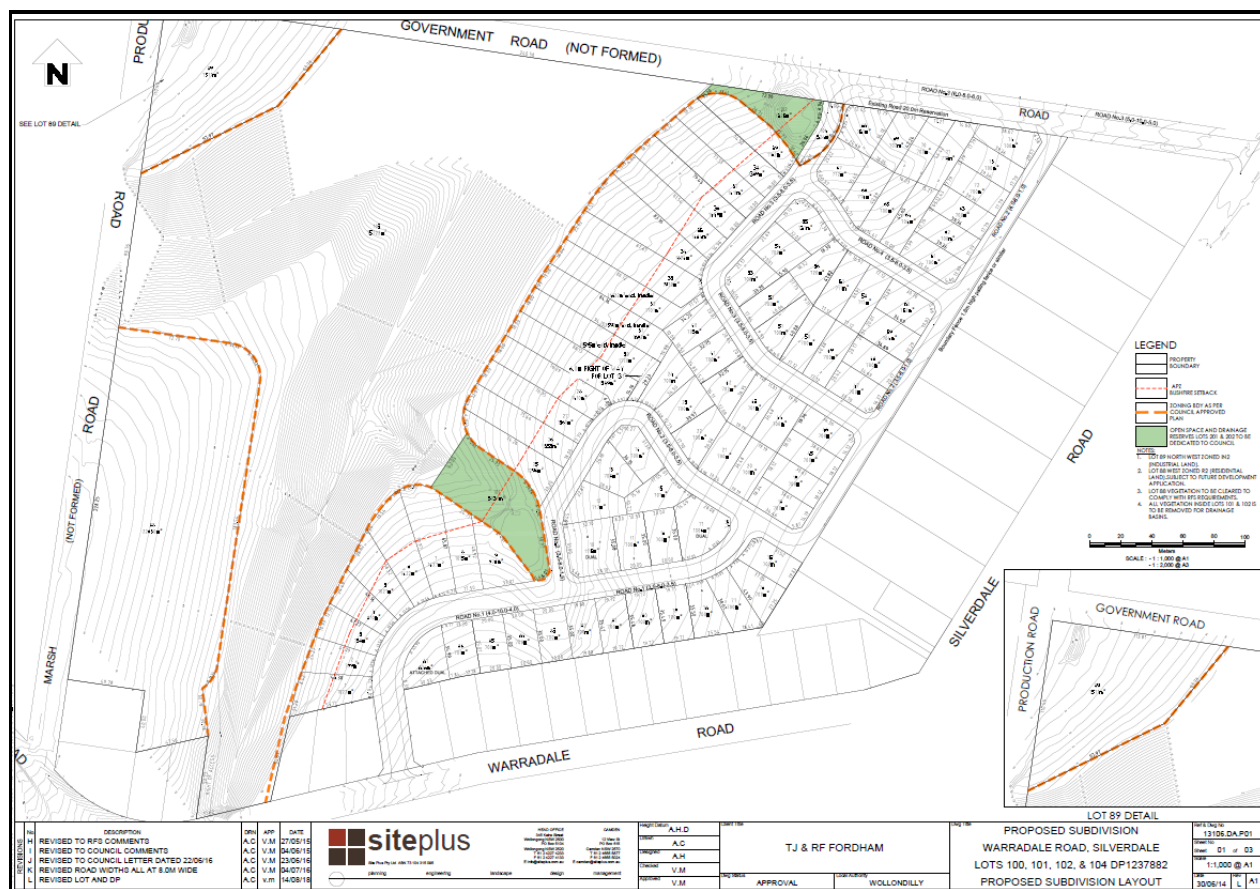


Figure 4 - Extract from submitted Plan of Subdivision

The works associated with the development of the site will include the following:

- Construction of the subdivision works;
- Earthworks and associated vegetation removal;
- Torrens title subdivision to create 87 residential allotments;
- Construction of associated drainage and water quality improvement works;
- Dedication of relevant drainage structures to Council;
- Construction and dedication of roads
- Street tree planting and landscape.

#### State Planning Agreement – Satisfactory Arrangements

The land is not located in an area that is nominated within the WLEP 2011 as an urban release area where a state planning agreement is required. There is no requirement for a monetary contribution under a State Planning Agreement for development of this land.

### 1.3 Section 4.15 Evaluation

#### 1. Water Management Act 2000

The proposal will undertake works and activities within 40 metres from the top of bank of mapped watercourses. The application has been referred to the Department of Primary Industries with General Terms of Approval contained within the conditions of consent.

2. Rural Fires 1997

The application was referred to the New South Wales Rural Fire Services in accordance with Section 4.46 of the *Environmental Planning & Assessment Act 1979* (EP&A act) in respect to a Bush Fire Safety Authority required under Section 100B of the Rural Fires Act 1997.

The Bushfire Protection Assessment has been reviewed by NSW Rural Fire Service and a Bushfire Safety Authority has been issued. The approval is for the subdivision of the land only and any further application for class 1, 2 & 3 buildings as identified by the 'Building Code of Australia' must be subject to separate application under section 79BA of the EP&A Act and address the requirements of the 'Planning for Bush Fire Protection 2006'.

Conditions of consent for the deemed bushfire safety authority are included in Schedule 3 attached to the recommended conditions.

3. Roads Act 1993

Council's Development Engineering Section have recommended that, if the development were to proceed, conditions will require the persons having the benefit of the consent to undertake works to and within Warradale Road, Government Road and Silverdale Road reserve to accommodate the development.

4. Threatened Species Conservation Act 1995

A Biodiversity Assessment Report has been carried out for the proposal by Biosis, dated July 2015 (see Figure 5 Extract survey plan below). The key findings are:

- (a) No flora species listed as "threatened" under either the Threatened Species Conservation Act 1995 (TSC Act) or the EPBC Act were recorded within the site, or are known to occur.
- (b) No flora species being part of any "endangered population" listed under the TSC Act were recorded within the site, or are known to occur.



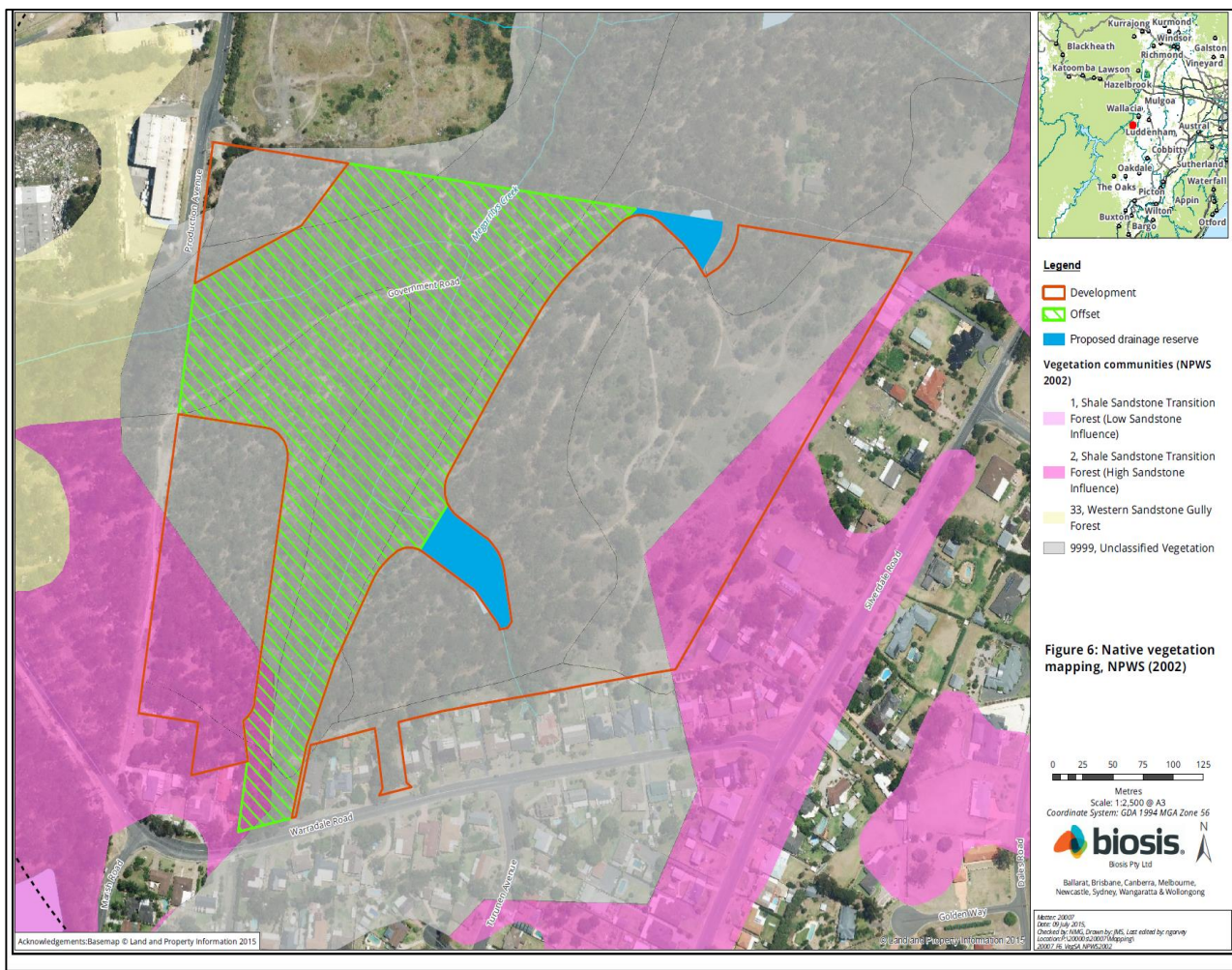


Figure 5 - Extract survey plan (Source : Biodiversity Assessment Report)

A separate Biodiversity Assessment Report has been prepared by Siteplus Pty Ltd in support of a Biobanking Agreement Application to offset losses of native vegetation and species habitat that will result from the project under the NSW Biobanking Scheme. It has been prepared in accordance with the NSW Biobanking Assessment Methodology (OEH 2014).

Key ecological values identified within the site include:

- (a) 10.83 hectares of native vegetation across two plant community types (PCTs), including:
  - (i) 3.26 hectares of HN556 – Narrow-leaved Ironbark - Broad-leaved Ironbark - Grey Gum open forest, equivalent to the Shale Sandstone Transition Forest CEEC
  - (ii) 7.258 hectares of HN564 – Red Bloodwood - Grey Gum woodland
  - (iii) habitat for a number of threatened species.
- (b) Vegetation along Megarrity's Creek, to be retained within a proposed Biobank site, forms part of a fauna habitat linkage.
- (c) The study area forms part of a large patch of vegetation greater than 1000 hectares in size.

The design of the development during the Planning Proposal phase sought to avoid and minimise impacts to sensitive ecological features identified by Hayes Environmental (2012), whilst siting residential development adjacent to existing residential areas.

Additional measures undertaken to avoid and minimise impacts have been provided to further reduce and mitigate impacts arising from the development. A full list of impact

avoidance, minimisation and mitigation measures is outlined in the Biodiversity Assessment Report (Section 6.1.2).

Residual impacts arising from the proposed development include:

- (a) The permanent removal of approximately 3.26 hectares of HN556 - Narrow-leaved Ironbark - Broadleaved Ironbark - Grey Gum open forest, equating to the CEEC Shale Sandstone Transition Forest.
- (b) The permanent removal of approximately 7.58 hectares of HN564 - Red Bloodwood - Grey Gum woodland.
- (c) The retention of 7.02 hectares of native vegetation within the proposed Biobank site.
- (d) The retention of habitat connectivity and aquatic habitat along Megarrity's Creek.

PCT HN556 – Narrow-leaved Ironbark - Broad-leaved Ironbark - Grey Gum open forest is a red flag area. Impacts to this PCT have resulted in an application for a red flag variation (Section 6.2.2).

Credit requirements arising from the proposed development are outlined below.

PCT code	Plant community type name	Red flag	Ecosystem credits required
<b>HN556</b>	Narrow-leaved Ironbark - Broad-leaved Ironbark - Grey Gum open forest of the edges of the Cumberland Plain, Sydney Basin Bioregion	Yes	177
<b>HN564</b>	Red Bloodwood - Grey Gum woodland on the edges of the Cumberland Plain, Sydney Basin Bioregion	No	333

No species credits were generated by the assessment.

An assessment of the project against key biodiversity legislation and policy is provided in the Biodiversity Assessment Report (Section 8). The outcomes of this assessment are summarised below:

- (a) On the basis of potential for significant impacts on Shale Sandstone Transition Forest CEEC, the Environment Protection and Biodiversity Conservation Act 1995 is likely to be triggered and referral of the proposed action to the Australian Government Minister for the Environment is recommended. This referral has been undertaken.
- (b) Noxious weeds identified on site must be managed in accordance with the requirements of the Biosecurity Act 2016.

The Biodiversity Assessment Report prepared in support of the Biobanking Agreement Application was approved by OEH in July 2018. The E2 zoned land (Lot 103) will be managed in accordance with the Biobanking Agreement.

#### 5. Contaminated Lands Management Act 1997

The development application is supported by a Phase 1 Contamination Report. The site is contaminated; and the site can be remediated to make it suitable for residential use.

The heavy metal contamination is a concern because the extent of the contamination has not been fully quantified at this stage. Council's contamination officer is of the view that the remediation should be supervised by a site auditor.

It is recommended that a condition be imposed requiring a category "A" site audit statement declaring that the site is suitable for residential development, be provided prior to the issue of a subdivision certificate.

Any required remediation work will require consent and a separate DA will be required in this regard.

### **1.3.1 Provisions of Relevant Environmental Planning Instruments**

#### **1. State Environmental Planning Policy (Infrastructure) 2007**

In accordance with Clause 104 of State Environmental Planning Policy (Infrastructure) 2007 the proposed development is not required to be referred to the NSW Roads and Maritime Services for review and comment.

#### **2. State Environmental Planning Policy No 44 - Koala Habitat Protection**

State Environmental Planning Policy No 44 - Koala Habitat Protection (SEPP 44) applies to the whole of the Wollondilly Local Government Area. Part 2 of SEPP 44 applies to the proposed development.

The applicant submitted a Biodiversity Assessment Report, prepared by Biosis, and dated July 2015. This report includes a recent fauna survey which demonstrated that from current available information, the subject site is not core koala habitat under the definition of this SEPP.

The habitat within the site is not considered to be a part of a large, connected area of koala habitat as defined in the guidelines. No evidence of usage of the study area by Koala was observed, and there are no records within close proximity to the study area. The retention of vegetation within the proposed Biobank site will ensure the development does not impact on movement corridors within the locality.

#### **3. State Environmental Planning Policy No. 55 – Remediation of Land**

The development application is supported by a Phase 1 Contamination Report.

An appropriate condition is recommended that prior to the issue of any Subdivision Certificate for the development Council shall be provided with a Category "A" Site Audit Statement under the Contaminated Land Management Act, 2008 which confirms that the site is suitable for "Residential with accessible soil, including garden (minimal home grown produce contributing less than 10% fruit and vegetable intake), excluding poultry".

#### **4. Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River**

While the subject site is not located within the boundary of SREP No. 20, it is considered that assessment against the SREP is warranted due to the site predominately draining into the Hawkesbury Nepean Catchment.

The proposed development is in accordance with the general planning considerations set out in Clause 5 of the REP and the relevant specific planning policies and strategies set out in Clause 6. Provision will be made for adequate erosion and sediment control measures to ensure sediment because of the development is not deposited in the Hawkesbury Nepean River via the stormwater system. Stormwater run-off from the proposed development will be via drainage easements leading into the detention basins.

The proposed method of stormwater management has been identified as the most suitable method of stormwater drainage for the proposed development. Council's Development Engineer has reviewed the proposed development regarding stormwater drainage and is satisfied with this aspect of the proposal.

A detailed assessment of the proposal against the REP can be found in Attachment 3.

5. State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

This Policy applies to land within the Sydney drinking water catchment. The location of the subject site and the boundary of the catchment to which the SEPP applies shows that the subject site is not impacted by the provision of the SEPP. Nevertheless, the stormwater and water quality control measures included in the proposal assist in complying with the objectives of the SEPP.

6. Wollondilly Local Environmental Plan 2011

Clause 1.2 Aims of Plan	
Objective	Comment
(a) to provide for the management of natural resources and the protection of the natural landscape character,	(a) Subject to conditions, it is anticipated that the effects of the development upon natural resources and landscape character is satisfactory.
(b) to protect, conserve and enhance the built, landscape and Aboriginal cultural heritage	<p>(b) The site did not contain a registered Aboriginal Heritage site. However, during the site inspection survey one new Aboriginal site was identified. The new site has been assigned the name MC-OS-01 which consists of 4 Aboriginal artefacts. The site is located on the western side of Megarrity's Creek, south of the unnamed tributary. It is situated at the top of the creak of slope before it descends into Megarrity's Creek, the site is located wholly within the E2 zoned land.</p> <p>Council's Heritage Advisor has made a recommendation that the registered site requires no action to manage by Council.</p> <p>Conditions are recommended to mitigate risks to aboriginal heritage should any items be found unexpectedly during construction.</p>
(c) to protect water quality in land that is situated within water supply catchments,	(c) The subject site is not located within the Sydney drinking water catchment.
(d) to encourage development that provides for an integrated transport and infrastructure system and adequate facilities and service provision for future growth,	<p>(d) The proposal will not impede future growth or the provision of integrated transport and infrastructure system. The application is supported by a Traffic Impact Assessment and plans for the upgrade of the local road network in the locality.</p> <p>The Assessment indicates that the site is compliant with all required internal road widths and other legislative requirements and will not have a</p>

	<p>detrimental impact on surrounding street networks.</p> <p>The internal road network has been designed to incorporate varying traffic calming measures to control the speed of traffic within the internal road network. These works also include pavement changes at designated intersections so that vehicles are visually cued to slow down.</p> <p>The developer is required to construct all vehicle access roads to the site and within the development. Conditions of consent are recommended to ensure these works are carried out in accordance with Council's requirements.</p> <p>It is considered that the development satisfies this aim.</p>
(e) to recognise, manage and protect rural resource lands for sustainable agriculture and extractive industry practices,	(e) The development will not impact upon rural resource lands.
(f) to maintain the separation between towns and villages to retain their unique character and rural and natural settings.	(f) The development will not fragment the rural setting and the separation between urban and rural areas is maintained.

Characterisation: Subdivision of Land, Recreation areas

Zone of land: R2 Low Density Residential, E2 Environmental Conservation, IN2 Light Industrial

Permissibility: Permitted with consent

Wollondilly Local Environmental Plan 2011 zone objectives

Objective	Comment
R2 Low Density Residential	
<ul style="list-style-type: none"> <li>To provide for the housing needs of the community within a low density residential environment.</li> </ul>	The proposed development is consistent with this objective.
<ul style="list-style-type: none"> <li>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> </ul>	This development is to utilise the existing facilities at Warragamba and other local facilities including the local park areas to be constructed within the development at 1-41 Marsh Road Silverdale.

The proposal is found to be consistent with the aims of the LEP subject to recommended conditions to minimise the effects on the natural resources and landscape character of the locality. The proposed internal road network has been designed to comply with the relevant road reserve width and the applicant will construct the vehicular access to the site and within



the development. The proposal is also consistent with the objectives of R2 Low Density Residential zone for providing additional residential lots for future residential developments.

A detailed assessment of the proposal against the LEP can be found in Attachment 4.

### 1.3.2 Provisions of Relevant Draft Environmental Planning Instruments

There are no draft environmental planning instruments that relate to the subject land.

### 1.3.3 Provisions of Relevant Development Control Plans

Volume 1 and Volume 3 of the Wollondilly Development Control Plan 2016 (WDCP 2016) apply to the proposal. The proposal complies with the relevant requirements of the DCP.

A detailed assessment of the proposal against the DCP can be found in Attachment 5.

### 1.3.4 Draft and/or Planning Agreements Entered or Offered to Enter into

The draft Voluntary Planning Agreement was exhibited in 2016. The outcome of the exhibition was reported back to Council on 17 September 2018.

## 1.4 Impact of the Development

Item	Comment
Context and setting	<p>The development proposal is located on land that was previously used for rural related purposes. The land was rezoned to permit urban development with the Council resolution of 2013. At that time Wollondilly Shire Council envisioned the site being capable for urban development with the minimum lot size control of 700m<sup>2</sup>. When these policies and planning controls were established the desired future character for this land experienced a significant steep change which is not dissimilar to other urban release area developments within the Shire.</p> <p>To address the interface, the proposed subdivision layout has been designed to provide large residential lots along these sensitive interface areas. Large lots will provide a better transition to the other style residential lots that are located along Warradale Road.</p> <p>The landscape concept plan and entry statement feature which are also incorporated in the proposal, facilitate plantings and embellishment which facilitate the creation of an appropriate garden setting for the proposed subdivision.</p> <p>Therefore, it can be concluded that the proposal is commensurate with the emerging context and setting of the site in that it has been designed with a sensitive interface to the existing surrounding community and that the proposal incorporates features of a garden setting to ensure a high-quality landscape embellishment occurs on site.</p>
Access and traffic	<p>The proposal includes appropriate local road links to collector roads and intersection treatments that accommodate future precinct traffic generated by the development. The design of internal roads complies with the DCP in terms of width and hierarchy.</p> <p>The development delivers pedestrian pathways and shared pedestrian pathways through the development that are consistent</p>

Item	Comment
	<p>with the DCP.</p> <p>The proposed road network complies with the requirements of DCP and can accommodate the traffic generated by the development.</p> <p>Construction vehicle access is to be managed through a Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control to be submitted and approved prior to the issue of a Construction Certificate. This matter is recommended to be suitable conditioned.</p>
Social and economic impacts	<p>The proposal represents a significant contribution towards the establishment of a new greenfield master-planned estate in Wollondilly Shire Council. The proposed subdivision facilitates a high-quality living environment for the future residents. The new pedestrian pathways proposed, which link back into the surrounding neighbourhood will permit an active lifestyle for residents as well as the existing and surrounding local community.</p> <p>Consultation with the local infrastructure service providers has occurred during the assessment of this development application which reveals that all public utility infrastructure can be made available to the site with simple amplification of these services. Therefore, the land is ideally positioned to deliver housing for the local community. The proposal will not only provide major social and economic benefits to the wider community but also to the future residents of the estate.</p>

### 1.5 Suitability of the Site

The proposed development has adequately addressed the key concerns including bushfire, traffic, drainage, tree removal/landscaping and accessibility. In addition, the layout of the proposed subdivision and its location are within proximity of the existing local centre amenities of Silverdale. The proposed development is compatible with surrounding and adjoining land uses; therefore, Council can be satisfied that the site is suitable for the proposed development.

### 1.6 Submissions

Form of Exhibition:           Advertised  
 Submissions Received:       Two

Concern	Comment
Road as back fence and resultant noise issues	<p>There are no current planning policies that prevent proposed Road No. 2 from being sited at the rear of existing dwellings that front onto Silverdale Road. Therefore the proposed local road which sits in its current proposed location is not inconsistent with any policies.</p> <p>The dwellings along Silverdale Road are constructed on sites that are more than 4000m<sup>2</sup> in size which provides ample space for landscaping and setback distances to provide adequate separation.</p>

Concern	Comment
	<p>The affected dwelling, situated to the east of the subject site, is set back 26m from the proposed Road No. 2. The setback will provide more than adequate visual and acoustic separation from the proposed road.</p> <p>Also noting that proposed Road No. 2 is only providing direct access to 14 new allotments. The traffic generated by these new allotments is likely to be dispersed to Government Road via proposed Road No. 3 further to the west and Warradale Road via proposed Road No. 1 to the southwest. Therefore it is unlikely that proposed Road No. 2 will be heavily congested in a fashion that would generate a noise disturbance issue.</p>
Width of footpath is only 1m (other footpaths are 3.5m)	Conditions of consent require the provision of a 1.5m wide pedestrian pathway which is consistent with Council's engineering standards.
Width of proposed roads	The width of the proposed new roads is also required by conditions of consent to be widened to 8-10m to comply with Council's engineering standards.
Roads are too close to the fence	<p>The concern relating to positioning of a road at the rear boundary of properties that front onto Silverdale Road is addressed previously.</p> <p>A Traffic Impact Study, prepared by Bitzios, dated 10 October 2014, concludes that the proposal will generate a total of 65 vehicle trips during the AM peak period and 71 vehicle trips during the PM peak period.</p> <p>The closest traffic count is located on Silverdale Road about 360- metres northeast of the subject land and records an AADT of 8707 vehicles. Considering the amount of traffic generated along this section of Silverdale Road, the anticipated noise levels generated by motor vehicles used primarily for domestic purposes is acceptable.</p>

### 1.7 The Public Interest

The proposed development has addressed the requirements of the relevant planning instruments and development controls including the objectives of the zone. The proposed development has demonstrated that the site is suitable for the proposal. The proposal promotes residential subdivision of land to accommodate the growth predicted in the NSW Government's A Plan for Growing Sydney, A Metropolis of Three Cities - the Greater Sydney Regional Plan and the Western City District Plan. Council can be satisfied that the proposal is in the interest of the public.

### Financial Implications

A draft VPA has been proposed and exhibited. The matter was reported to Council on 17 September 2018 and was recommended for adoption. The draft VPA proposes to do the following:

- Dedicate to Council the land that will contain the two on-site detention (OSD) basins that will be used to manage stormwater from the development

- Provide a monetary contribution of \$230,040 to Council, which will be used for the maintenance of the OSD basins
- Require the applicant to maintain the OSD basins for the first two years after they are dedicated to Council.

(1)

(2) The draft VPA will provide some positive financial benefits to Council for the maintenance of the stormwater basins on the site. It will not exclude the application of Section 7.11 contributions plan.

(3)

(4) The proposal will require the payment of a contribution for 83 additional lots in accordance with the Wollondilly Section 94 Contribution Plan 2011, the cost of which will be determined and payable at the time of the release of the Subdivision Certificate.






The current amount payable is:

(i) Open space, sport and recreation (Shire)	\$22,410.00
(ii) Open space, sport and recreation (Precinct)	\$1,033,184.00
(iii) Library and community facilities (Shire)	\$105,825.00
(iv) Library and community facilities (Precinct)	\$165,502.00
(v) Transport and traffic (Roads and Intersections)	\$251,241.00
(vi) Transport and traffic (Cycleways)	\$0
(vii) Bushfire protection	\$2,739.00
(x) Plan administration	\$79,182.00
<b>TOTAL</b>	<b>\$1,660,000.00</b>

\* The figures have been calculated on 83 additional lots and have been indexed using the Australian ABS CPI All Groups – Sydney Index numbers.

These figures are reviewed quarterly in accordance with the provisions of the Contributions Plan and an updated figure must be obtained from Council at the time of payment.

## ATTACHMENTS

1. Plan of subdivision 
2. Draft conditions of consent 
3. Assessment against SREP 20 
4. Assessment against WLEP 2011 
5. Assessment against WDCP 2016 

## RECOMMENDATION

That Development Application DD010.2014.00000675.001 for a 4-stage subdivision to create 87 residential lots, 1 super lot (proposed Lot 88) for future residential development, 1 super lot (proposed Lot 89) for future industrial development, drainage works on existing Lots 101 & 102, 1 road lot (existing Lot 104), bulk earthworks, removal of vegetation, construction of drainage basins and stormwater drainage works, road construction, street tree planting and landscaping at Lots 100, 101, 102 & 104 DP 1237882 at Marsh Road, Warradale Road and Government Road, Silverdale is approved subject to the following conditions.

### 1. COMPLIANCE

**These conditions are imposed to ensure that the development is carried out in accordance with statutory requirements, the conditions of consent and the approved plans to Council's satisfaction.**

- (1) Development Consent is granted for a 4-stage subdivision to create 87 residential lots, 1 super lot (proposed Lot 88) for future residential development, 1 super lot (proposed Lot 89) for future industrial development, drainage works on existing Lots 101 & 102, 1 road lot (existing Lot 104), bulk earthworks, removal of vegetation, construction of drainage basins and stormwater drainage works, road construction, street tree planting and landscaping in Lot 100, 101, 102 & 104 in DP 1237882 Marsh Road, Warradale Road and Government Road, Silverdale.
- (2) The attached General Terms of Approval issued by the following:
- Department of Primary Industries – Water (Schedule 1)
  - Rural Fire Service (Schedule 2).
- are included as conditions of this Consent.
- (3) Development shall take place in accordance with the following stamped approved plans except where varied by the following conditions.

Drawing Title	Author	Drawing No.	Dated
Proposed Subdivision Layout	Site Plus	13106.DA.P01 Sheet 01 of 03 Rev L	14/08/18
Proposed Release Plan	Site Plus	13106.DA.P02 Sheet 02 of 03 Rev L	14/08/18
Dwelling Footprint Plan	Site Plus	13106.DA.P02 Sheet 03 of 03 Rev L	14/08/18
Landscape Concept Plan	Site Plus	13106LC01 Rev E	06.08.18
Landscape Detail Plan	Site Plus	13106LC02 Rev E	06.08.18
Engineering Plans			
Title Page	Site Plus	13106.DA.C01 Sheet 01 of 19 Rev L	14/08/18
Civil Works and Drainage Plan	Site Plus	13106.DA.C02 Sheet 02 of 19 Rev L	14/08/18
Civil Works Plan North	Site Plus	13106.DA.C03 Sheet 03 of 19 Rev L	14/08/18
Civil Works Plan Middle	Site Plus	13106.DA.C04 Sheet 04 of 19 Rev L	14/08/18

Civil Works Plan South	Site Plus	13106.DA.C05 Sheet 05 of 19 Rev L	14/08/18
Bulk Earthworks Plan	Site Plus	13106.DA.C06 Sheet 06 of 19 Rev L	14/08/18
Typical Road Cross Sections 1	Site Plus	13106.DA.C07 Sheet 07 of 19 Rev L	14/08/18
Typical Road Cross Sections 2	Site Plus	13106.DA.C08 Sheet 08 of 19 Rev L	14/08/18
Typical Road Cross Section 3	Site Plus	13106.DA.C09 Sheet 09 of 19 Rev L	14/08/18
Road No. 1 & No. 2 Long Section	Site Plus	13106.DA.C10 Sheet 10 of 19 Rev L	14/08/18
Road No. 2, No.4 & No. 5 Long Section	Site Plus	13106.DA.C11 Sheet 11 of 19 Rev L	14/08/18
Road No.3 Long Section	Site Plus	13106.DA.C12 Sheet 12 of 19 Rev L	14/08/18
Pit and OSD Catchment Plan	Site Plus	13106.DA.C13 Sheet 13 of 19 Rev L	14/08/18
OSD & Bio-retention Basin Details	Site Plus	13106.DA.C14 Sheet 14 of 19 Rev L	14/08/18
North Soil & Water Management Plan	Site Plus	13106.DA.C15 Sheet 15 of 19 Rev L	14/08/18
Middle Soil & Water Management Plan	Site Plus	13106.DA.C16 Sheet 16 of 19 Rev L	14/08/18
South Soil & Water Management Plan	Site Plus	13106.DA.C17 Sheet 17 of 19	14/08/18

		Rev L	
Soil & Water Management Details	Site Plus	13106.DA.C18 Sheet 18 of 19 Rev L	14/08/18
Safe Intersection Sight Distance Check	Site Plus	13106.DA.C19 Sheet 19 of 19 Rev L	14/08/18

- (4) Works shall not commence on the site, including the placement of temporary buildings, site excavation, filling, removal of trees or other site preparation works (with the exception of site survey work), prior to the issue of a Construction Certificate by Council or a nominated Accredited Certifier.
- (5) Where any work associated with this consent has the potential to disturb neighbours through the generation of noise, dust, odour, vibration or through deliveries to the site the person with control over the works shall advise the occupants of all adjoining and potentially affected properties of the timing and duration of such works. The land owner has the ultimate responsibility for ensuring that anybody undertaking works under this development consent on their behalf is aware of this requirement and completes the task required by this condition.

## 2. ABORIGINAL CULTURAL HERITAGE

- (1) Should any Aboriginal relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the National Parks and Wildlife Service (NPWS) should be informed in accordance with Section 91 of the National Parks and Wildlife Act, 1974.

## 3. CONTAMINATION

- (1) Prior to the issue of a Subdivision Works Certificate, additional targeted investigations of know and potential areas of environmental concerns are to be carried out in accordance with the recommendations of the Detailed Site Investigation (ref Project 34161.06 Rev 0) prepared by Douglas Partners dated 11 November 2013 including:
  - (a) Subsequent to the removal of ACM at the ground surface by an appropriately licensed asbestos contractor, undertake further asbestos investigation focussing on the near surface soils at the former buildings and adjacent to TP35. The investigation should be completed with reference to DoH (2009) and NEPC (2013a; 2013b) to evaluate the extent of ACM contamination and remediation requirements.
  - (b) Delineation and waste classification testing of heavy metals (lead, nickel and zinc) soil in the vicinity of TP44 to evaluate off-site disposal options.
- (2) Based on the findings of the targeted investigations, prepare a remediation action plan (RAP) and the Plan should address, at a minimum, the following:
  - (a) Management of the soil in the vicinity of TP44 with elevated concentrations of heavy metals (lead, nickel and zinc)
  - (b) Remediation and/or management (e.g. on-site contaminant) of ACT-impacted soils in the vicinity of former buildings and adjacent to TP35; and
  - (c) Establish protocols for unexpected finds such as unexpected contamination (e.g. buried ACM) during bulk earthworks. Noting the site is densely vegetated and other AEC (e.g. opportunistic dumping of rubble with a component of ACM) may

be encountered following the removal of the vegetation.

#### 4. SALINITY MANAGEMENT

- (1) The development shall implement the management strategies including the additional strategies for completion of service installation and for house construction as outlined in section 8 Salinity Management Plan of Report on Salinity Investigation and Management Plan (Project 34161.05 October 2013 Rev 0) prepared by Douglas Partners dated 22 October 2013.

#### 5. INTEGRATED DEVELOPMENT

**These conditions have been imposed to ensure that the development is carried out in accordance with the requirements of other Approval Authorities.**

##### **Bushfire Safety Authority**

- (1) The development shall comply with all the following conditions outlined in the Bushfire Safety Authority (ref D15/0682 DA15031396131 EJ) dated 20 July 2015 issued by NSW Rural Fire Service under section 100B of the Rural Fires Act 1997.

##### Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following condition shall apply:

- (a) A restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed on proposed Lots 101-109 and 126-140 within the subdivision requiring the provision of asset protection zones (APZ) as demonstrated on the subdivision plans prepared by Site Plus (dated 4 June 2015 reference 13106.DA P01 Revision I). APZs shall be managed as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones.' The required APZs shall be of the following minimum widths:
  - 20 metres at proposed Lots 101 to 105
  - 25 metres at proposed Lot 106
  - 35 metres at proposed Lots 107 to 109
  - 50 metres at proposed Lots 126 to 129 and 138 to 140
  - 60 metres at proposed Lots 130 to 137
- (b) At the issue of subdivision certificate and in perpetuity, proposed open space Lots numbered 101 and 102 on the subdivision plans prepared by Site Plus (dated 4 June 2015, referenced 13106.DA.P01, Revision I) shall be managed as asset protection zones (APZs) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

##### Water and utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following condition shall apply:

- (c) Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

##### Access



The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, whilst residents are seeking to evacuate from an area. To achieve this, the following condition shall apply:

- (d) Public road access shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
- Road(s) shall be two-wheel drive, all weather roads
  - Urban perimeter roads are two-way, with a carriageway 8 metres minimum kerb to kerb
  - The perimeter road is linked to the internal road system at an interval of no greater than 500 metres
  - Traffic management devices are constructed to facilitate unobstructed access by emergency services vehicles
  - Public roads have a cross fall not exceeding 3 degrees
  - All roads should be through roads. Dead end roads are not recommended, but if unavoidable, dead end roads are not more than 200 metres in length incorporate a 12 meter outer radius turning circle, are clearly signposted as dead end and direct traffic away from the hazard
  - Non perimeter road widths comply with Table 4.1 in 'Planning for Bush Fire Protection 2006'
  - Curves of roads (other than perimeter roads) are a minimum inner radius of 6 metres
  - The minimum distance between inner and outer curves is 6 metres
  - Maximum grades for sealed roads do not exceed 15 degrees and an average grade of not more than 10 degrees or other gradient specified by road design standards, whichever is the lesser gradient
  - There is a minimum vertical clearance to a height of 4 metres above the road at all times
  - The capacity of road surfaces and bridges is sufficient to carry fully loaded fire-fighting vehicles (approximately 15 tonnes for areas with reticulated water, 28 tonnes or 9 tonnes per axle for all other areas). Bridges clearly indicate load rating.
  - Public roads greater than 6.5 metres wide locate hydrants outside of parking reserves to ensure accessibility to reticulated water supply for fire suppression
  - Public roads between 6.5 metres and 8 metres wide are 'No Parking' on one side with services (hydrant) located on this side to ensure accessibility to reticulated water for fire suppression
  - Public roads 5.5 metres to 6.5 metres wide (kerb to kerb) provide parking within parking bays located outside the kerb to kerb space and located services outside of the parking bays to ensure accessibility to reticulated water for fire suppression
  - Parking bays are a minimum of 2.6 metres wide from kerb to edge of road pavement. No services are located within the parking bays
  - Public roads directly interfacing the bush fire hazard vegetation provide roll top kerbing to the hazard side of the road.

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following condition shall apply

- (e) The access handles proposed to connect Lots 131 – 133 of the subdivision plans, prepared by Site Plus (dated 4 June 2015, referenced 13106.DA.P01, Revision I), to

the public road network shall be a minimum of 4 metres wide. This is in order that the proposed access handles will support future property access roads that can comply with the requirement so section 4.1.3(2) of 'Planning for Bush Fire Protection 2006'.

(5) General Advice

- (f) This approval is for the subdivision of the land only. Any further development application for class 1, 2 & 3 buildings as identified by the 'Building Code of Australia' must be subject to separate application under section 4.14 of the EP&A Act and address the requirements of 'Planning for Bush Fire Protection 2006'.
- (2) Certification is to be provided by an appropriately qualified person to the Principal Certifying Authority prior to the issue of the Subdivision Certificate that the conditions of the General Terms of Approval / Bushfire Safety Authority issues by the NSW Rural Fire Service have been complied with.

**Department of Primary Industries – Officer of Water**

- (3) The development shall comply with the General Terms of Approval (ref 10 ERM2014/0763) issued by the Department of Primary Industries – Water dated 17 December 2014.
- (4) Construction Certificates will not be issued over any part of the site requiring a Controlled Activity Approval until a copy of the approval has been provided to Wollondilly Shire Council.

**6. CONSTRUCTION GENERAL**

**These conditions have been imposed to ensure that all construction work is undertaken to an approved standard and related approvals**

- (1) Any damage to the Council footway, road or other land shall be restored in accordance with Council's specifications prior to the issue of any Subdivision Certificate for the development.
- (2) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. These facilities are to be provided prior to the commencement of any works.
- (3) An appropriate fence preventing public access to the site shall be erected for the duration of construction works.
- (4) Protection of Public Places
- (a) If the work involved in the erection or demolition of a building:
- (i) Is likely to cause pedestrian or vehicular traffic in a place to be obstructed or rendered inconvenient, or
- (ii) Building involves the enclosure of a public place;

A hoarding or fence must be erected between the work site and the public place.

- (b) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (c) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

- (5) There shall be no burning of builder's rubble, felled trees or other material on site.

- (6) Dust shall be controlled so that it will not leave the construction site.
- (7) A demolition/construction waste storage area (bins or bays) must be provided. This area shall separate demolition/construction waste into categories such as hard waste (e.g. bricks, concrete, tiles), soft waste (e.g. timber, gyprock, metal, glass) and light waste (e.g. paper, plastic, pods). The light waste storage area must be enclosed so as to prevent the material from escaping the enclosure.

## **7. CONSISTENCY OF THE DETERMINATION WITH THE BIOBANKING STATEMENT**

(6) To ensure the development consent is consistent with the Biobanking Statement:

- (1) The development must comply with all conditions specified in the Biobanking Statement (ID Number 23) dated 11 November 2016 issued for Lot 5 DP 261728 No.33-35 Warradale Road, Silverdale.
- (2) The development must comply with all the conditions relating to the retirement of all required biodiversity credits specified in the Biobanking Statement (ID Number 23) prior to the issuing of the construction certificate.

## **8. CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN**

(7)

- (1) Prior to the issue of a Construction Certificate, the applicant shall submit to Council, a Construction Environmental Management Plan incorporating the following components. These components must outline measures for the staged removal of vegetation from the development site to mitigate impacts on fauna.

### **a) Ecological Management Plan (EMP)**

The EMP shall include a range of actions to mitigate impacts from vegetation clearance on fauna particularly the following components which have not been adequately addressed by the Biobanking Statement:

- i. Pre-clearance targeted surveys to identify the presence of any koalas and/or Cumberland Plain Land Snails occur not more than 7 days prior to the commencement of any vegetation clearance activity. Any identified species must be relocated to the nearest suitable available similar vegetation community prior to any vegetation clearance.

- ii. Vegetation clearance must be restricted to that which is necessary for the establishment of the sub-division and satisfy credit retirement arrangement arrangements within the E2 lands on the site.

(8)

- iii. All sections of the development site cleared of vegetation must be stabilised within two days (s) of clearing using direct application of (preferably), locally endemic native grass species.

(9)

- iv. A Weed Eradication and Management Plan based on Council's standard condition be to the satisfaction of Council prior to the issuing of the construction certificate, including but not limited to the following.

(10)

- An inventory of all state level priority weed, regional priority weeds or other weed of regional concern in the Greater Sydney Regional Strategic Weed Management Plan, approved under the *Local Land Services Act 2013*.
- A site plan indicating the weed infestations with reference to the species and degree of infestation (i.e., low, medium, high);

- A treatment schedule in tabulated form, specifying for each species:
  - The method of treatment (mechanical, herbicide use or cultural such as pasture improvement or grazing).
  - The rates of application methods of all herbicide treatments.
  - The primary control treatment to achieve a minimum 70% kill and a secondary control treatment to achieve a minimum 90% kill
  - Details of any methods of disposal of weed material.

**b) Stormwater/Sediment Erosion Control Measures**

(11) The information to be consistent with the details prepared to address engineering drainage/stormwater as outlined in Conditions 16(1) to 13(14) of this consent.

(12)

**9. LANDSCAPING**

- (1) Provision of 1 street tree per allotment that is located approximately in the middle of the allotment to facilitate driveway access.

(13)

- (2) Landscaping and street tree planting are to be implemented in accordance with the Approved Landscape Plan, prior to the release of the subdivision certificate. The landscaping must be maintained in accordance with the details provided on that Plan at all times.

**10. WATER QUALITY MONITORING**

(14) To monitor the environmental performance of the stormwater treatment of the watercourse within the E2 to ensure consistency with the best practice of Water Sensitive Urban Design Principles

(15)

- (1) The applicant is to submit a water quality monitoring program prior to the issuing of any Sub-Division Certificate that contains the following components:
- (a) Quarterly testing upstream and downstream of the site.
  - (b) The testing shall include conductivity, pH total dissolved solids, Total Phosphorous and Total Nitrogen.
  - (c) Testing shall commence prior to vegetation clearance and the installation of stormwater treatment measures.

**Note : The collected data must be recorded and collated and be provided to Council upon request.**

**11. COMMONWEALTH APPROVAL**

- (1) The development must comply with all conditions contained in the approval (EPBC 2015/7578) issued by the Commonwealth Department of Environment and Energy (dated 25<sup>th</sup> August 2016).

(16)

**12. FILL**

- (1) Only fill characterised as VENM or ENM under the guidelines of the NSW Environmental Protection Authority may be used in this development. Copies of validation reports for all fill used shall be retained and presented to Council on request.

(17)

- (2) Any land to be dedicated to Council will only be dedicated when it has been remediated to a condition making them suitable for their intended use.

(18)

- (3) Prior to the issue of any Subdivision Certificate for each stage, Council shall be provided with a Category "A" Site Audit Statement under the Contaminated Land Management Act, 2008

which confirms that this area site is suitable for “Residential with accessible soil, including garden (minimal home grown produce contributing less than 10% fruit and vegetable intake), excluding poultry”.

### 13. ADVISORY CONDITION

- (1) A Plan of Management which complies with the Local Government Act 1993 will be required to be completed and funded by the proponent in the event of Council formally determining to acquire the land and classify this land as Community Land. The Plan of Management will be required to be adopted by Council within 6 months of Council resolving to formally acquire the land and classify it as Community Land.

### 14. ENGINEERING & CONSTRUCTION SPECIFICATIONS

**These conditions have been imposed to ensure that developments within the Shire are of a standard which is both safe and acceptable to Council and members of the public:**

- (1) All works are to be designed and carried out in accordance with Wollondilly Shire Council's adopted Design and Construction Specification. The requirements of the Design Specification shall take preference over any stamped or endorsed plans issued with this consent.
- (2) Prior to the commencement of any work, a **Subdivision Works Certificate** shall be issued by Council or accredited Certifier for the development. A Certificate issued by an accredited Certifier must be lodged with Council along with any approved plans and documents prior to commencing works.
- (3) Prior to issue of **Subdivision Works Certificate**, Engineering Design plans and stormwater drainage calculations, for all Subdivision Works including roads, driveways, pathways, cut and fill, stormwater quality treatment measures and stormwater drainage construction, shall be submitted to Council or accredited Certifier for approval. All levels are to be reduced to Australian Height Datum.
- (4) Prior to issue of **Subdivision Works Certificate**, Engineering Design Plans for all road works and other infrastructure to be vested in Council shall be submitted to Council, as the Roads Authority and future asset owner, for design review and comments. Review comments should be included in the final design plans for issue of Construction Certificate.

*Reason: The review process is to ensure the final detail design is in keeping with councils existing infrastructure network and will deliver sustainable and suitable public infrastructure without the need for redesign during construction works.*

- (5) Where Council's Construction Specification require that density tests, beam tests or CBR tests be undertaken, the results shall be forwarded to Principal Certifying Authority within 7 days. A NATA registered laboratory shall carry out the tests. When testing for density, the Standard Compaction testing method is to be used.

Failure to submit test results may result in Council refusing to issue completion certificates and hence may result in additional works being required.

- (6) A defects liability period of twelve (12) months will apply from the date of issue of the Certificate of Practical Completion by Council and for Public Roads the twelve (12) months is dated from the date of registration of the road as Public Road. A 10% maintenance bond is to be lodged in accordance with Council's Construction Specification for all work that is to become the property of Council.
- (7) A certified “Works as Executed” plan from a Chartered Professional Engineer or Registered Surveyor is to be submitted electronically in a XML format, including CCTV recording for all

road stormwater lines to Council or a nominated Accredited Certifier before the final inspection for the Certificate of Practical Completion. The "Works as Executed" details shall be shown on the approved plans and must certify that the works have been constructed in accordance with the approved drawings and to the levels specified.

- (8) All reasonable efforts shall be taken to protect the public footway and road pavement from damage during the course of construction. Restoration of any damaged road or footway shall be at the applicant's expense. Any costs incurred by Council as a result of repairing damages caused directly or indirectly by the development will be deducted from the security deposit.
- (9) Prior to issue of **Subdivision Works Certificate**, a "Soil and Water Management Plan" (SWMP) that outlines the measures that will be taken to limit and contain sediment laden runoff during construction shall be submitted to Council or accredited Certifier for approval with the Engineering Plans. The measures shall be in accordance with Council's Construction Specification and the Department of Housing's "Blue Book".
- (10) Prior to issue of **Subdivision Works Certificate**, a "Traffic Management Plan" that details proposed construction traffic movements and suitable safety measures that will be implemented whenever work is being undertaken in the public road reserve shall be submitted to Council or accredited Certifier. The plan shall be prepared in accordance with the Wollondilly Shire Council Design Specification and requirements of the "Traffic Control at Work Sites" manual (as published by the RMS). The plan is to be prepared and endorsed by a person with current NSW Roads and Maritime Services (RMS) certification.
- (11) Prior to issue of **Subdivision Certificate**, a Certificate of Practical Completion shall be issued by Council for all works associated with the development including Subdivision Works and works within a Public Road.

## 15. DRAINAGE/STORMWATER

**These conditions have been imposed to ensure drainage/stormwater is appropriately managed.**

- (1) Stormwater runoff from and through the property is to be appropriately managed so as to control nuisance, damage and hazard during storm events.
- (2) The stormwater discharge from the site shall have adequate control measures, as generally setout in the Stormwater Management Study prepared by Siteplus Reference 13106, issue 2 dated October 2014, installed that limit the post-development discharge rate, at each discharge point, to no more than the pre-development condition, for all storm events up to and including the 1% AEP storm event.
  - a) The control measures shall ensure that post development flow rates from the site to the natural watercourse mimic the pre development condition up to and including the 2 year ARI event.
  - b) All stormwater quantity control measures shall be located on land owned and operated by Wollondilly Shire Council.
  - c) All water quantity control infrastructure shall be maintained and monitored by the Developer, at no cost to Council, for a period of two (2) years after the issue of a Certificate of Practical Completion for the system, at which time the drainage infrastructure shall become the responsibility of Wollondilly Shire Council.
  - d) Prior to handover to Council, the system shall be fully cleaned and any repairs made to the satisfaction of Council.

- e) Prior to issue of **Subdivision Certificate** a 10% maintenance and cleaning bond for the two (2) year period, or a minimum \$3000, whichever is greater, shall be lodged in accordance with Council's Design Specification.
- (3) Road drainage shall be collected and conveyed to a point suitable for integration with the Natural or constructed stormwater drainage system. Appropriate drainage easements shall be created over infrastructure through private land.
- (4) The person or entity having the benefit of this consent shall, at no cost to Council, carry out any necessary amplification or upgrading of existing downstream drainage.
- (5) Where any drainage or drainage structure in which Council has an interest traverses private property, the person or entity having the benefit of this consent shall, at no cost to Council, create and vest in Council drainage easements over the structure. Council drainage easements are to be a minimum 3.0 metre wide but may need to be wider depending on the size of the infrastructure.
- (6) Stormwater runoff from all impervious surfaces on the property shall be collected and conveyed to a point suitable for integration with either the natural or constructed stormwater drainage system. A piped drainage system shall be provided to convey runoff from all road and future residential development surfaces during the critical storm event up to the 10% AEP. Defined overland flow paths shall be provided to safely convey runoff from storm events up to the 1% AEP.
- (7) An interallotment drainage system shall be provided for those lots not able to discharge stormwater by gravity flow to the road gutter or suitable Council drainage system. This system shall be gravity flow and located within a drainage easement not less than 1.5 metres wide which confers appropriate drainage rights. A pit shall be provided in each lot for the interallotment drainage system for future dwelling connection. Defined overland flow paths shall be provided to safely convey runoff from storm events up to the 1% AEP.
- (8) Prior to the issue of a **Construction Certificate**, computer modelling of all stormwater drainage shall be submitted with the Engineering Design plans for approval by the nominated Certifier.
  - (19)
    - (a) The extent and depth of any 1% AEP overland flow path(s) through the development shall be determined and shown on the Engineering design plans.
    - (b) Where new lots are affected by a 1% AEP flow, a Flood Planning Level (FPL) to A.H.D., and being a level 0.5m above the calculated overland flow path level, shall be determined for each lot. This minimum FPL does not apply to the provision of swales that are provided as part of the inter allotment drainage system.
    - (c) A Restriction on the Use of Land shall be registered on the Certificate of Title of each affected lot prohibiting the construction of any dwelling with a finished habitable floor level below the determined Flood Planning Level (FPL).
- (9) Stormwater discharge from the site shall have adequate stormwater quality treatment measures installed, generally in accordance with the Stormwater Management Study prepared by Siteplus, Reference 13106, issue 2 dated October 2014, for the control of litter, sediment pollution and dissolved pollutants in accordance with the treatment reduction targets outlined in the Wollondilly Shire Council Design Specification.
- (10) All stormwater quality treatment measures shall comply with the following criteria:
  - (20)
    - (a) All stormwater quality treatment measures shall be located on land owned and operated by Wollondilly Shire Council.
  - (21)
    - (b) The installation of stormwater quality treatment measures shall be adequately

protected from excessive sediment loading, until the site is suitably stabilised or for a minimum period of twelve (12) months.

- (c) All water quality infrastructure (GPTs, bio-retention basins etc.) shall be maintained and monitored by the Developer, at no cost to Council, for a period of two (2) years after the issue of a Certificate of Practical Completion for the system, at which time the drainage infrastructure shall become the responsibility of Wollondilly Shire Council.
  - (d) Prior to handover to Council, the system shall be fully cleaned and any repairs made to the satisfaction of Council.
  - (e) Prior to issue of **Subdivision Certificate** a 10% maintenance and cleaning bond for the two (2) year period, or a minimum \$3000, whichever is greater, shall be lodged in accordance with Council's Design Specification.
- (11) Details of the stormwater quality treatment system and computer modelling shall be submitted with the Engineering Design plans for approval by the nominated Certifier prior to issue of the **Construction Certificate**.
- (12) Prior to issue of **Construction Certificate**, the person or entity having the benefit of this consent shall undertake a Risk Assessment on the design and operation of any On-site Detention and Bio-Retention stormwater quality treatment measures to determine the appropriate level of public safety measures to be provided. Safety measures shall include, but not be limited to, the following:
- (22)
  - (a) Safety fencing along all sides of the basin to prevent unauthorised access to the basin;
  - (b) Side slope batters, rails or steps for easy egress;
  - (c) Water depth indicators, and
  - (d) Safety signage warning of floodway and other appropriate hazards to be installed and be visible from all adjacent properties, dwellings and public land.
- (23) All safety measures shall be shown on the Engineering Design plans for approval by the nominated Accredited Certifier prior to issue of **Construction Certificate**. Safety measures are to be satisfactorily installed or be in place prior to issue of **Practical Completion** by Council.
- (13) Prior to issue of **Construction Certificate**, the person or entity having the benefit of this consent shall prepare a Maintenance Management Plan, which will reflect the outcomes described in the exhibited Voluntary Planning Agreement, for the operation, maintenance and inspection of the proposed Detention Basin and Bio-Retention Basin infrastructure that will be vested in Council ownership.
- (14) Prior to issue of **Subdivision Certificate**, all easements external to the development site, covering infrastructure to be vested in Council, must be registered on the relevant Certificate of Title or alternatively included in the 88B instrument for registration with the subdivision.

## 16. ACCESS

These conditions have been imposed to:

- (a) Ensure that adequate provision is made for off street parking, appropriate to the volume and turnover of traffic generated by the development.
  - (b) Ensure that adequate manoeuvring space is provided for parking areas, loading bays and entry to facilities.
- (1) Provision of vehicular access to proposed Lots 30 and 31 through the construction of a coloured concrete shared driveway 4 metres wide along the handle access. Reciprocal



Rights of Carriageway shall be provided. Access details to be shown on the Engineering design plans for approval.

- (2) Provision of vehicular access to proposed Lot 32 through the construction of a coloured concrete shared driveway 3 metres wide along the handle access. Access details to be shown on the Engineering design plans for approval.
- (3) Submission of a Section 88B instrument in accordance with the Conveyancing Act shall be provided that creates a suitable "Restriction on the Use of Land" on Lots 30, 31 & 32 to prevent the erection of any dwelling on the lot unless appropriate vehicle manoeuvring areas are provided to allow forward movements of vehicles to and from the property.

## 17. PUBLIC ROADS

**These conditions have been imposed to ensure all public road works required by the development are provided to an adequate standard.**

- (1) The person having the benefit of this consent shall, at no cost to Council, construct and dedicate to Council a suitable road or roads to ensure all lots will have access to an appropriate public road.
- (2) Prior to the issue of **Subdivision Certificate**, a Plan of Survey shall be prepared, that is suitable for registration with the NSW Land Registry Services, for the land to be dedicated to Council as Public Road and shall bear the Council approved road name and statement of intent to dedicate the land as Public Road.
- (3) Road carriageway widths shall comply with Councils Design Specification and the Rural Fire Service 'Planning for bushfire protection' guide as follows:

Road No. 1	10.0 metre carriageway width between Warradale Road and Road No. 3
Road No. 1	8.0 metre carriageway width between Road No. 3 and Road No. 2
Road No. 2	8.0 metre carriageway width between Road No. 3 and Road No. 5.
Road No. 2	8.0 metre carriageway width between Road No. 5 and Road No. 3 (Government Road).
Road No. 3	8.0 metre carriageway width between Road No. 1 and Road No. 2
Road No. 3	8.0 metre carriageway width between Road No. 4 and Road No. 2 (at the intersection with Government Road)
Road No. 3 (Government Road)	10.0 metre carriageway width between Road No. 2 and Silverdale Road
Road No. 4	8.0 metre carriageway width for full length
Road No. 5	8.0 metre carriageway width for full length

The roads shall be constructed to Council's Design & Construction Specifications.

- (4) Kerb and Gutter in accordance with Council's Design & Construction Specifications shall be provided on all new roads throughout the subdivision.

- (5) The minimum inside radius of any road kerb, excluding intersection kerb returns, shall be 12.0 metre.
- a. The proposed kerb on Road No. 2, adjacent to the 1.0 metre verge along the rear of the adjacent lots fronting Silverdale Road, shall be designed such that the maximum level difference between the top of kerb and existing natural surface level at the boundary is no more than 0.3 metre.
  - b. The use of retaining walls and placement of landscaping trees shall be prohibited along this section of road verge.
  - c. No new fence shall be erected along the eastern side of Road No. 2, unless it is of open rural style.
- (6) A road pavement design including subsoil CBR test results, from an N.A.T.A. registered laboratory appointed by the applicant, in accordance with Council's Specification shall be submitted with the engineering design plans for approval prior to issue of the Construction Certificate.
- (7) An intersection upgrade shall be carried out at Silverdale Road and Government Road (Road No.3) in accordance with the Traffic Assessment prepared by Bitzios Consulting Project No P1781 Version 003 dated 10 October 2014.
- (8) The minimum asphaltic concrete depth for all new roads and Warradale Road shall be 40mm and 50mm for road works on Silverdale Road.
- (9) All services including water mains and power supply shall remain clear of all new footpaths unless required to cross from one side of the road to the other.
- (10) Provision of concrete pathway, in accordance with Council's Design and Construction Specification, in the following locations:
- (24)
- i. A 1.5 metre wide pathway in all new roads.
  - ii. A 1.5 metre wide pathway in Government Road, adjacent to new road works to Silverdale Road.
  - iii. A 1.5 metre wide pathway in Silverdale Road from Government Road to the Bus Stop opposite Waterhouse Drive.
  - iv. A 2.0 metre wide shared pathway in Warradale Road from Road No.1 intersection to the existing pathway network in Marsh Road.
- For all pathways the surface and grades shall comply with the relevant sections of AS1428 Access and Mobility and be constructed to residential driveway standard. New paths shall be constructed to Council's driveway standard.
- (11) Street lighting shall be provided using **LED LIGHTING** within the subdivision and at new intersections in accordance with the Australian Standard AS1158 – Lighting for roads and public spaces and shall be certified by an Endeavour Energy approved design consultant.
- (12) The applicant shall provide a test report on asphaltic concrete works in public roads including certification of material, thickness and compaction from a qualified pavement engineer in compliance with Roads and Maritime Services specifications.
- (13) A pavement wearing surface upgrade, with a 50mm asphalt resheet, shall be carried out at the new intersection works in Warradale Road and Silverdale Road. Upgrade shall extend for the full length of intersection road works or for a minimum 50 metres both sides of the intersection.

- (14) The person having the benefit of this Consent shall provide three street names, for each new road, to Council before the application for Subdivision Certificate.
- (15) In accordance with Section 138 of the Roads Act a 138 Consent Certificate must be obtained from Council's Infrastructure Planning Section a minimum 7 days prior to commencement of work. A fee is payable for issue of this Consent Certificate.

## **18. EROSION AND SEDIMENT CONTROL**

**These conditions have been imposed to minimise the impact of the Development on the environment and on adjoining properties.**

- (1) All disturbed areas are to be stabilised by turfing, mulching, paving or otherwise suitably stabilised within 30 days of completion.
- (2) Vehicle access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site has been affected by wet weather.
- (3) Erosion and sediment control devices are to be installed prior to any construction activity on the site. These devices are to be maintained for the full period of construction and beyond this period where necessary.
- (4) Topsoil stripped from the construction site is to be stockpiled and protected from erosion until re-used during landscaping.
- (5) The installation of the erosion and sediment control devices identified on the Soil and Water Management Plan shall be completed prior to any construction taking place on the site. These devices are to be maintained so as to prevent the discharge of silt into adjoining bays, rivers, creeks, streams, gutters or drains.

Stockpiles of construction and landscaping materials, and site debris are to be located clear of drainage lines and in such position that they are within the erosion containment boundary or are equivalently protected from erosion and do not encroach upon any footpath, natural strip or roadway.

## **19. EARTH FILL**

**These conditions have been imposed to ensure the safe disposal of fill:**

- (1) All filling on the site, including footpath areas, shall be compacted to not less than 95% Standard Compaction. A report on the site filling is to be submitted in accordance with Wollondilly Shire Council's Design & Construction Specifications by an appropriately qualified Geotechnical Engineer or Soil Scientist. Such a report shall be supported by a survey plan of the site indicating the areas filled and depth of fill in relation to the lot boundaries.
- (2) A Cut and Fill plan shall be included with the Engineering design plans showing the exact extent and depth of fill within the site.
- (3) There shall be no encroachment onto adjoining lands by fill placed near boundaries.
- (4) No landfilling or works shall be carried out within 40 metres of a watercourse, as defined by the Water Management Act, 2000 unless a controlled activity permit has been issued by the Department of Primary Industries – Office of Water.
- (5) Surface stormwater shall be controlled in such a manner that no significant alterations to

existing flows onto adjoining properties occur.

- (6) Only fill characterised as VENM or ENM under the guidelines of the NSW Environmental Protection Authority may be used in this development. Copies of validation reports for all fill used shall be retained and presented to Council on request.

## **20. INSPECTIONS**

**These conditions have been imposed to ensure that construction works are undertaken to an approved standard.**

- (1) The engineering works shall be inspected by Council at the following stages of construction to ensure they comply with Council's Construction Specification and associated approvals:
- Prior to commencement of any construction work on the site, after erosion and sediment control and traffic control measures are implemented.
  - When drainage lines have been laid, jointed and bedded, prior to backfilling.
  - Prior to pouring of the drainage pits, when the formwork and steel is in place.
  - Prior to pouring of the road drainage culverts, when the formwork and steel is in place.
  - When roadworks have been excavated to subgrade, prior to placing of pavement.
  - When subsoil drainage lines have been excavated and drainage pipe laid prior to placing filter material.
  - After shaping and prior to topsoil/turf placement of overland flow paths.
  - When part of the pavement depth (as indicated by Principal Certifying Authority) has been placed.
  - During the roller test, which is to be carried out using a three point roller or approved equivalent.
  - A completion of pavement shaping, prior to priming.
  - At sealing (minimum 24 hours required after priming).
  - At completion of the preparation of kerb and guttering subgrade.
  - At completion of the preparation of all concrete layback gutter crossing subgrade.
  - Prior to pouring concrete for concrete footpath/cycleway, when formwork and steel is in place.
  - Prior to pouring vehicle crossing slabs, when formwork and steel is in place.
  - Prior to pouring concrete to driveway/car park slabs, when formwork and steel is in place.
  - At practical completion of works.
  - At final completion of works (minimum of 12 months after date of issue of practical completion certificate).

Note: It is the responsibility of the applicant or contractor to notify the Principal Certifying Authority when inspections are required. Failure to notify may lead to additional work being required prior to issue of inspection certificates. A minimum of 24 hours' notice is required for inspections where Council is the Principal Certifying Authority.

## **21. STREET ADDRESSING**

**These conditions are imposed in order to ensure the development complies with the requirements of the New South Wales Address Policy as published by the Geographical Names Board of New South Wales**

- (1) Prior to the issue of a Construction Certificate for the subdivision an application for street addresses for all lots within the subdivision shall be submitted to Council in accordance with Section 5.2 of the NSW Address Policy.

## **22. SERVICES**

**These conditions have been imposed to ensure that an adequate level of services and infrastructure are provided for this development**

- (1) Electricity supply is to be made available to all proposed lots in accordance with the requirements of Endeavour Energy. In this regard, written confirmation from Endeavour Energy that suitable arrangements have been made shall be submitted to the Principal Certifying Authority prior to the release of the Subdivision Certificate.
- (2) Provision is to be made for the supply of telecommunication services to all proposed lots in accordance with the requirements of Telstra or NBN Co. In this regard, written confirmation from telecommunication service providers that arrangements have been made shall be submitted to the Principal Certifying Authority prior to the release of the Subdivision Certificate
- (3) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Co-ordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of any Subdivision Certificate for the development.

- (4) All power and services provided to the development within the site shall be underground.

**23. VOLUNTARY PLANNING AGREEMENT/DEVELOPER CONTRIBUTIONS**

**These conditions have been imposed to ensure the adequate provision of public facilities required as a result of the development.**

- (1) Prior to the release of the Subdivision Works Certificate, the applicant shall enter into a Planning Agreement with Council on the terms of the Planning Agreement offered to be entered by the applicant in connection with the development application for the drainage reserves.
- (2) The applicant shall observe and complete their obligations with regard to the Planning Agreement with Wollondilly Shire Council. Written confirmation shall be obtained from Wollondilly Shire Council for the satisfactory completion of the developer's obligation prior to the release of the subdivision certificate.

**24. SECTION 7.11 CONTRIBUTIONS**

**These conditions have been imposed to ensure the adequate provision of public facilities required as a result of the development**

- (1) Payment must be made of a contribution for 83 additional lots in accordance with the Wollondilly Development Contributions Plan 2011, the cost of which will be determined and payable prior to the release of the Subdivision Certificate.

The current amount payable is:

(i) Open space, sport and recreation (Shire)	\$22,410.00
(ii) Open space, sport and recreation (Precinct)	\$1,033,184.00
(iii) Library and community facilities (Shire)	\$105,825.00
(iv) Library and community facilities (Precinct)	\$165,502.00
(v) Transport and traffic (Roads and Intersections)	\$251,241.00

(vi) Transport and traffic (Cycleways)	\$0
(vii) Bushfire protection	\$2,739.00
(x) Plan administration	\$79,182.00
<b>TOTAL</b>	<b>\$1,660,000.00</b>

\* The figures have been calculated on 83 additional lots and have been indexed using the Australian ABS CPI All Groups – Sydney Index numbers.

These figures are reviewed quarterly in accordance with the provisions of the Contributions Plan and an updated figure must be obtained from Council at the time of payment.

## 25. SUBDIVISION PLANS

**These conditions have been imposed to ensure**

- (a) **To outline the minimum development standards and provide design guidelines for the subdivision of land in the Shire.**
  - (b) **To outline Council's requirements on work standards for the construction of land subdivision.**
- (1) A letter from a Registered Surveyor shall be submitted to Council certifying that no services of Public Utility or waste water disposal presently connected to existing buildings straddle proposed boundaries after subdivision.
  - (2) Submission to Council of the Linen Plan of Subdivision together with five (5) copies suitable for certification by the General Manager and lodgement at NSW Land Registry Services. A fee for the release of the Subdivision Certificate applies.
  - (3) The development shall be completed in accordance with the relevant plans and conditions of consent relevant to each stage of the development prior to the release of the Subdivision Certificate for that stage.

## 26. PRESCRIBED CONDITIONS

**These conditions are imposed as they are mandatory under the Act.**

- (1) Erection of signs
  - (a) For the purposes of section 4.17 (11) of the Act, the requirements of subclauses (b) and (c) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
  - (b) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
    - (i) showing the name, address and telephone number of the principal certifying authority for the work, and
    - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
    - (iii) stating that unauthorised entry to the work site is prohibited.
  - (c) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
  - (e) This clause does not apply in relation to building work, subdivision work or

demolition work that is carried out inside an existing building that does not affect the external walls of the building.

## 27. ADVICES

- (1) The following service providers should be contacted before commencement of construction to establish their requirements:  
(25)
  - Dial before you dig (various services) 1100
  - Telstra (telephone) 1 800 810 443
  - Endeavour Energy (electricity) 131 081
  - AGL (gas) 131 245
  - Sydney Water (water & sewer) 132 092.
- (2) Removal of additional vegetation including trees, shrub species and groundcovers requires dual approval of both Council and Local Land Services (formerly the Hawkesbury Nepean Catchment Management Authority).
- (3) Prior to the commencement of works you are required to obtain the approval of Sydney Water.
- (4) Prior to the issue of any construction certificate for this development, the following is to be paid to Wollondilly Shire Council, if not paid at Development Application stage:  
(26)
  - (i) Payment of Road Damage Inspection Fee
  - (ii) Payment of a Road Opening Fee (only applies to the first structure on the site)
  - (iii) Payment of Damage Bond for class 2, 3, 5, 6, 7, 8 & 9 construction work in all zones

The amount to be paid shall be in accordance with Wollondilly Shire Council's adopted fees and charges at the time of payment.

- (5) The applicant is advised that Council reserves the right to restrict the days and hours of operation if considered necessary to prevent the emission of "offensive noise" as defined in the Protection of the Environment Operations Act, 1997.

Offensive noise means noise:

- (a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
    - (i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted; or
    - (ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted; or
  - c) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.
- (6) The land is subject to the provisions of Wollondilly Tree Preservation Order, 2008. Under this order consent may be required for tree clearing beyond the limits set by this consent. If you intend to remove any vegetation you should make yourself familiar with the provisions of this order. The order may be viewed on Council's website at [www.wollondilly.nsw.gov.au](http://www.wollondilly.nsw.gov.au) or at Council's offices at 62-64 Menangle Street, Picton.
  - (7) The land is subject to the provisions of Clause 5.9 of Wollondilly Local Environmental Plan, 2011 and Part 10 of Volume 1 of Wollondilly Development Control Plan 2016 with regard to the preservation of trees and vegetation. Under these plans consent may be required for tree clearing beyond the limits set by this consent. If you intend to remove any vegetation you

should make yourself familiar with the provisions of both plans. The plans may be viewed on Council's website at [www.wollondilly.nsw.gov.au](http://www.wollondilly.nsw.gov.au) or at Council's offices at 62-64 Menangle St, Picton.

- (8) This Consent does not permit the commencement of construction unless a Construction Certificate has been issued. For details about obtaining a Construction Certificate contact Council's Building Services Section for building works or Council's Infrastructure Planning Section for subdivision works.
- (27)
- (9) At all times work is being undertaken within the public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site with a minimum of disruption.
- (10) During the course of construction, care must be taken to prevent damage to any public utility or other service and the applicant will be held responsible for any damage caused by him or his agents, either directly or indirectly. Any mains, services, poles, surface fittings etc., that require alterations shall be altered at the applicant's expense and to the satisfaction of Council and the authority concerned.
- (11) The developer and any contractor or sub-contractor used to carry out any work authorised by or out of this approval on Council owned or controlled land, is to carry the following insurance, copies of which are to be produced to Council upon request:
- Motor Vehicle Insurance (comprehensive or property damage) for all self-propelled plant, as well as valid registration or RMS permit (Including CTP insurance). Primary producer's registration is not registration for use on Public Road construction work.
  - Workers Compensation Insurance.
  - Twenty Million Dollar Public Liability Insurance.



## 7.5 CHANGES TO CODE OF CONDUCT FOR LOCAL PLANNING PANELS

**File Number:** 10621#22

### EXECUTIVE SUMMARY

- The purpose of this report is to acknowledge the changes made to the Code of Conduct for Local Planning Panels.
- It is the responsibility of Panel members to abide by the principles, obligations and requirements set out in the Code.

### REPORT

The Minister for Planning amended the Code of Conduct for Local Planning Panel members. The Code of Conduct has been reviewed to ensure that it is reflective of broader improvements made in the governance of decision-making within the planning system and addresses feedback from the operation of the panels. The amendments to the Code provide clarification to panel chairs and members of the importance of declaring and addressing conflicts of interest prior to sitting on a matter.

The main changes to the Code of Conduct for Local Planning Panel members are in Part 4:

New Section 4.4 says:

The following situations are considered to represent a conflict of interest for panel members (however this list is not exhaustive):

- a) Members who have current or previous involvement in a specific project, or site, that is subject of a DA or a planning proposal that is subsequently reviewed by a panel, for example as a consultant.
- b) Members, who are ex-councillors, where they have deliberated or voted on, or otherwise considered, a matter, and/or been present when such consideration is undertaken, in their previous role at Council and that matter, or a related matter, subsequently comes before the panel. Matters which are considered to be related to a panel matter include, but are not limited to:
  - A planning proposal for the site
  - a voluntary planning agreement for the development or planning proposal
  - a Masterplan for the development or planning proposal
  - a Plan of Management for the development
  - property matters related to the site, including leases, licences, purchase of land, disposal of land and management of lands
  - legal matters related to the site, development or proposal
  - consideration on whether to make a submission to the panel on a DA
- c) Members, who are ex-council staff, that have:
  - Presented, or been present at a council meeting, that considered an assessment report that is to come before the panel, or a related matter as per section 3.19(b)
  - Been directly or indirectly involved in the preparation of an assessment report that is to come before the panel.

New section 4.9 says:

All panel members must sign a declaration of interest in relation to each matter on the agenda before or at the beginning of each meeting. These declarations and any management measures put in place are to be published on the relevant council's website as soon as practicable.

## **ATTACHMENTS**

- 1. Sydney and Regional Planning Panels Code of Conduct August 2018** 
- 2. Code of Conduct for Local Planning Panel Members August 2018**