You are invited to attend the next Ordinary Meeting of Council:

Date:	**Monday, 19 November 2018**
Time:	**6.30pm**
Location:	**Council Chamber**
	62-64 Menangle Street
	Picton NSW 2571

AGENDA

Ordinary Council Meeting

19 November 2018

Luke Johnson
Chief Executive Officer

COMMUNITY STRATEGIC PLAN **SNAPSHOT**

CSP Theme	Strategies
Sustainable and Balanced **Growth**	Strategy GR1 – Growth
	Strategy GR2 – Built Environment
	Strategy GR3 – Economic Development and Tourism
	Strategy GR4 – Liveable Communities
	Strategy GR5 – Wilton New Town
	Strategy GR6 – Peri-urban Areas
	Strategy GR7 – Agriculture Strategy
	Strategy GR8 – Advocacy
Management and Provision of **Infrastructure**	Strategy IN1 – Improve the condition of our Road Network
	Strategy IN2 – Provision of Infrastructure and Facilities
	Strategy IN3 – Manage Infrastructure and Facilities
	Strategy IN4 – Emergency Management
Caring for the **Environment**	Strategy EN1 – Protect and Enhance Biodiversity, Waterways and Groundwaters
	Strategy EN2 – Protect the Environment from Development Pressures
	Strategy EN3 – Vegetation Management
	Strategy EN4 – Community Involvement
	Strategy EN5 – Environmental Awareness
	Strategy EN6 – Sustainable Practices
	Strategy EN7 – Agricultural Land and Capability
	Strategy EN8 – Auditing, Monitoring and Enforcement
	Strategy EN9 – Waste Management
	Strategy EN10 – Advocacy
Looking after the **Community**	Strategy CO1 – Strong Community
	Strategy CO2 – Health and Wellbeing
	Strategy CO3 – Social Planning
	Strategy CO4 – Engagement and Communication
	Strategy CO5 – Advocacy
Efficient and Effective **Council**	Strategy EC1 – Employee Relations
	Strategy EC2 – Risk Governance
	Strategy EC3 – Customer Service
	Strategy EC4 – Financial Sustainability
	Strategy EC5 – Resource Efficiency
	Strategy EC6 – Information Management
	Strategy EC7 – Participation Strategy
	Strategy EC8 – Accountability and Transparency
	Strategy EC9 – Advocacy

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1 OPENING

2 RECORDING OF THE MEETING

In accordance with Council's Code of Meeting Practice the electronic recording of the Council 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

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4 NATIONAL ANTHEM

5 ACKNOWLEDGEMENT OF COUNTRY

The Mayor will acknowledge the traditional Custodians of the Land.

6 APOLOGIES AND LEAVE OF ABSENCE REQUESTS

7 DECLARATION OF INTEREST

8 CONFIRMATION OF MINUTES

Ordinary Council Meeting - 15 October 2018

9 ITEMS TO BE TABLED

10 MAYORAL MINUTE

Nil

11 SUSTAINABLE AND BALANCED GROWTH

11.1 BIODIVERSITY CERTIFICATION APPLICATION FOR MACQUARIEDALE ROAD, APPIN

File Number: **10619#202**

CM No: **4985-1**

Lot & DP – Subject Site:	**Lot 1, DP 209779 (50 Macquariedale Road), Lot 201, DP 749272 (55 Macquariedale Road), and Lot 1, DP 558807 (41 Appin Road), Appin.**
Proposal:	***Biodiversity Certification Application under the Threatened Species Conservation Act 1995.***
Zoning:	**RU1**
Applicant:	**Walker Corporation**
Owner:	**Walker Corporation**
Notification:	**15 November, 2017 to 28 February, 2018**
Submissions:	**37**

LOCATION MAP N

EXECUTIVE SUMMARY

- The purpose of this report is to inform Council about the Application for Conferral of Biodiversity Certification (Application) for the Macquariedale Road, Appin Planning Proposal; being Lot 1, DP 209779 (50 Macquariedale Road), Lot 201, DP 749272 (55 Macquariedale Road), and Lot 1, DP 558807 (41 Appin Road), Appin.
- The Application was placed on public exhibition with the Macquariedale Road, Appin Planning Proposal and consultation was undertaken in accordance with Clause 126N of the now repealed Threatened Species Conservation Act 1995.
- The Application and a report on the public consultation will be submitted for approval to the Minister for the Environment.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extend to any persons with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.

It is recommended that:

- Council support the Application for conferral of Biodiversity Certification for the Macquariedale Road, Appin Planning Proposal site
- The Application and public consultation report be submitted to the Minister for the Environment for approval upon receipt of further information from the proponent in relation to potential and core koala habitat on the site to the satisfaction of Council and confirmation that the E2 Environmental Conservation zone boundary and area that is proposed to be cleared under the biodiversity certification provisions reflect the constraints of the site.
- That Council delegate authority to the Chief Executive Officer to sign the submission to the Minister for the Environment.

REPORT

Background

- The original rezoning application was submitted to Council in June 2007 however assessment was deferred pending the outcomes of Council's Growth Management Strategy (GMS), which was endorsed by Council in February 2011.
- The planning proposal was re-submitted in April 2011. The planning proposal sought to rezone land at Macquariedale Road, Sportsground Parade and Appin Road, Appin from the current RU2 Rural Landscape zone to R2 Low Density Residential, R3 Medium Density, E2 Environmental Conservation and SP2 Infrastructure (see **Figure 1** and **Figure 2**).
- At the Ordinary Meeting held 16 November 2015, Council resolved that the proponent for the be invited to withdraw the application.
- In response, the proponent has requested that a number of changes be made to the planning proposal and the draft planning agreement to address community concerns so that rezoning may proceed in an amended form.
- At the Ordinary Meeting held 18 April 2016, Council resolved that they would further consider the Macquariedale Road, Appin Planning Proposal in an amended form as outlined in the proponent's letter dated 29 February 2016.
- An alteration to the Gateway Determination was requested from the Department of Planning.
- RMS were consulted as to whether they would support the removal of provisions within the planning proposal that seek to preserve the Appin Bypass corridor in the Wollondilly LEP. RMS have agreed to this amendment.

- Council's Land & Property Panel were consulted on the proponent's proposal to transfer a small section of land to Council. The Land and Property Panel resolved to accept dedication of the land subject to the necessary approvals being obtained by the developer and the land being cleared prior to transfer.

- In late 2015 Council held a number of workshops in Appin to enable residents and other local stakeholders to have a broader discussion about growth in and around Appin. These workshops were facilitated by an independent consultant.
- The planning proposal, biodiversity certification application, voluntary planning agreement and draft development control plan controls were placed on public exhibition concurrently from 15 November, 2017 to 28 February, 2018.

Figure 1: Development areas and stages

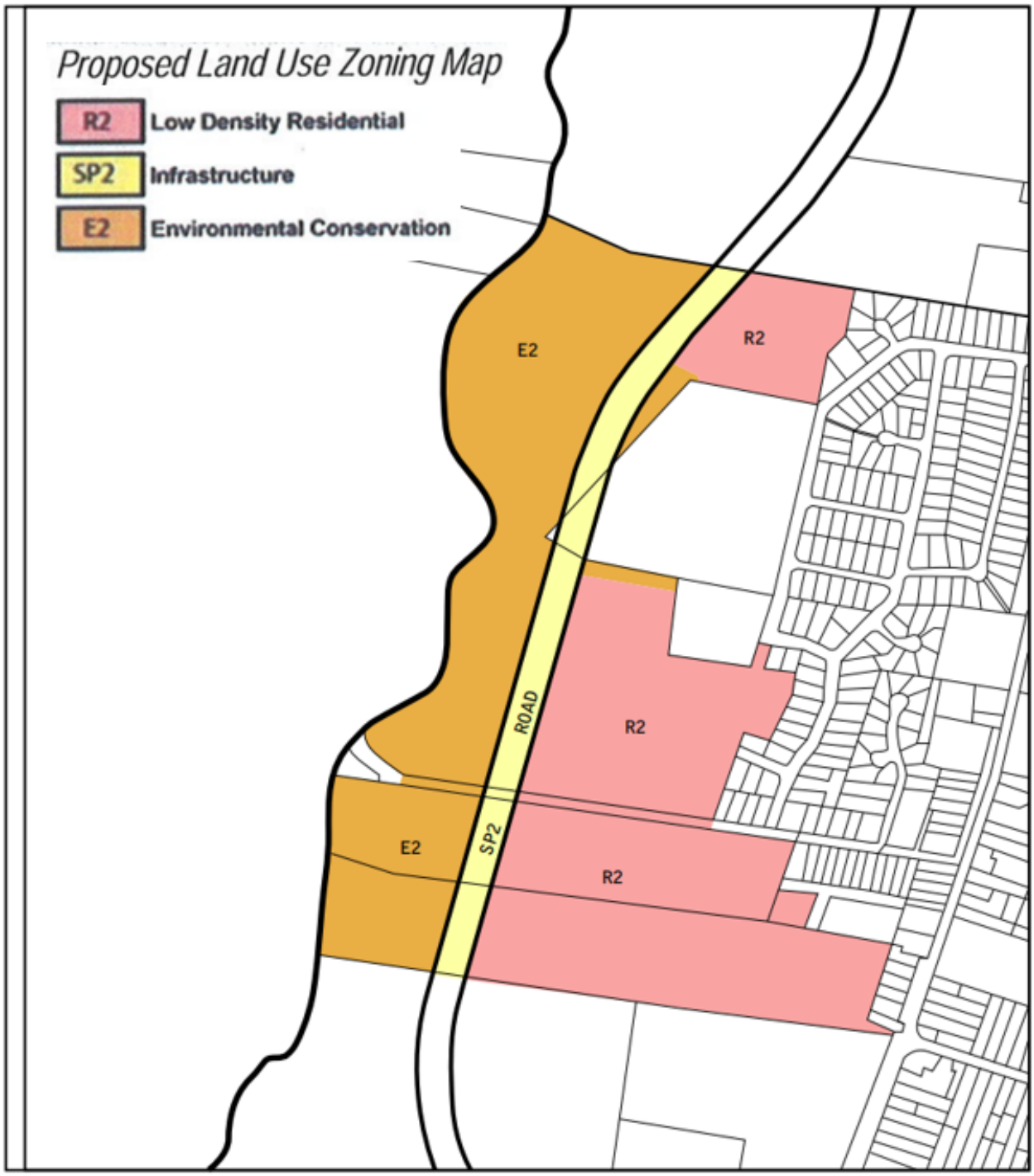


Figure 2: Proposed land use zoning map (as exhibited). Note: SP2 area was later amended to E2.

Only a "planning authority" as defined by Section 126G of the *Threatened Species Conservation Act, 1995,* (TSC Act) may apply to the Minister for biodiversity certification which includes local councils.

The Draft Application for Conferral of Biocertification was sent to the NSW Office of Environment and Heritage (OEH) on 16 March, 2017. Approval was granted by OEH to exhibit the Draft Application which included the Biodiversity Assessment Report and Biocertification Strategy was received on the 20 April, 2017. These documents were placed on public exhibition with the Macquariedale Road Planning Proposal from Wednesday 15 November 2017 to 28 February 2018.

DRAFT APPLICATION FOR CONFERRAL OF BIODIVERSITY CERTIFICATION

An application was made under section 126N of the Threatened Species Conservation Act 1995 to confer biodiversity certification on land at Macquariedale Road, Appin to protect areas of high conservation value and to offset areas suitable for development.

The Threatened Species Conservation Act 1995 (TSC Act) is now repealed. The Biodiversity Conservation Act 2016 No 63 commenced on the 25 August 2018. The savings provisions in Part 7 of the Biodiversity Conservation (Savings and Transitional) Regulation 2017, enable the draft application to continue to be assessed in accordance with the TSC Act, 1995.

The report placed on public exhibition included all three stages of the Biodiversity Certification process namely the:

- Biodiversity Assessment Report (BAR)
- Biodiversity Credit Assessment Report
- Biodiversity Certification Strategy.

The Draft Application proposes to protect and manage in perpetuity for conservation 60.47 ha of land of which 51.17ha is native vegetation communities comprising two vegetation types (Cumberland Plain Woodland and Shale Sandstone Transition Forest). Both vegetation types are listed as critically endangered ecological communities under the NSW *Threatened Species Conservation Act* 1995 and Commonwealth *Environment Protection and Biodiversity Conservation* Act 1999. The remaining 9.30 ha is cleared land previously used for rural activities.

The application proposes to develop 23.24 ha of the assessment area, primarily for residential housing, which includes 13.5 ha of the two EECs in moderate to good biometric condition and thus constitute a red flag or 'Areas of High Biodiversity Conservation Value'. When a Biodiversity Certification application is proposed to be conferred on land that is, or forms part of a red flag area, the Director General may, in certain circumstances, decide that the impacts of certification on the red flag area may be offset in accordance with the rules and requirements of in section 10 of the Biodiversity Certification Assessment Methodology.

In order for the Director General to be satisfied that the impacts on a red flag area are able to be offset, each of the criteria set out in sections 2.4.1 to 2.4.4 (where relevant) must be met.
Accordingly, the application for biodiversity certification must address the criteria set out in sections 2.4.1 to 2.4.4, including:

- section 2.4.2 where the red flag area contains a vegetation type which is greater than 70% cleared or is a critically endangered or endangered ecological community
- section 2.4.3 where the red flag area contains habitat for a threatened species that cannot withstand further loss in the CMA area
- section 2.4.4 where the red flag area includes land with regional or state biodiversity conservation significance.

Two vegetation types recorded on-site ('*Grey Box - Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin*', and, '*Narrow-leaved Ironbark - Broad-leaved Ironbark - Grey Gum open forest of the edges of the Cumberland Plain, Sydney Basin'*) meet the definition of critically endangered ecological communities listed under the schedules of the TSC Act and will be impacted by the proposed development. These trigger a red flag when assessing the biodiversity certification for this site (refer to the table below and **Figure 3**).

Impacted red flag vegetation

BioMetric Vegetation Type	EEC/CEEC Name	% Cleared in CMA (DECC 2008)	Area Impacted (ha)
Grey Box - Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin	Cumberland Plain Woodland CEEC	95%	3.40
Narrow-leaved Ironbark - Broad-leaved Ironbark - Grey Gum open forest of the edges of the Cumberland Plain, Sydney Basin	Shale/Sandstone Transition Forest EEC	80%	10.10
Total	N/A	N/A	13.50

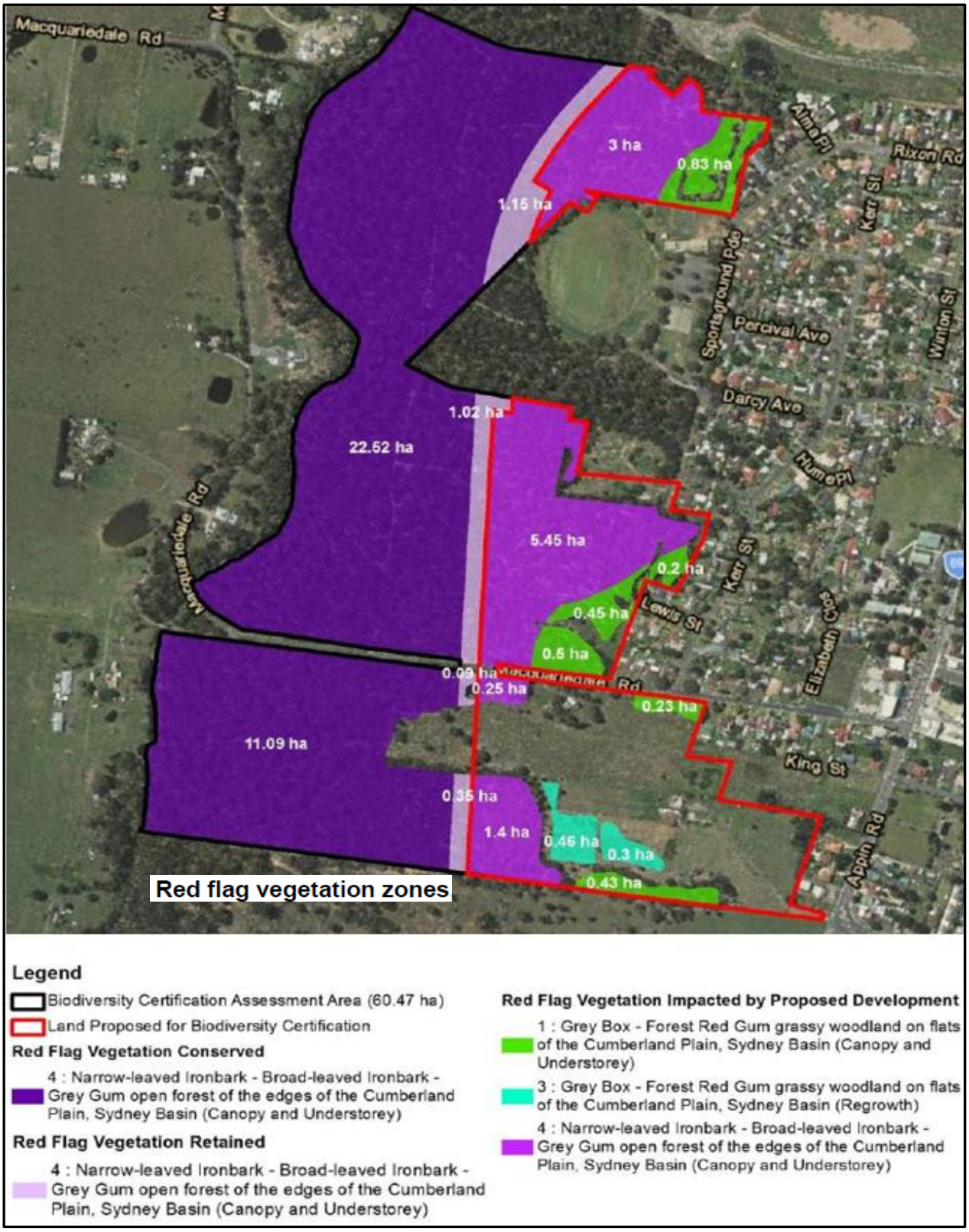


Figure 3: "Red flag" vegetation zones and areas for conservation

Threatened fauna species have been recorded in the study area, including the endangered Cumberland Land Snail. The Koala has also been recorded in the locality and is considered 'likely' to use the site.

The application proposes to permanently protect and manage for conservation 34.31 ha of land as an on-site Biobank site. The proposed BioBank site comprises 34.31 ha of Shale Sandstone Transition Forest as well as large areas of habitat and confirmed records of the Cumberland Land Snail and potential habitat for the Koala. In addition to the on-site conservation measure, it is

proposed that a separate site of at least 20 ha located at Elladale Road (located off-site) will also be established as a BioBank site.

Subject to the Minister's approval of the red flag variation request and registration of the two proposed Biobank sites, the proposal meets the 'improve or maintain' outcome and is eligible for biodiversity certification.

Avoiding and Minimising Impacts on Red Flags

The proposal has significantly reduced the proposed residential zone area to reduce the impact on the red flag areas (endangered Shale Sandstone Transition Forest community and the critically endangered Cumberland Plain Woodland community) and associated habitat. The residential zone area (see Figure 1) has been placed in a location that strategically extends the developed area of the Appin township and protects a core area of connected vegetation to the west.

Conservation Measures

Off-site conservation measures
Walker Corporation will register a second BioBank site of at least 20 hectares on land owned by Walker Corporation at Elladale Road, 1.45 km west of Maquariedale Road. The BioBank Agreement will be registered on title and will be enforceable against the owner of the land (i.e. Walker Corporation) or any future land owner.

The application for registration of the off-site BioBank Agreement will be submitted to OEH within 12 months of biodiversity certification being conferred and prior to any clearing.

On-site conservation measures
The entire on-site Biobank site is currently zoned RU2 Rural landscape under Wollondilly LEP 2011. The site is to be managed for ecosystem and species credits. Walker Corporation will be solely responsible for the preparation and submission of the application for registration of the two BioBank Agreements by an accredited assessor.

Conservation Outcomes

Importantly, advice was received from the proponent on 19 October, 2018 in response to the issues raised by RFS regarding possible clearing in the E2 zoned land for the purpose of Asset Protection Zones (APZ's) for future dwellings.

The RFS advised that no APZ's should be located on E2 zoned land. The advice from the proponent in response to this requirement states the following:

The Biocertification report accepted by NSW office Of Environment and Heritage allows for a 25 metre APZ within the E2 zone land to be cleared and retained by Walker and managed in the same manner as the APZ that adjoins Appin Valley.

The APZ could have been retained as rural zoned land but this would have resulted in a narrow isolated zone so as a result it was included as E2 zoned land. Because the APZ has been compensated it does not set a precedent.

Council Comment:

Although the biocertification would enable land within the E2 zone to be cleared, providing an APZ in this area would be contrary to the objectives of the E2 zone and Planning for Bushfire protection, 2006. It is also appropriate that APZ's are wholly contained within individual lots and it would not be appropriate for APZ's to be located on lots which the asset (i.e. a house) is not located as this would be inconsistent with the principles contained in Planning for Bushfire Protection 2006. This

would mean that the landowner of a future residential lot would not have proper control over an APZ which burdens their lot in the future. It is noted that the proponent has provided an example above of the Appin Valley site where an APZ applies along the western boundary, however, on this site the APZ's are contained wholly within the R2 zoned lands, and are also located wholly within individual lots. The same approach should be applied to the Macquariedale Road site and therefore, future DCP controls should continue to require all asset protection zones for future dwellings to be retained within R2 zoned lands. This may also reduce the amount of area that needs to be cleared under the biodiversity certification provisions across the site and enhance the improve or maintain outcomes.

Outstanding Matters

Advice was provided by Council's Environmental Services Team during the exhibition of the planning proposal and Biocertification application, their advice notes that the consideration of the impact of the proposal on koala habitat in the area is based largely on the ecological assessment prepared by Travers (2015) to support the Planning Proposal.

Council's Environmental Services Team have identified the following matters in the ecological assessment which require further consideration in relation to core koala habitat:

- The significant number of koala sightings in the vicinity of Appin that have occurred since 2014.
- The sighting of a pregnant female koala on the development site which occurred shortly before the public exhibition of the Planning Proposal this sighting qualifies the site as Core Koala Habitat under definitions within the current version of SEPP 44.
- The Koala Project involving mapping and collaring of koalas that Council commenced participation in 2016 in partnership with OEH and the Australian Conservation Volunteers Trust.

Advice was received from the proponent in February 2018 which advised that the 2015 report was in the process of being updated and would be provided to Council.

In October 2018 the following, further advice was forwarded to Council by the proponent:

an ecologist was sent to the site and no Koalas were observed during either the diurnal or nocturnal survey. This is typical of Koala populations where the density of Koalas is low or transient within the site or may not be resident all year round.

There was evidence of koala occupation (scratches and scats). This evidence was largely within areas being proposed to be rezoned as E2 Conservation.

As a result if these observations and the recent Bio Net records we would suggest that a local Koala Plan of management would be needed as part of any future subdivision DA. The KPoM would:

1. Provide more detailed survey to accurately determine the existence of the koala; and
2. Determine any major threatening processes and make recommendations regarding the need for actions to ameliorate koala impacts as part of the proposed development application.

Council is of the view that the response does not adequately address the issue surrounding koala habitat on the following grounds:

- *The area has been identified by OEH as a Secondary koala corridor.*

- *In December 2017 there was a confirmed sighting of a female koala with back young within 200m of Area 3, Figure 1. Is this koala still present on site? what is its range?*
- *The green and turquoise areas on Figure 3 are higher quality koala habitat due to the presence of the primary food trees of Grey Box and Forest Red Gum on higher fertility soils, the purple areas contain Grey Gum on lower fertility soils. It is well know that koalas have a preference for food tree on soils with a higher clay content. The soil fertility degrades heading west from the proposed development sites to the proposed biobanking site.*
- *From a fauna and particularly a koala perspective the Elladale road site does not appear to be connected to the biocertification area and therefore does not provide a functional connected habitat corridor.*

The information above addressing the koala habitat should be provided in particular to clarify the following matters:

1. *Confirm that the E2 Environmental Conservation Zone boundary is in the most suitable location;*
2. *Confirm that the land identified for conservation, and the land identified to be removed through the biodiversity certification process is accurate and accurately reflects the constraints and areas of core koala habitat across the site.*

Whilst the biocertification application is supported in principle, the matters above should be addressed prior to the application being forwarded to the Minister for conferral.

Consultation

The Application for Conferral of Biodiversity Certification (Draft Application) was placed on public exhibition and community consultation undertaken in accordance with Clause 126N of the now repealed Threatened Species Conservation Act 1995 as set out below:

> *126N Public notification requirements in relation to application*
> *(1) Land cannot be biodiversity certified unless the applicant has complied with the public notification requirements in relation to the application for biodiversity certification.*
> *(2) The public notification requirements in relation to an application for biodiversity certification are as follows:*
> *(a) an applicant must publish notice of the application for biodiversity certification in a newspaper circulating generally throughout the State and on the applicant's website,*
> *(b) the notice must invite the public to make submissions relating to the application before a closing date for submissions specified in the notice (being a date that is not less than 30 days after the date the notice is first published in a newspaper under this section),*
> *(c) until the closing date for submissions, an applicant is to cause copies of the application to be exhibited at its principal office in New South Wales and on its website,*
> *(d) an applicant must provide a report to the Minister that indicates the applicant's response to any submissions relating to the application that were received before the closing date.*
> *(3) A planning authority may vary its application for biodiversity certification (including its biodiversity certification strategy) as a consequence of any submission received following public notification of the application or for any other reason.*
> *(4) Further public notification of the application, as varied, is not required unless the Minister otherwise directs.*

The Application included a Biodiversity Assessment Report and Biocertification Strategy was placed on public exhibition from. 15 November, 2017 to 28 February, 2018 and the information relevant to the Biocertification Application was made available to view on Council's website and also in Council's Administration Building for the entire exhibition period. In accordance with Clause 126N of the TSC Act, a notice was placed in the Sydney Morning Herald on Tuesday 14 November 2017.

A total of thirty-seven (37) community submissions were received during the public exhibition of the proposal.

Concerns raised in the community consultation relevant to the proposed biocertification are detailed below:

Concerns	Comments
LOSS OF VEGETATION AND WILDLIFE	
- Concern that Shale Sandstone Transition Forest and Cumberland Plain Woodland trees will be removed for residential dwellings. There is concern that sites will be clear-felled and that this will have significant impact on the native wildlife and scenery, even with the offset vegetation proposed to be retained. - Concern that drainage to natural watercourses will be increased and that development of this area would break the wildlife corridors between the Georges and Nepean Rivers, and east to west of Appin. There was speculation that no subdivision should be allowed until a wildlife corridor (National Park) has been established between Campbelltown and Wilton. - Concern that the increase in cats, dogs and vehicles will threaten wildlife, particularly bird species. - There's concern that one approval will lead to a precedent being established and further clearing of forested areas for new residential developments in the area.	Walker Corporation have undertaken to engage consultants to perform a credit calculation, management matrix and bio-banking application for an offsite bio-banking site at Elladale Road, Appin. This plan, the "*Biodiversity Offset Strategy February 2014*", was referred to the Office of Environment and Heritage who provided comments back to Council on 9 April 2014. The Office of Environment and Heritage (OEH) notes that the application will be processed under the now repealed *Threatened Species Conservation Act 1995 (TSC Act)* as OEH authorised the exhibition of the biodiversity certification application before the commencement of the new *Biodiversity Conservation Act 2016* (BC Act). OEH has advised Council in their submitted comments that one of the outcomes of the BC Act is that payment to the Biodiversity Conservation Fund is also an acceptable conservation measure. OEH notes that the developer can only obtain the benefits of biodiversity certification under the *Biodiversity Certification Assessment Methodology* under the *TSC Act*. Future applications would be processed under the *Biodiversity Conservation Act 2016.* Wollondilly Shire Council has been liaising with OEH since November 2008 regarding the need to reduce impacts to priority conservation lands on the Cumberland Plain as identified in the Cumberland Plain Recovery Plan (2011) and to the Shale Sandstone Transition Forest. OEH has also requested that the location of the proposed Appin Bypass reservation be considered in the planning proposal with the land west of the bypass reservation be protected as an offset area. The current proposal is consistent with this advice as the bypass area will be contained

Concerns	Comments
	within the E2 Environmental Conservation zoned lands. The proposal has reduced the proposed residential zone area to reduce impacts on vegetation located within red flag areas under the scheme and associated habitat. The residential area has been located so that a core area of connected vegetation is protected to the west of the development**.** In the Draft Voluntary Planning Agreement, the proponent proposes to provide funds to establish a "green fund" grants program to support community led environmental projects such as animal crossings, revegetation projects, and community garden projects. The proponent is proposing to contribute $500,000 towards the green fund ($2,326 per lot). Following the presentation of this Submissions Report regarding bio-certification to Council, the final application will be submitted to the Minister for the Environment. OEH advises that they will prepare a Recommendation Report to accompany this application for the Minister for the Environment's consideration and decision on whether to grant certification.
IMPACTS ON KOALA POPULATION AND CORE KOALA HABITAT	
- Comments from the community that the area proposed to be cleared is "Core Koala Habitat" as koalas were documented in the area late 2017 and this habitat should be protected. - Concern that the area proposed for conservation (SSTF High Sandstone Influence) is of lower value to koala populations than the habitat which is nominated to be cleared (SSTF Low Sandstone Influence, and Core Koala Habitat).	The *Bio-Certification Assessment Report* submitted by Walker Corporation points out that the proposed biobanking site comprises 34.31 hectares of Shale Sandstone Transition Forest as well as large areas of habitat and confirmed records of the Cumberland Land Snail and potential Koala habitat. In addition to on-site conservation measures proposed, it is proposed that a separate site of at least 20 hectares at Elladale Road, Appin will be established as a biobanking site. This land contains 18 hectares of the Endangered Ecological Communities, habitat, and confirmed records of the Cumberland Land Snail and Koalas. Walker Corporation notes that whilst no Koalas were recorded on site during the assessment period, November 2012 to November 2014 (Travers bushfire and ecology 2014a), a review of all known Koala records and observations of Koalas by long term residents indicate that the area is likely to be used by Koalas. Similarly, an expert report has been prepared concluding that the Koala

Concerns	Comments
	is likely to use habitat in the proposed offset area that is immediately adjacent to the impact area. OEH has submitted comments indicating that they initiated the "Wollondilly Koala Conservation Project". This project involves collecting new information on koala distribution, abundance, movement, and habitat usage within the Wollondilly LGA. This information gathering commenced in March 2016 and investigations are ongoing. OEH recommends that the planning proposal and bio-certification application should be updated to reflect the most recent information available on koala populations and habitat. Council's response to this is that while these updates are accurate they do not add value to the proposal. The relevant land is already identified and proposed for conservation purposes. The site is triggered as an OEH "red flag area" and as such is identified as being in a high importance category for conservation. Updating the planning proposal and bio-certification application to add details which do not affect the conservation 'triggers' any further would only serve to delay the assessment process.
OEH "RED FLAG AREA"	
- Concerns that the area proposed to be cleared is a designated priority conservation area and that this area contains one of the few remaining populations of disease free koalas. One submission notes that the presence of a breeding female was recorded in the area in 2017.	The management and protection of koalas and their associated habitat is a key issue associated with the proposal given recent sightings of these species in this part of the Planning Proposal site. The report from Travers (2014) requires further consideration of the following to establish areas of core koala habitat across the site: • The significant number of koala sightings in the vicinity of Appin that have occurred since 2014. • The sighting of a pregnant female koala on the development site which occurred shortly before the public exhibition of the Planning Proposal this sighting qualifies the site as Core Koala Habitat under definitions within the current version of SEPP 44. • The Koala Project involving mapping and collaring of koalas that Council commenced participation in 2016 in partnership with OEH and the Australian Conservation Volunteers Trust.

Concerns	Comments
	The work above is required to inform the biocertification proposal, in particular in confirming the suitable areas for protection and offsetting. The work is required to ensure that the biocertification proposal demonstrates that the long term ecological viability of the retained land as well as the current habitat connectivity of the land in relation to the koala habitat.
- There is concern that the development will result in the loss of land which had been donated for use as two soccer fields as part of the Gordon Lewis Oval.	In the Wollondilly Council report 18 April 2016, it was recommended that Council's Land & Property Panel should be consulted on whether the Panel will support the proponent's offer to transfer a small section of land to Gordon Lewis Oval. As part of the Draft Voluntary Planning Agreement, the proponent proposes to retain upgrades to Gordon Lewis Oval although the level of contribution would now be reduced to reflect the lower lot yield. The matter has been considered by Council's Land and Property Panel and the panel resolved to accept the dedication of the land subject to the necessary approvals being obtained by the developer and land being cleared prior to transfer. This would require the land being cleared in accordance with an approved biocertification strategy prior to the land being transferred to Council. Please refer to separate report for the Draft Voluntary Planning Agreement for the proposal for further details.
CONSULTATION PROCESS	
- One submission questions fairness and integrity of the consultation process.	Following the presentation of this Submissions Report regarding bio-certification to Council, the final application will be submitted to the Minister for the Environment. OEH advises that they will prepare a Recommendation Report to accompany this application for the Minister for the Environment's consideration and decision on whether to grant certification.

Submissions from Government agencies relevant to the Biocertification Application are detailed below:

Roads and Maritime Services

A submission was received from Roads and Maritime Services regarding the proposed Appin Bypass on 19 July 2016.

RMS investigated a range of alignment options for the Appin Bypass road and a preferred alignment option was determined by the former Roads and Traffic Authority (RTA) in the mid 1990's. This was done in consultation with the Department of Planning and Campbelltown and Wollondilly Councils.

In response to Council's enquiry as to whether the SP2 Infrastructure zone may be removed in favour of E2 Environmental Conservation as part of the Macquariedale Road Planning Proposal, RMS responded that they had no objection. The E2 Environmental Conservation effectively protects the identified corridor from residential development and this land remains excluded for development purposes.

The amendment does not constrain the future provision of a bypass if it is deemed required in the location previously identified.

Financial Implications

This matter has no financial impact on Council's adopted budget or forward estimates. If a planning agreement is entered into with the landowner a financial assessment would be undertaken to ensure that there is no financial impact from any proposed provisions within the agreement.

ATTACHMENTS

1. Submissions table - Macquariedale Road

RECOMMENDATION

It is recommended:

1. That Council support the Application for Conferral of Biodiversity Certification for the Macquariedale Road Planning Proposal site being Lot 1, DP 209779 (50 Macquariedale Road), Lot 201, DP 749272 (55 Macquariedale Road), and Lot 1, DP 558807 (41 Appin Road), Appin.

2. That the Application for Conferral of Biocertification and a report on the public exhibition prepared in accordance with clause 126N of the now repealed Threatened Species Act 1995 and under the savings provisions of the Biodiversity Conservation Act 2016 be sent to the Minister for the Environment for approval upon receipt of further information from the proponent in relation to potential and core koala habitat on the site to the satisfaction of Council and confirmation that the E2 Environmental Conservation zone boundary and area that is proposed to be cleared under the biodiversity certification provisions reflect the constraints of the site.

3. That Council delegate authority to the Chief Executive Officer to sign the submission to the Minister for the Environment.

11.2 DRAFT PLANNING AGREEMENT - MACQUARIEDALE ROAD, APPIN

File Number: 10619#114

EXECUTIVE SUMMARY

- The purpose of this report is to advise Council of the outcome of public notification of a draft Voluntary Planning Agreement for the Macquariedale Road Appin Planning Proposal.
- Council resolved at this Ordinary Meeting held 20 March 2017 to place the Draft Planning Agreement of public notification with the related planning proposal to allow the rezoning and development of the site for approximately 215 lots.
- The Draft Voluntary Planning Agreement and Explanatory Note were publically notified in accordance with the *Environmental Planning & Assessment Act 1979* between 15 November 2017 and 28 February 2018. A number of submissions were received in regards to the planning proposal with 2 raising issues in relation to the draft Voluntary Planning Agreement (draft VPA).
- Minor modifications to the draft VPA have been incorporated to resolve concerns raised during the exhibition period and to adopt mandatory references from the amendment of the *Environmental Planning & Assessment Act 1979*.
- It is recommended that, subject to Council support for the Application for conferral of Biodiversity Certification that Council:
    - adopt the Voluntary Planning Agreement attached to this report;
    - authorise the Chief Executive Officer to execute the Voluntary Planning Agreement on behalf of Council;
    - accept the dedication of the land as provided for in the Voluntary Planning Agreement; and
    - agree for the proposed land dedication to be classified as Community Land under the Local Government Act, 1993.

REPORT

Background

Walker Corporation submitted a proposal to Council in 2011 to rezone the land known as the Macquariedale Road Planning Proposal, primarily for residential development and environmental conservation. At that time, the proposal was for approximately 245 residential lots.

An early draft VPA was exhibited with the planning proposal in 2014. In order to address concerns of Council and the community a revised planning proposal and draft VPA was resubmitted to Council in 2016.

The Draft VPA was publically exhibited from 15 November 2017 to 28 February 2018 with the revised planning proposal. This was to align the exhibition of the planning proposal and all other documents to ensure the community had an opportunity to consider the proposal in its entirety.

Assessment of Draft Voluntary Planning Agreement

The draft VPA has been prepared to accompany a planning proposal for Macquariedale Road, Appin, for 215 final residential lots. The VPA represents a material public benefit in the order of $9.55 million of works and monetary contributions and the dedication of at least 1,930 square metres for open space.

A minor amendment to the draft VPA was made to the "Appin Road Intersections" works items to address concerns arising from the exhibition process. The table below summarises the benefits to be provided under the notified draft VPA and compares it against the minor post-notification amendment.

Category	Amount under notified Draft VPA 2018	Amount under Post-notification Draft VPA	Comments
Cycleways (3 separate stages, providing two connections to existing cycle ways	$700,000	$700,000	No changes to proposed cycle ways.
Undergrounding of power lines in Appin Rd and Macquariedale Rd	$1,400,000	$1,400,000	The revised VPA includes this item separately. Under the exhibited VPA, it was included within the Appin Road Improvements.
Macquariedale Rd upgrades (cycle ways, street trees, pavement improvements)	$250,000	$250,000	Actual works to be decided by Council in consultation with the community.
Appin Road – improvements such as trees, furniture, parking, landscaping, pedestrian refuge etc.	$500,000	$500,000	Works to be decided by Council in consultation with the community.
Gordon Lewis Oval and Engineers Ground – various works to be selected from netball court upgrades, fitness circuit, pathways, drainage and irrigation	$1,200,000	$1,200,000	Works to be decided by Council in consultation with the community.
Intersection upgrades on Appin Road – may include traffic signals or roundabouts at various locations	$2,500,000	Works included but not value given, but will be at least a minimum of $2,500,000	Intersection upgrade works will be required to manage the impacts of the development and would still benefit the existing community. This item was clarified subsequent to public exhibition in 2017-2018 and is dependent on completion of a works authorisation deed between the developer and Roads & Maritime Services (RMS).

Community chest – to fund local community projects	$2,500,000	$2,500,000	Funds a Grants Program for Community projects to be run by Council.
Green Fund – to fund environmental projects	$500,000	$500,090	Supports community led environmental projects in Appin.
Expansion of Gordon Lewis Oval – achieved through dedication of 1,930 sq metres to Council following clearing of vegetation (subject to approval of Bio certification)	Included but not valued	Included but not valued	Bio certification is required is required before this land can be dedicated to Council.
Total	$9,550,000	A minimum of $9,550,000	

Local infrastructure identified in the table above will either be delivered as works by the developer, with the timing of delivery specified in the Agreement or as a monetary contribution to Council, for its delivery. There is some flexibility as to the specific details of these works to be delivered, allowing Council and the community to consider these priorities. Monetary contributions will be made for the following items:

- An amount of $2.5 million to fund a 'Community Chest' program which can be used to support local community groups. This will help provide the incoming population with sufficient community services required as a result of this and other developments in the area.
- An allocation of $500,090 to support an "Environmental Fund" which can be used to fund local environmental projects that may help mitigate the impacts of this (and other) development of the natural environment. Examples of the types of projects which could be funded included wildlife crossings, bush regeneration and similar projects.

Land dedication will be made as following:

- The dedication to Council of 1,930 square metres of land to be incorporated into the Gordon Lewis Oval for open space. Dedication is subject to the land being cleared subject to approval under the biodiversity certification process.

Traffic management works will include the following:

- An allocation of $500,000 for amenity improvements on Appin Road which may include street trees, furniture, parking, landscaping and pedestrian refuges. These works to be decided by Council in consultation with the community.
- Intersection improvements on Appin Road intersection upgrades, including the construction of traffic lights and/or a roundabout along Appin Road will be fully funded. This will require a Works Authorisation Deed to be entered into between the developer and RMS. Although a monetary value on works is no longer included, it is expected that construction would cost a least $2.5 million or more. Concept plans in the VPA represent an optimal design solution at the time of the planning agreements. Refinement during the development assessment process is anticipated by the VPA, with final designs being dependent on consultation with and the consent of Council, RMS, and any affect land owners.

With contributions of over $9.55 million (or $44,418 per lot) the draft VPA represents a generous offer and will deliver significant benefits to the existing and future Appin community. The value of the contribution secured is more than 2.2 times what would be received under the Section 7.11 development contributions totalling approximately $4.3 million.

Consistency with Planning Agreements Policy

The Environmental Planning & Assessment Act 1979 (the Act) requires that Voluntary Planning Agreements must include suitable means for enforcement in the event of a breach of the Agreement. In accordance with Council's Policy, the draft VPA contains a suite of security that ensures timely development contributions whilst protecting Council interests. This includes:

- The draft VPA being registered on title, binding current and future owners of the development land;
- Withholding of Subdivision Certificate prior to monetary contributions being made;
- Financial security in favour of Council to ensure works are completed in accordance with the draft VPA;
- Council having the ability to acquire land to be dedicated under the terms of the draft VPA for $1 if the land is not dedicated; and
- Council having the ability to take action under the Act to remedy any breach of the agreement.

This package of security gives Council certainty that the agreed undertakings will be completed and reflect the scope of the land and works contributions being offered and the length of time the agreement will operate.

The draft VPA provides legal mechanism to receive a monetary contribution and dedication of land outside Council's adopted Development Contributions Plan. Without the VPA, there are no alternative means for Council to receive land being dedicated. The benefits offered by this Agreement have been calculated in accordance with Council's Planning Agreement Policy, and it is considered that they represent significant value to the public. It is considered that the draft VPA is consistent with Council's Planning Agreements Policy.

Consistency with Dedication of Lands Policy

The draft VPA proposes to dedicate 1,930 square metres to extend Gordon for open space purposes. The draft VPA has been reviewed against the relevant clauses of the Dedication of Land Policy, including the criteria for ensuring that only appropriate lands are dedicated to Council. The review did not identify any matters that would prevent land dedication from occurring, although any development consent that is issued should ensure that some of the matters included in this clause are addressed. This includes matters such as confirming that the site is free from contamination, landscaping, access arrangements and the like. These are matters that Council staff typically consider through the use of appropriate conditions of consent.

Consultation

Notification of the draft VPA and associated planning proposal occurred from 15 November 2017 to 28 February 2018 resulting in 37 submission being received. These submissions are discussed in more detail in the report to Council addressing the planning proposal. Two submissions received made comment of the draft VPA, one private submission and one agency submission from RMS.

The private submission made specific reference to concerns that development contributions in the draft VPA not being delivered.

Council comment: VPAs are legally binding documents and are enforced by Council. Works under the draft VPA are linked to staging of the proposed subdivision and are required to be undertaken in accordance with the terms in the Agreement.

The comments raised by RMS are discussed in detail in this report. The minor amend made to the draft VPA clarifies the extent of intersection upgrades required to Appin Road and clarifies the role played by RMS with any Works Authorisation Deed in relation to detailed design and construction. It is considered that the minor amendment will provide a better outcome for traffic safety in Appin.

Financial Implications

There will be positive financial impacts to Council and to the Appin community if the benefits under the Planning Agreement are realised. The draft VPA will provide over $9.55 million worth of public benefit, which is $5.25 million more than if the developer elected to pay their Section 7.11 contributions. A VPA offer in the order of 2.2 times the Section 7.11 contributions represents a generous offer and will deliver significant benefits to the Appin community.

ATTACHMENTS

1. Draft Voluntary Planning Agreement

RECOMMENDATION

- It is recommended that subject to Council support for the Application for conferral of Biodiversity Certification, that Council:
  - adopt the Voluntary Planning Agreement attached to this report;
  - authorise the Chief Executive Officer to execute the Voluntary Planning Agreement on behalf of Council;
  - accept the dedication of the land as provided for in the Voluntary Planning Agreement; and
  - agree for the proposed land dedication to be classified as Community Land under the Local Government Act, 1993.

11.3 PLANNING PROPOSAL - MACQUARIEDALE ROAD, APPIN (POST EXHIBITION REPORT)

File Number: 10619#166

EXECUTIVE SUMMARY

- The purpose of this report is to detail the outcome of the public exhibition of a planning proposal and draft amendment to Wollondilly Development Control Plan 2016 that propose to rezone lands at Macquariedale Road, Appin.
- This planning proposal has been prepared by Wollondilly Shire Council. It seeks to amend the provisions of W*ollondilly Local Environmental Plan 2011* as they apply to 32 allotments and rezone the land to allow low and medium density housing and to ensure the environmental management of ecologically important land for low density and large lot residential development, as well as environmental conservation purposes.
- The Planning Proposal was exhibited with draft amendments to the Wollondilly Development Control Plan 2016, a Voluntary Planning Agreement and an application for Bio Certification..
- The draft amendments to the Wollondilly Development Control Plan 2016 will be reported to Council separately in the future. The proposed Voluntary Planning Agreement and Bio certification of land components of the planning proposal are addressed in separate reports included in this Agenda. The outcome of this planning proposal relies on the Bio Certification Application being endorsed by Council and on the grounds the red flag variation request is granted by the Director General (or Equivalent) of OEH.
- During the community consultation 37 submissions were received. Of these submissions, 35 objected to the planning proposal with 1 submission neutral and 1 submission in support.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extend to any person with a financial interest in the application or any associate of the person making a public submission. No disclosures of political donations have been made in respect to this proposal.
- It is recommended that Council support the Macquariedale Road Planning Proposal to amend the provisions of Wollondilly Local Environmental Plan, 2011 as follows:

  (a) Amend land use zoning map from RU2 Rural Landscape to E2 Environmental Conservation, to R2 Low Density Residential, to RE1 Public Recreation;

  (b) Amend land use zoning map from B2 Local Centre to R3 Medium Density Residential to lands that directly adjoin R3 lands;

  (c) Amend the height of building map to lands proposed to be zoned R2 Low Density Residential and R3 Medium Density Residential to 9m;

  (d) Amend the minimum lot size map to 450m^2 for the proposed R2 Low Density Residential zone;

  (e) Amend the minimum lot size map to 450m2 and 230m2 for the proposed R3 Medium Density Residential zone;

  (f) Amend the minimum lot size map to 5Ha and 20Ha for the proposed E2 Environmental Conservation zone;

(g) Amend the Natural Resources Biodiversity Map to include lands zoned for E2 Environmental Conservation and identified as sensitive lands;

Subject to the following:

(i.) Council endorses the Biodiversity Certification to the subject site;
(ii.) Council endorses the Planning Agreement to the subject site; and
(iii.) further information from the proponent in relation to potential and core koala habitat on the site to the satisfaction of Council and confirmation that the E2 Environmental Conservation zone boundary and area that is proposed to be cleared under the biodiversity certification provisions reflect the constraints of the site.

(h) That in accordance with Section 3.36 (Former Section 59) to the Environmental Planning and Assessment Act, 1979 the Planning Proposal be forwarded to the Greater Sydney Commission with a request to make arrangements for the drafting of the amended Local Environmental Plan and that the Minister make the Plan in the form as detailed in this report and in the planning proposal**.**

(i) The amendments to the Wollondilly Development Control Plan 2011 are to be finalised to reflect recommendations made throughout this report. The amendments to the WDCP 2016 are to be re-exhibited before submitting to Council for support and presented to Council separately.

(j) That the applicant and persons who made submissions regarding the planning proposal be notified of Council's decision.

REPORT

Site Description

The subject site is known as lands at Macquariedale Road, Appin and comprises of a total 32 allotments. A description of each lot and its associated DP is contained in Table 1 below. The site is an irregular shaped area stretching across approximately 62.8 hectares of mostly rural land at Macquariedale Road and Appin Road, Appin.

Table 1 – Lots contained in Planning Proposal

Lot	DP	Street address
1	1218358	55 Macquariedale Road
2035	1198686	112 Heritage Drive
1	245866	40 Sportsground Parade
3	1218358	65 Appin Road
2	529457	61 Appin Road
11	270989	1 Thomas Street
18	270989	2 Thomas Street
10	270989	3 Thomas Street
19	270989	4 Thomas Street
9	270989	5 Thomas Street
20	270989	6 Thomas Street
8	270989	7 Thomas Street
21	270989	8 Thomas Street
2	270989	8 Sykes Avenue
3	270989	10 Sykes Avenue
4	270989	12 Sykes Avenue
5	270989	14 Sykes Avenue

Table 1 – Lots contained in Planning Proposal		
6	270989	16 Sykes Avenue
7	270989	18 Sykes Avenue
22	270989	28 Sykes Avenue
23	270989	30 Sykes Avenue
24	270989	32 Sykes Avenue
17	270989	11 Koolahs Street
16	270989	13 Koolahs Street
15	270989	15 Koolahs Street
14	270989	17 Koolahs Street
13	270989	19 Koolahs Street
12	270989	21 Koolahs Street
27	270989	29 Koolahs Street
26	270989	31 Koolahs Street
25	270989	33 Koolahs Street
1	270989	Koolahs Street

The site is situated to the western slope of the Appin ridge and sits to the west of Picton township. The site is bounded on the western side by Ousedale Creek and contains three minor tributaries which drain in a westerly direction across the site.

The northern portion of the site is accessed from Appin Road via Rixon Road and Sportsground Parade and the southern part of the site is accessed from Appin Road and Macquariedale Road.

A significant portion of the site (51.17 hectares) from north to south along Ousedale Creek is densely vegetated. The remainder of the site has been cleared from previous rural activities. This area is currently used for rural residential and agricultural (grazing) land uses.

The majority of the site is owned by Walker Corporation Pty. Ltd (the proponent) with two small areas of lands within the planning proposal which are owned by Wollondilly Shire Council. No land clearing or physical works are proposed to Council lands within the planning proposal. The site currently includes four land use zones: RU2 Rural Landscape; RE1 Public Recreation; R3 Medium Density Residential; and B2 Local Centre, under the provisions of the *Wollondilly Local Environmental Plan 2011* (WLEP).

The site contains one European heritage item known as the “Appin Inn” which is located on the south eastern portion of the site at 61 Appin Road, Appin. Restoration of the building has occurred in recent time. This planning proposal seeks to protect this item by maintaining a 975sqm minimum lot size for this site.

The site also contains an Archaeological site of local significance in the WLEP 2011 known as “Darcy’s House” and is located adjacent to the Appin Inn at 53 Appin Road. The site of Darcy’s House is significant as the location of one of the earliest Appin houses on an original land grant. The house was demolished in 1972 with the site listed as an archaeological site.

Further historical investigation and archaeological assessment is may be required to support development of the site. Council’s Heritage Advisor has supported the position that further investigation is not necessary as part of the Planning Proposal and if required is able to be carried out as part of a future development application on the site.

Background

The timeline below provides an overview of the progress of the planning proposal to date:

Time Period	History/ Events
June 2007	The proponent submitted a rezoning application to Council for the Macquariedale Road site in Appin. The rezoning application was initially placed on hold until the Macarthur South position paper released by the Department of Planning.
November 2008	Preliminary consultation held for original rezoning application. Ten written submissions, together with two petitions one containing 62 signatures and one containing 12 signatures were received. One submission supported the proposal, five were neutral and four submissions and the two petitions objected to the proposal. Key themes raised in submissions centred on roads and traffic, loss of/impact on biodiversity, lack of essential infrastructure to support future growth, and impact to village character.
February 2009	In response to Council commencing preparation of a Growth Management Strategy, Council resolves to defer the rezoning application until the findings and outcomes of the Growth Management Strategy have been finalised (item PE6 – Outstanding Rezoning Applications).
July 2009	There are legislative changes to the strategic plan making process. The 'Gateway Process' is established and proposals to change land zones are now called 'planning proposals'.
February 2011	Wollondilly Growth Management Strategy (GMS) 2011 adopted by Council. Rezoning applications on hold are now able to be considered
April 2011	Following Council's adoption of the GMS, Council resolves that the proponent, along with other applicants, be given the option to resubmit their rezoning applications under the new planning system or withdraw their applications and receive a refund of the initial fee paid (item PE5 Update on Rezoning Applications/planning proposals).
April 2011	The proponent submits a planning proposal to rezone land at Macquariedale Road, Appin.
May/June 2011	Preliminary consultation held for newly submitted planning proposal given period of time passed since the original community consultation for the rezoning application. Eight submissions received, three of which object, one in support and four neutral. Key themes raised in submissions were around roads and traffic, loss of village character, the capacity of the water and wastewater infrastructure to service growth, general lack of infrastructure and planning.
August 2011	Council resolves to support the planning proposal and forward it to the Minister for Planning for a Gateway determination (item PE2 Draft Planning Proposal – Macquariedale Road, Appin).
October 2011	The Minister for Planning and Infrastructure issues a Gateway determination for the Macquariedale Road Planning Proposal and determines that the planning process should proceed for this proposal. The anticipated lot yield at this time was 337 residential lots
July 2012	In response to significant concerns held by the NSW Government Office of Environment and Heritage, rather than significantly reduce the area to be rezoned for residential development Council resolves that the matter be deferred to enable the proponent to meet with OEH to discuss the matter further and see if it can be resolved (item PE5 Draft Planning Proposal – Macquariedale Road, Appin).

Time Period	History/ Events
July 2012 - September 2013	After a period of ongoing consultation with the NSW Government Office of Environment and Heritage the planning proposal is redesigned to achieve improved environmental outcomes. The amendments increased the amount of conservation land and reduced the amount of proposed residential land. Council resolves to endorse the amended design and proceed with the planning proposal (item PE5 Planning Proposal – Macquariedale Road, Appin).
April 2014	The planning proposal is amended to include additional land with Council support (item PE4 Planning Proposal – Macquariedale Road, Appin). The additional land included a portion of land in Council ownership (vegetated areas associated Gordon Lewis Oval) affected by the route of the Appin Bypass and land owned by the proponent adjoining Appin Road to be rezoned for medium density residential.
April 2014	The NSW Government Department of Planning & Infrastructure issue an Altered Gateway determination to include additional land.
September 2014	Formal public exhibition held for the planning proposal. Submissions were received from 74 people with some people making more than one submission. In addition to this there were a number of additional late submissions. Most of these either objected to or had concerns with elements of the planning proposal. Key themes raised in submissions were small lot sizes, traffic and transportation issues including the Appin Bypass and capacity of Appin Road, environmental considerations including the presence of koalas and loss of vegetation, capacity of existing community infrastructure including schools and open space and the character and heritage of Appin.
October 2014	Council resolve to proceed with public exhibition of a biodiversity certification application under Part 7AA of the Threatened Species Conservation Act 1995 for the Macquariedale Road Planning Proposal site (item PE3 Planning Proposal – Biodiversity Certification Application – Macquariedale Road, Appin). Biodiversity certification is a process which aims to ensure that biodiversity values are 'improved or maintained', so that losses from clearing are offset by achieving real gains in the condition and habitat value of vegetation
December 2014	The NSW Government release A Plan for Growing Sydney which identifies a potential new Growth Centre in South West Sydney. Subsequently, the NSW Government Department of Planning & Environment commence investigations to assess the suitability of land in the Macarthur South region for future urban development. Due to its location within the Greater Macarthur Investigation Areas the Macquariedale Road Planning Proposal is placed on hold.
March 2015	Council resolves that the final determination of planning proposals in the Macarthur South Investigation area be deferred until the Department has completed studies (item PE7 Draft Growth Management Strategy – Impact of "A Plan for Growing Sydney").
May 2015	Council resolves that processing and public exhibition of the Biodiversity Certification Application for Macquariedale Road proposal is not to commence until the final report on the Greater Macarthur Urban Release Areas has been released (item PE9 Greater Macarthur investigation Area – Impact on Current Planning Proposals).
June 2015	Council received a letter from the Department of Planning & Environment to advise that the Department is of the view that the Macquariedale Road Planning Proposal "can progress independently of the Greater Macarthur Land Release Investigation, because: • the Planning Proposal is at an advanced stage of the plan-making process; and

Time Period	History/ Events
	• the scale and nature of the Planning Proposal is unlikely to have a significant influence on the outcomes of the investigations for the broader Greater Macarthur area"
June/July 2015	A series of independently facilitated workshops are held with the Appin community to discuss Growth In and Around Appin. The key issues with growth identified through the workshops were the environment, infrastructure, heritage & rural living, and communication & transparency.
August 2015	Council resolve that all planning proposals in the Greater Macarthur Investigation Area to remain on hold (item PE5 Greater Macarthur Investigation Area – Impact on current Planning Proposals).
September 2015	Council resolves that all Planning Proposals within the Greater Macarthur Investigation Area remain on hold pending formal notification of the initial outcomes of the Greater Macarthur Investigation area (item PE3 Update on Impact of "A Plan for Growing Sydney").
September 2015	The NSW Government released the Greater Macarthur Land Release Investigation; Preliminary Strategy & Action Plan. The Action Plan indicates that the rural setting of Appin Village will be protected, with only small scale expansion taking place, in line with existing post-Gateway Planning Proposals. The Macquariedale Road Planning Proposal is one of two post-Gateway planning proposals in Appin (the other being the Appin Bulli Road, Appin Planning Proposal).
November 2015	Council resolves that the proponent for the Macquariedale Road, Appin Planning Proposal be invited to withdraw their rezoning application (item PE8 Planning Proposal in Appin).
December 2015	Council wrote to the proponent inviting them to withdraw their rezoning application.
February 2016	The proponent request amendments to the planning proposal for Macquariedale Road and submit a revised planning agreement.
April 2016	Revised planning proposal for Macquariedale Road recommended to Council.
July, 2016	Draft SEPP Amendment placed on public exhibition to include land at West Appin as a priority growth area.
8 August 2016	In report PE1, Council resolved to not support development at West Appin, and beyond 2036, the government could investigate growth options.
17 October 2016	Council resolved in PE11 to reaffirm its position from 8 August.
August, 2017	Council resolved to place the Planning Proposal, Draft VP, Biocertification Application and Draft DCP controls on exhibition. Council also resolved several other matters relating to Appin Road and infrastructure requirements for the area.
November 2017 – February 2018	Public exhibition/community consultation carried out.
February 2018	Community Forum held at Appin

Description of Proposal as Amended

This planning proposal was submitted to Council initially in April 2011 with Council originally resolving to support the planning proposal at its ordinary meeting on 15 August 2011. The original Gateway determination was issued by the NSW Government in October 2011. The planning proposal has been amended to make changes in accordance with the previous Gateway determination dated October 2011 and to also include additional land and subsequently amend the proposal in response to concern raised during public exhibition period held in 2014.

Following on from those amendments, consultant reports were prepared and the planning proposal was placed on public exhibition for 100 days between November 2017 and February 2018 with a community forum carried out in February 2018.

The planning proposal as amended therefore seeks to enable development of the land to permit low and medium density housing and to ensure the environmental management of ecologically important land for low density and large lot residential development, as well as environmental conservation purposes. It seeks to do this through the following amendments to the Wollondilly Local Environmental Plan (WLEP) 2011:

- Amend land use zoning map from RU2 Rural Landscape to E2 Environmental Conservation to the large portion of densely vegetated land located along the western portion of the proposal area;
- Amend land use zoning map from RU2 Rural Landscape to R2 Low Density Residential to portions of the site that will form an appropriate extension to the existing adjoining residential lands;
- Amend land use zoning map from RU2 Rural Landscape to RE1 Public Recreation to a small portion of the land adjoining Gordon Lewis Oval;
- Amend land use zoning map from B2 Local Centre to R3 Medium Density Residential to lands that directly adjoin R3 lands;
- Amend the height of building map to lands proposed to be zoned R2 Low Density Residential and R3 Medium Density Residential to 9m to introduce a standard height limit to proposed residential areas;
- Amend the minimum lot size map to 450m^2 for the proposed R2 Low Density Residential zone to ensure that there is appropriate split of small (450m^2) and large lots (700m^2).
- Amend the minimum lot size map to 450m^2 and 230m^2 for the proposed R3 Medium Density Residential zone which will assist in providing a range of housing options in Appin;
- Amend the minimum lot size map to 5Ha and 20Ha for the proposed E2 Environmental Conservation zone; amend the Natural Resources Biodiversity Map to include lands zoned for E2 Environmental Conservation and identified as sensitive lands.

Gateway Determination

The original Gateway determination was issued by the Department of Planning and Infrastructure in October, 2011. An altered Gateway determination was issued by the Department of Planning and Infrastructure on 9 April 2014 to include additional land in the proposal. The altered Gateway determination granted that the previous Gateway determination was to be replaced and subsequently a new set of conditions on the Gateway determination was issued.

The revised conditions of the Gateway determination are summarised in the following table with comments as to how these conditions have been addressed in the planning proposal process.

Gateway Condition	Addressed by:
1. Prior to any agency and community consultation, Council is to consult with the OEH to specifically: • Determine the adequacy of the flora assessment; • Determine an appropriate boundary for the proposed R2 Low Density residential Zone in view of the shale Sandstone Transition Forest on the	The application was initially forwarded to the NSW Office of Environmental & Heritage on 17 November 2011 for comments. A response was received on 16 December 2011 addressing the initial Gateway determination Conditions. Comments raised by NSW OEH in November 2011 raised a number of issues relating to threatened species and endangered ecological

Gateway Condition	Addressed by:
site, that is consistent with the Cumberland Plain Woodland Recovery Plan; and • Determine the appropriateness of the proposed location of the Appin bypass reservation. Council is to also confirm the applicable vegetation offsets before the plan is finalised.	community issues, Aboriginal cultural heritage. OEH raised a number of issues relating to the inadequacies and deficiencies of the studies provided and the significant impacts that the Planning Proposal would have on the Shale/Sandstone Transition Forest and Cumberland Plain. The Planning Proposal has been amended since including the omissions of the Appin bypass reservation and revised consultant reports have been prepared addressing OEH concerns. OEH was invited to provide comment on the revised Planning Proposal on 14 November 2017. A response was received dated 28 February 2018 and those comments are detailed in in section 2.2 of this report. The proponent has prepared a Biodiversity Certification application as part of this Planning Proposal and confirms the applicable vegetation offsets. This Biodiversity Certification application will be present to Council separately
2. Council is to consult with the Mine Subsidence Board and take into account any comments made as per the requirements of S117 Direction 4.2 Mine Subsidence and unstable land.	The application was forwarded to the Subsidence Advisory NSW (former Mine Subsidence Board) on 14th December 2017 for comments. SA NSW comments dated 9 February 2018 advised the proposal sits above both existing mine workings in the Bulli Seam and un-extracted coal resources in the Tongara and Wongawilli Seams. The existing workings in the Bulli seam were long wall mined by South32 and SA NSW notes South 32 does not object to development in this area however recommended Council contacts South32 for advise on the proposal prior to rezoning. Comments from South32 dated 21 November 2017 have been received. South 32 recommended a staged approach to land access where urban development occurs first in subsided areas with the remaining urban development areas occurring in due course once mining/subsidence is complete. South32 advises that the proposed development is in a previously extracted area and hence unlikely to experience further subsidence. South32 has no objection to this development.

Gateway Condition	Addressed by:
3. Council is to consult with the Director General of DPI (Minerals and Petroleum) and take into account any comments made as per the requirements of S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries.	The application was forwarded to the Director General of DPI (Minerals and Petroleum) on 11 December 2017 for comments. No response received to date.
4. Council is to consult with the OEH in relation to S117 Directions 2.1 Environment Protection Zones and 2.3 Heritage Conservation.	OEH was invited to provide comments on the Planning Proposal on 14 November 2017. Response was received on 28 February 2018 and those comments are detailed in in section 2.2 of this report.
5. Council is to consult with the Roads and Maritime Services in relation to proposed Zone SP2 Infrastructure (Road) pursuant to S117 Direction 6.2 Reserving land for Public Purposes.	The Planning Proposal no longer seeks to protect land required for the proposed future Appin Bypass. As a result, the land previously proposed as SP2 Infrastructure is predominantly proposed as E2 Environmental Conservation.
6. Council is to consult with the Commissioner of the NSW Rural Fire service prior to undertaking community Consultation and take into account any comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection.	The application was forwarded to the Commissioner of the NSW Rural Fire service and two responses were received, dated 30 May 2014 and 7 September 2014. The comments received are addressed in section 2.2 of this report.
7. If any changes are made to the Planning Proposal prior to undertaking community consultation, Council is to submit the revised proposal to the agency Regional Office for consideration and approval prior to undertaking community consultation.	Noted. Following public exhibition in 2014 the proponent requested changes to the Planning Proposal in response to key issues raised by the Appin community. These issues included: rural character; infrastructure; transparency around the decision-making process; the final development outcome; and impact of the development on the existing town of Appin.
8. Community consultation is required under sections 56(2)(c) and 57 of the Act, for a period of 28 days and the RPA must comply with the notice of requirements for public exhibition.	Formal community consultation was undertaken for a total of 100 days from 15 November 2017 to 28 February 2018.
9. Consultation is required with the following public authorities under section 56 (2)(d) of the EP&A Act: • Endeavour Energy; • NSW Aboriginal Land Council; • Ambulance Service of NSW; • Sydney West Area Health Service; • Hawkesbury Nepean Catchment Management Authority; • Department of Primary Industries	Responses have been received by South West Area Health service, Department of Primary Industries (agriculture), Transport for NSW and Sydney Water. The remaining public authorities have yet to provide a response to date. Responses received to date have identified a series of recommendations that will require consolidation as part of any future development applications for future development applications. No changes are required to the Planning Proposal

Gateway Condition	Addressed by:
(Agriculture); • Department of Education and Communities; • NSW Police Service; • Transport for NSW; • Railcorp; • Sydney Water; • Telstra. Public Authorities are given at least 21 days to comment on the proposal.	as a result of these comments. As a result, the site is proposed to be added to the Urban Release Area maps which form part of WLEP 2011 which would make the future subdivision of the land subject to a 'satisfactory arrangements" clause. Development consent for Future subdivision on land subject to the "satisfactory arrangements clause" may only be granted if the minister has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure. No response received to date on outstanding public authorities.
10. Public Hearing is not required to be held into the matter by any person or body under section 56 (2)(e) of the EP&A Act.	Noted.
11. The timeframe for completing the LEP is to be 9 Months from the week following the date of the Gateway Determination.	Noted. Should LEP amendments not occur prior to 9 January 2019, a request to the Department will be proposed extending this Gateway determination.

Consultation

Formal Consultation with Council Staff that Provide Specialist Comment

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

Engineering Development Team Leader

Road upgrades

Comments dating back to April 2014 discussed RMS comments and concerns relating to the intersection of Appin and Macquariedale Roads. Subsequent meetings between the proponent, Council and RMS occurred resulting in alternative solutions investigated to this intersection. Council's latest correspondence dated April 2015 noted the rezoning process should not be finalised until there is a resolution of the Traffic impact/ connection to Appin Road.

Draft amendments to WDCP 2016

Comments from Engineering Development Team leader dated 5 August 2017 note the draft amendments to the WDCP 2016 does not provide sufficient detail for specific comments, amendments to the DCP is to have regard to Council's Design specification regarding minimum dimensions for road widths etc. Council's Engineering staff discourage 5m laneways and share ways should be 2.5m. Additionally, stormwater basin areas have not been identified and would become Council property required a Planning Agreement maintenance Contribution.

Comment:

RMS provided comments dated 8 October 2018 that noted the revised changes have been made to the Planning Agreement in response to previous comments made by RMS and a revised strategic design for the proposed intersections of Appin Road and Koolahs Road and Church Street and Appin Road are now proposed.

RMS note while there are a number of matters which will need to be considered and addressed prior to the implementation of any intersection upgrade on Appin Road, RMS have no objections to the reliance of these strategic Designed in the Planning Agreement. RMS note if these intersections cannot be delivered in the form proposed, or need to be modified, RMS are satisfied that other acceptable solution are available.

RMS have no objections to the Planning Proposal in Principle based on the arrangements detailed in the revised updated Draft Planning Agreement. Of note, the Planning proposal is dependent on Council endorsing the Planning Agreement that will be presented to Council separately.

Draft amendments to the WDCP 2016 are yet to be finalised. An indicative Layout Plan to be prepared that will detail locations of basins, road widths and other infrastructure to be prepared.

Manager Environmental Services

Comments received from Environmental Services dated 5 March 2018 and provided comment on the documents as exhibited between November 2017 and February 2018. A summary of Environmental Services comments is provided below:

Planning Proposal Document

- Recommends Council requests a copy of the Biobanking agreement application and associated Total Fund Deposit spreadsheet. Given the implication of the site to current future Council activities particularly in regard to Koalas. It is noted, there is no legal requirement for this to occur with Council not being the landowner and therefore current or future signatory to the agreement.
- Council requests the Department of planning to Consider Council's submissions on recent vegetation clearing reforms as part of any consideration of the planning proposal in relation to linkage with local strategies and mapping.
- Revised Ecological assessment to be prepared. Environmental services recommends that the outcomes of the exhibition of the proposal not be reported to Council (if viable) until receipt of the updated report regarding Koalas is received from the proponent.
- Requests the Department of Planning and Environment not commence it's consideration of rezoning until such time that the NSW Koala Strategy has been completed and reviewed by all relevant Stakeholders.
- Recommends that Council's submission request that Council's position on urban growth as outlined in its community Strategic Plan be considered by the DPE as part of its review of the planning proposal.
- Request's Council hold discussions with the Office and Environment and Heritage and requests that the updating of the planning proposal document (if necessary) is carried out following these discussions prior to its lodgement to the Department of Planning and Environment.
- Recommended that Council Defer submitting the proposal for rezoning until the additional Koala report is received from the Proponent to allow for a review of the adequacy of the boundaries of the E2 lands based on updated information.

- Requests the proponent arrange for any amendment to the current riparian buffers to reflect office of Water comments dated 13 February 2014 or provide demonstrated consistency of the buffers with these guidelines.
- Requests discussions between relevant staff and Government Agencies over broad details of the intended stormwater and flood management control approach for the proposal prior to the finalisation of the rezoning process.
- The RFS assessment report to be update advise as per RFS comments received from Council.

Comment

This matter is addressed under the SEPP 44 heading of this report.

Bio certification Application and Bio certification Report

- Revised Koala and ecological report to be provided based on updated surveys by the proponent and may provide ecological ground to adjust the boundaries of the development footprint and therefore reduce credit deficit. Information to be provided and reviewed prior to consideration of the exhibition outcomes by Council and prior to the lodgement of any documents to the Department of planning and Environment as previously staged

- Amendments to the Bio certification Application and Bio certification report to include additional measures for the weed management plan, Koala Management Plan, Feral Animal Management plan and Litter removal and fence Maintenance.

Comment
This matter is addressed under the SEPP 44 heading of this report.

Development Control Plan

- Additional controls to be included to specifically have regard to the issue of sediment and erosion which is consistent with controls regarding this matter in the subdivision Volume of the WDCP 2016.

Comment:

The draft WDCP 2016 includes provisions for a variety of street typologies where deemed reasonable. The Draft WDCP 2016 will be presented to Council separately

Planning Agreement
The Planning Agreement made reference to a note that states:

> *"It is intended that a development application for newly permitted development might be made….. so as to enable assessment, but not determination by the consent authority".*

This reference is suggested legal advise by obtained over this matter prior to the execution of this Agreement.

Comment:
Revised Planning Agreement continues to contain this Clause and legal advice will be sort. Planning Agreement submitted to Council separately.

Consultation with Public Agencies

The Gateway determination required consultation with the following Public Agencies:

- Endeavour Energy;
- NSW Aboriginal Land Council;
- Ambulance Service of NSW;
- Sydney West Area Health Service;
- Hawkesbury Nepean Catchment Management Authority;
- Department of Primary Industries (Agriculture);
- Department of Education and Communities;
- NSW Police Service;
- Transport for NSW;
- Railcorp;
- Sydney Water Corporation;
- Telstra

In addition, the following Public Agencies and Determining Authorities were invited to comment on the planning proposal:

- Water NSW (WNSW)
- Rural Fire Service (RFS)
- Department of Planning & Environment Division of Resources & Geoscience
- Department of Industry - Crown Lands & Water Division
- Department of Industry – Water (DI-W)
- Heritage Council;
- Office of Environment & Heritage (OEH);
- Roads & Maritime Services (RMS);
- Subsidence Advisory NSW (formally Mine Subsidence Board);
- NSW Department of Industry – Resources and Energy Division
- NSW Department of Education - Asset Management Directorate;
- Tharawal Aboriginal Land Council;
- Campbelltown City Council

The following is a summary of the matters raised by public authorities and assessment comments.

Endeavour Energy

No response received to date.

NSW Aboriginal Land Council

No response received to date.

Ambulance Service of NSW

No response received to date.

Sydney West Area Health Service

The extensive community consultation is supported and the arising changes to the planning proposal are noted.

Reassurance that the 54ha of secured conservation land as part of the bio-banking certification process is not compromised by further proposed development in the West Appin area is requested.

Issues and recommendations included in the response are:

- There is a possible need to remediate contaminated land due to past agricultural use.
- A poultry farm is located approximately 1km from the northern boundary of the proposal and this presents a potential conflict as complaints could be made in respect of odour, noise, dust, nightlights and heavy vehicle traffic.
- Specific details relating to stormwater management controls are not provided.
- Impacts from noise, air pollution and unchecked road degradation upon the planning proposal area as a result of increased traffic along Appin Road are not addressed.
- Additional bus services need to be provided and it would be appropriate to see evidence of negotiations with the appropriate bus company to establish frequency of bus service if the Planning Proposal proceeds to completion.
- It is commendable that at least 80% of the site is within the walking catchment of the Appin Town Centre and associated services and the Draft Development Control Plan (DCP) provides detail of shared paths and pedestrian/cycle linkages.
- A community garden could be provided as part of the planning proposal to offset the agricultural heritage to be displaced.
- In order to achieve the objective to reduce the impact of climate change it is recommended that the DCP refer to the NSW Government Architect future Greener Places policy.
- Use of narrow streets and rear laneways would be a concern in terms of rubbish collection and emergency services provision especially in higher density areas and/or urban areas adjoining bushland. It is recommended that the RMS and relevant emergency services agencies be consulted in this regard if such an approach was to be included in the DCP.

<u>Comment</u>
The proponent is seeking to mitigate the impacts of the proposed rezoning through biodiversity certification under Part 7AA of the Threatened Species Conservation Act 1995 (TSC Act).

If development on the site was to proceed as envisaged in the planning proposal, this would result in the loss of 13.5 hectares of moderate to good vegetation that has been classified as critically endangered. This loss is proposed to be offset by the conservation, in perpetuity, under a Bio-Banking agreement, or 34 hectares along Ousedale Creek within the planning proposal site and 20 hectares offsite at nearby Elladale Road.

Bio-Banking agreements are recognised as a 100% ‘conservation’ measure’ under Section 126(i) of the TSC Act and will provide in perpetuity conservation protection and management on the land title.

Proponent has submitted a Preliminary site investigation report prepared by Douglas Partners which' assesses the potential for site contamination resulting from past and present uses for the suitability of the site for urban development. This report concludes the site can be rendered compatible for residential subdivision subject to further investigation and remediation, as required.

The site is approximately 1km south from an existing identified poultry farm and the separation distance is considered adequate to minimise any impacts. It is also noted that there is dense vegetation separating the planning proposal site from the poultry farm. This will contribute towards screening and disperses other potential effects.

Future residential subdivision applications will require a suite of documents to support the application including Remediation Action Plan, stormwater management plans, odour reports (if deemed necessary) and other environmental impacts as listed will need to be submitted to the determining authority for assessment.

The planning proposal has given due consideration to comments made by RMS. In respect of bus services, Transport for NSW have noted the location is isolated and currently has limited public transport service. The proponent and any future residents should be advised that any increase in public transport services would be subject to increase in demand and services allocated on a priority basis across the State.

A community garden could be considered in the future if the local residents indicated interest in such a facility. Funds from the 'Community Chest' referred to in the Planning Agreement could possibly be utilised.

Draft amendments to the WDCP 2016 will consider controls relating to connectivity including shared paths and pedestrian/cycle linkages, particularly to land to the south. Amendments to the WDCP 2016 will include references to green infrastructure and will include controls that relate to green and open spaces and embellishments and maintenance of riparian corridors.

Further the practicality and serviceability of proposed subdivision design would be considered at DA stage. The draft WDCP 2016 includes provisions for a variety of street typologies where deemed reasonable. The Draft WDCP 2016 will apply to the site.

Hawkesbury Nepean Catchment Management Authority

No response received to date.

Department of Primary Industries (Agriculture)

Development as would be permitted if the Planning Proposal is gazetted will have minimal impact on commercial agriculture.

Department of Education and Communities

No response received to date.

NSW Police Service

No response received to date.

Transport for NSW

Section 117 Directions

Council should demonstrate how the land use development facilitates an increase in active transport modes such as, walking and cycling, while also reducing reliance on car travel.

Public Transport Provision

The location is isolated and currently has limited public transport service. The proponent and any future residents should be advised that any increase in public transport services would be subject to increase in demand and services allocated on a priority basis across the State.

Furthermore, as the proposed development is in a rural area it should proceed on the understanding that any upgrade of regional infrastructure, required as a result of the proposed plan, would have to be at no cost to government. This is consistent with current arrangements for the growth areas in Wollondilly.

Comment
A large portion of the site is located less than 1km the Appin village centre where local community services are located e.g. transport linkages, shops, schools and parks.

The planning proposal is accompanied by a draft Planning Agreement, submitted to Council separately which details works proposed to be undertaken by the proponent to support the proposed residential areas, and also the existing Appin area.

A relatively infrequent bus service exists between Campbelltown Railway Station and Wollongong. The increase in population as a result of the Planning Proposal may support the viability of an increase of this service.

Railcorp;

No response received to date.

Sydney Water Corporation;

Water & Wastewater

- Sydney Water has no objection to the Planning Proposal.
- The existing trunk water and wastewater systems have the capacity to service this development.
- Amplification or extensions to the water and wastewater reticulation systems may be required.
- Detailed requirements will be provided once the development is referred to Sydney Water for a Section 73 Compliance Certificate.

Additional agency comments were received from Sydney Water on 19 July 2018 which provide the following:

- Sydney Water is not aware of the low-pressure issue in the water system in Appin. There has been only one recorded customer complaint in the last five years. It was found to be related to onsite stormwater, not the drinking water supply.
- Sydney Water has a permanent pressure gauge at Macquariedale Road, and this gauge has been consistently reading around 25-30 metres pressure in the last five years (generally, anything above 20 metres would be considered satisfying). Our Operating Licence requires us to provide 15 metres pressure at the point of connection to our system.
- Additionally, a booster pumping station was constructed in 2013 to boost pressure to several properties near Appin Reservoir.

Comment
The proponent has submitted a Water and Sewer concept report prepared by Qalcheck Pty Ltd advising the site can be serviced with water infrastructure. In response to comments by Sydney Water, detailed requirements will form part of a separate Development Application submitted to the Determining Authority.

Telstra

No response received to date.

Department of Industries (DoI) Water

Watercourses and Riparian Land

DoI Water supports the application of the E2 zone to protect the riparian corridor and associated tributaries along Ousedale Creek. In this regard it is recommended that consideration is given to the riparian corridors along the northern and middle tributaries which are located to the east of the proposed bypass to be zoned E2 Environmental Conservation rather than R2 Low Density Residential.

The planning proposal report notes that 30m wide riparian corridors are proposed either side from the centre line of the tributaries. DOI Water recommends that the corridor is at least consistent with the 'Guidelines for Controlled Activities on Waterfront Land' and as the EEC vegetation extends beyond the proposed riparian corridor widths it is recommended the requirements of other regulatory agencies are considered.

Ownership and Management

It is recommended merit-based consideration is given to assess if the riparian land needs to be protected in Council ownership.

Subdivision Design

The layout of the future residential subdivision is to be designed with perimeter roads along the middle and northern tributaries so that the residential lots front onto the riparian corridors and thereby provide better environmental outcomes and reduced maintenance costs to Council.

Groundwater

Council should consider locating future settlement intensification, in particular new subdivisions, away from vulnerable groundwater resources and existing groundwater users.

Stormwater Management

All stormwater treatment measures should be consistent with Water Sensitive Urban Design objectives and to aid in the protection of the receiving water source quality.

Comment

Riparian corridors along the northern and middle tributaries which traverse within the subject site will be zoned E2 and RE1 and not R2 Low Density Residential.

Amendments to the WDCP 2016 will be prepared separately. Specific development controls relating to riparian corridor and residential boundaries and management strategies will be provided to safe guard riparian zones. Amendments to the WDCP 2016 for this site will be prepared, re-exhibited for comment and presented to Council separately.

The 'Guidelines for Controlled Activities on Waterfront Land' categorise the northern and middle tributaries as 1st order watercourse sites that should have vegetation riparian zones 10m wide each side of the watercourse channel.

Those tributaries are categorised as 'sensitive lands' on the Natural Recourses Biodiversity Map and Water map under the WLEP 2011. Future development will need to have regard to the relevant clauses within the WLEP 2011 relating to 'sensitive land' on the Natural Recourses Biodiversity and Water Map.

Subdivision design including stormwater management treatment would be assessed as part of the development application (DA) process in the future if the Planning Proposal is supported.

RMS

The proponent has been engaging with RMS on numerous occasions since 2014 on the proposal.

Previously, RMS have provided responses that included comments of satisfaction with the measures identified for existing intersection along Appin Road, issues with intersection concept design were raised and additional information was required to be provided relating to property section of the RMS and the proponents Planning Agreement.

Recent discussions with the proponent and RMS have been carried out with a revised Planning Agreement prepared. RMS correspondence dated 8 October 2018 includes the following comment:

RMS notes the amendments made to the PA that were attached to the Walker Corp letter dated 4 October 2018. These amendments in part include:

- *The removal of clauses in the draft PA that allow the developer to pay a monetary contribution in lieu of completing works on Appin Road that are required as a result of the future development that the PP will facilitate;*
- *Reference to the strategic plans that have been prepared for intersection upgrade works required at the intersections of Koolahs Road and Appin Road as well as Church Street and Appin Road; and*
- *Amendments to the wording that will ensure that the identified intersection upgrade works at the intersections of Appin Road and Koolahs Street as well as Appin Road and Church Street will occur prior to the release of lots for Stage 1 and generally in accordance with the concept plans referenced (as to be amended by the additional requirements in Annexure 2) or provide an alternative upgrade/s to RMS' satisfaction.*
- *RMS has reviewed the strategic designs proposed for the intersections of Koolahs Road and Appin Road as well as Church Street and Appin Road. Detailed comments on these intersections are provided in Annexure 2. While there are a number of matters which will need to be considered and addressed prior to the implementation of any intersection upgrade on Appin Road, RMS has no objections to the reliance on these strategic designs in the PA to indicate the developer's commitment to works prior to the release of lots for Stage 1. Furthermore, if these intersections cannot be delivered in the form proposed, or need to be modified, RMS is satisfied that there are other acceptable intersection treatments which could be delivered by the developer prior to the release of lots for Stage 1.*

Based on the arrangements detailed in the attached updated draft PA, RMS would have no objections to the proposal in principle.

<u>Comment</u>
An updated 'Transport Impact Assessment' dated May 2018 has been submitted by the proponent in response to correspondence from RMS and Community submissions. The updated Traffic impact assessment noted the following conclusions:

The transport Impact assessment notes the planning proposal is not expected to trigger the need for further intersection upgrades outside those already proposed under the Planning Agreement as part of this Planning Proposal and therefore considered acceptable.

Revised Planning Agreement dated October 2018 includes a plan for described in works at the intersection of Koolahs/Appin Road and Appin Road and Church Street. RMS have provided comment and are now accepting of the planning proposal in Principle.

Recommendations as listed above will be included in draft Planning Agreement and presented to Council separately and is considered to address comments received by RMS on that basis.

Water NSW (WNSW)

Potential impact on the Upper Canal corridor and infrastructure has been assessed as being low thus WNSW does not propose to comment further.

NSW Rural Fire Service (NSW RFS)

General Comments

Future development applications on bush fire prone land will be required to comply with either (former) Section 79BA of the Environmental Planning and Assessment Act 1979 or Section 100B of the Rural Fires Act 1997.

Subdivision of the site will need to comply with the provisions of Planning for Bush Fire Protection (PBP) 2006, including adequate services, access and asset protection zones.

Amendment II of the Australian Standard 3959-2009 Construction of Buildings In Bush Fire Prone Areas includes grasslands as a hazardous vegetation category (land to the south likely is to be a grassland hazard). Future development will need to consider this at the design and construction stage.

Specific Comments

"Council is required to ensure these issues are resolved/ adequately addressed <u>prior to progression of the Planning Proposal</u>:

- …. the RFS supports the adoption of the larger APZs shown in Figure 12 of the bush fire report and not Figure 8, as this should provide for future dwellings to achieve a more economical construction standard of BAL 29, and to use the complying development pathway, if preferred. It is unclear what the proposed width of land is for 'land proposed for APZ' as identified in the drawing titled Macquariedale Road, Appin Bio-Bank Site, drawing no WA-BBS-MOO 1, dated 8 November 2017, on page 40 of the Planning Proposal Report. In this regard the NSW RFS advises Council that all APZs shall be wholly located within the residentially zoned portion of the site and shall not be located in E2 Conservation zoned land, and the width of land proposed as being an APZ should be as per APZ distances in Figure 12 of the bush fire report.
- The bush fire report contains plans with layouts demonstrating that all residentially zoned portions of land will have a perimeter road complying with the specifications of PBP 2006, with the exception of the northern most located pocket of residential land. Generally the NSW RFS requires all residential land adjoining a hazard to be provided with a public perimeter road and supports the proposal achieving perimeter roads along the western, southern boundaries. However, as a performance solution to this requirement the report proposes two fire trails. For the northern most pocket of residential land it proposes a fire trail crossing 14 separate privately owned residential lots. This is not considered a practical outcome, and

may result in issues regarding ongoing maintenance and access of the fire trail due to gating and obstructions (ie landscaping, sheds or parking of caravans and trailers etc). If a fire trail is proposed as a performance solution in this northern pocket, it shall be required to be created in single ownership as a single lot, be it private or Council owned. Alternatively, a perimeter road shall be provided in this northern pocket of residential land where adjoining a hazard. Reliance upon the future construction of Appin Bypass road will not serve as a perimeter road insofar as perimeter roads will be required to be constructed prior to any residential lots being approved."

Comment

Predominantly the issues raised by the RFS are matters to be determined at Development Application (DA) stage. It has been suggested by the RFS that 'Council is required to ensure these issues are resolved/ adequately addressed prior to progression of the planning proposal'. The extent to which this can be achieved is limited as subdivision layouts submitted with the Planning Proposal are conceptual only and are likely to change at DA stage if the Planning Proposal is supported.

In terms of 'It is unclear what the proposed width of land is for 'land proposed for APZ' as identified in the drawing titled Macquariedale Road, Appin Bio-Bank Site, drawing no WA-BBS-MOO 1, dated 8 November 2017, on page 40 of the Planning Proposal Report' it is agreed that there is a need to specify the widths of the APZs on that plan. They should be consistent with the RFS preference as shown in Figure 12 of the 'Bushfire Assessment Report' prepared by Holiday Coast Bushfire Solutions.

In order to covey the RFS requirements in respect of future subdivision the following principles are to be included in the Development Control Plan (DCP):

- APZs should provide for future dwellings to achieve a construction standard of BAL 29.
- APZs are to be wholly located within the residentially zoned portion of the site and shall not be located in E2 Environmental Conservation zoned land.
- Generally the NSW RFS requires all residential land adjoining a hazard to be provided with a public perimeter road.
- Where a fire trail is proposed as a performance solution for residential land adjoining a hazard in the northern part of the site, it is required to be created in one ownership as a single lot.
- Reliance upon the future construction of the Appin Bypass road will not serve as a perimeter road because perimeter roads will be required to be constructed prior to any residential lots being approved.

Recommendations as listed above will be included in Draft WDCP 2016 and presented to Council separately and is considered to address comments received by RFS on that basis.

Importantly, advice was received from the proponent on 19 October, 2018 in response to the issues raised by RFS. The proponent advised that they agree with providing a width of all APZ's which reflects the distance required to ensure all homes can be constructed within the BAL 29 area (or lower) under AS 3959-2009 and that a fire trail is able to be provided.

In relation to the RFS advice that no APZ's should be located on E2 zoned land the advice from the proponent states the following:

The Biocertification report accepted by NSW office Of Environment and Heritage allows for a 25 metre APZ within the E2 zone land to be cleared and retained by Walker and managed in the same manner as the APZ that adjoins Appin Valley.

The APZ could have been retained as rural zoned land but this would have resulted in a narrow isolated zone so as a result it was included as E2 zoned land. Because the APZ has been compensated it does not set a precedent.

Although the biocertification would enable land within the E2 zone to be cleared, providing an APZ in this area would be contrary to the objectives of the E2 zone and Planning for Bushfire protection, 2006. It is also appropriate that APZ's are wholly contained within individual lots and it would not be appropriate for APZ's to be located on lots which the asset (i.e. a house) is not located as this would be inconsistent with the principles contained in Planning for Bushfire Protection 2006. This would mean that the landowner of a future residential lot would not have proper control over an APZ which burdens their lot in the future. It is noted that the proponent has provided an example above of the Appin Valley site where an APZ applies along the western boundary, however, on this site the APZ's are contained wholly within the R2 zoned lands, and are also located wholly within individual lots. The same approach should be applied to the Macquariedale Road site and therefore, future DCP controls should continue to require all asset protection zones for future dwellings to be retained within R2 zoned lands.

Department of Planning & Environment Division of Resources & Geoscience

No response received to date.

Department of Industry - Crown Lands & Water Division

As no Crown lands are involved there are no comments.

NSW Heritage Council

The site does not contain any heritage items listed on the State Heritage Register.

R3 Medium Density Residential zoning is unlikely to impact on the heritage significance of the 'Appin Inn' property. It is strongly recommended that the future use and/or redevelopment of the site be guided by a Heritage Impact Statement which includes strategies to mitigate any negative impact on the historical archaeological significance of the Appin Inn site.

Two archaeological excavation permits for the site were recently issued by a delegate of the Heritage Council of NSW. These excavations are still in progress and it is noted that the Planning Proposal therefore does not reflect the findings of the excavations. It is important that recent information from these excavations is used to inform the development of appropriate heritage strategies and proposed recommendations for this site. It is recommended that the proposal takes account the recent archaeological findings to:

- clarify whether the site contains archaeological relics of State significance
- develop a map showing the extent of the area associated with the 'Appin Inn' to be protected
- complete all the outstanding excavation permit requirements, for the 'Appin Inn' site, such as additional excavation and interpretation and how these requirements will be managed as part of the PP
- updated strategies and recommendations should include reference to the fact that in areas where there is potential for archaeological relics to be uncovered, during future development works, the Heritage Act 1977 requires that an archaeological approval be obtained

<u>Comment</u>

Sufficient work has been undertaken at this stage to address heritage in the context of proposed zonings included in the PP.

Should the planning proposal be supported by Council and proceed to gazettal then issues raised by the Heritage Council will be considered as part of the assessment of future DAs for subdivision and subsequent built development. The provisions of Clause '5.10 Heritage conservation' of LEP 2011 would need to be considered and applied. The findings of the excavations referred to by the Heritage Council would form part of the assessment process if relevant.

Restoration of the 'Appin Inn' building is now nearing completion. As part of the DA process for that restoration a 'Heritage Impact Statement' was lodged.

The planning proposal will not alter the statutory protection already provided to the Appin Inn. It is considered to be consistent with S.117 Direction 2.3.

The second item of European cultural significance relevant to the site is Darcy's House. This is listed as an archaeological site of local significance in the LEP 2011.

The Heritage Assessment recommends further historical investigation and archaeological assessment to gain a better understanding of the history of the site and its former extent, in part, to establish whether the vestiges of the place extend into the Planning Proposal site. The heritage assessment indicates that this investigation should be undertaken as part of the Development Application process and not the Gateway (rezoning) process.

Consideration has been given to whether this assessment should form part of the Planning Proposal process. Council's Heritage advisor has supported the position that further investigation is not considered necessary under this planning proposal and if required is able to be carried out as part of a future development application. Subsequently, the planning proposal is considered to be consistent with Direction 2.3 in terms of the Darcy's House heritage item.

Office of Environment and Heritage (OEH)

Aboriginal Cultural Heritage

Condition 4 of the Gateway determination is satisfied. No further comment regarding Aboriginal cultural heritage matters is required.

Biodiversity

Even though the new Biodiversity Conservation Act 2016 (BC Act) has commenced the planning proposal is included in the Proposed Applications for Biodiversity Certification Order 2017 and so can continue to be processed under the Threatened Species Conservation Act 1995 (TSC Act). An outcome of the BC Act is that payment to the Biodiversity Conservation Fund is an acceptable conservation measure for biodiversity certification applications listed in the Order.

Council should now prepare a 'Submissions Report' and submit the final application to the Minister for Environment. *Biodiversity Offset Strategy 2014*

If Council does not pursue biodiversity certification then any future development applications would be subject to the provisions of the BC Act.

Koalas

The planning proposal and biodiversity certification application should be updated to reflect the most recent data and information available on the Koala population and habitat arising from the Wollondilly Koala Conservation Project.

Zoning & Minimum Lot Size

Application of the E2 Environmental Conservation Zone to the conservation area and road corridor is supported.

To ensure consolidation of ownership and retention and management for conservation purposes the conservation area should have a minimum lot size of 100ha which is consistent with the adjoining E2 zoned land to the north.

Comment

The proponent is seeking to mitigate the impacts of the proposed rezoning via biodiversity certification under Part 7AA of the Threatened Species Conservation Act 1995.

A Biodiversity certification report will be presented to Council separately and this report includes a Red flag variation request. Depending upon Council's resolution a in respect of this report, the final application would be submitted to the Minister for Environment for approval.
Walker Corporation must provide written authorisation to consent to the application.

The 5ha and 20 ha minimum lot sizes are provided so that the E2 zoned land can be subdivided onto individual lots in future. If a minimum lot size of 100ha is applied to these areas as suggested by OEH, the E2 zoned land will not be able to be subdivided in future as the total amount of E2 zoned land on the site is less than 100ha.

The lot sizes provided enable the E2 zoned lots to be excised from the residential zoned land but further subdivision following this would not be permitted.

Subsidence Advisory NSW (formally Mines Subsidence Board)

No response received to date

NSW Department of Industry – Resources and Energy Division

No response received to date.

NSW Department of Education - Asset Management Directorate

No response received to date.

Tharawal Aboriginal Land Council

No response received to date.

Campbelltown City Council

No response received to date.

Community Consultation

The Gateway Determination specified a 28 day period of community consultation and public exhibition. Due to the complexity of the proposal, Council extended the period of community consultation and public exhibition to 100 days between 15 November 2017 and 28 February 2018.

During this time extensive community consultation and public exhibition was conducted for this planning proposal. Community consultation and public exhibition included specialist studies and other documents as required by the Gateway determination were made available for public viewing on the following platforms:

- Public notification (Local):

  - Public Notice in Local Paper & on Council's website,
  - Promote online submission opportunity.
- Public notification (Regional):
  - Public notice in newspaper circulating throughout the state to meet statutory requirement.
  - Promote online submission opportunity.
- Display Copies of Exhibition Documents at the following locations:
  - Council's offices & Library,
  - Picton Mobile Library,
  - Appin Post Office.
- Special Community Forum
  - Held at the Appin Community Hall, Sportsground Parade Appin from 6.00pm to 8.00pm on Tuesday 20 February 2018.
- Media
  - Social Media, Media release and Mayor's/Councillors column;
  - Promote online submission opportunity;
- Correspondence to Key Stakeholders
  - Letter to General Community/Adjoining Landowners;
  - Letter to previous submitters;
  - Letters to public agencies;
  - Letters to Adjoining Councils;
  - Emails to Macquariedale Road, Appin contact list.
- Drop In/Information Sessions
  - Informal drop at an Appin venue in session to provide residents clarification and information.

A total of 37 submissions were received during public notification period. 35 submissions were submitted opposing the planning proposal with one neutral submission and one submission in support of the proposal.

A submission matrix noting the major concerns raised by the community in submissions that are relevant to the assessment of the planning proposal are summarised in **Attachment 1** of this report.

In summary, the matters raised in submissions have been addressed through the specialist studies or can be dealt with as part of the assessment of future development applications.

Community Consultation - Special Community Forum

Council engaged an independent facilitator to assist in running a special community session in Appin on 20 February 2018. 50 people were registered as attending the event.

StraightTalk have collated the views and comments raised during the session and a copy of the final report is attached to this Council report.

StraightTalk recorded a number of views about the proposal, and summarised those views under the following key considerations:

- Zoning and lot sizes
- Traffic and traffic management
- Infrastructure
- Water pressure
- Environmental issues
- Cynicism about outcomes
- Streetscape

These important matters have been addressed throughout this report.

Public Hearing

In accordance Gateway determination issued by the Department of Planning and Infrastructure, point 10 noted a Public Hearing is not required to be held into the matter by any person or body under section 52(2)(e) of the EP&A Act.

Planning Proposal

The planning proposal has been prepared in accordance with Section 3.33 (formerly Section 55) to the EP&A Act, 1979 and the guidelines published by the DP&E. No Changes are proposed from the planning proposal which proceeded to Public Exhibition.

Council's options are:

1. Resolve to support the planning proposal in the form as described in Section 1.3 to this report and subject to biodiversity certification and Planning Agreement being endorsed by Council.
2. Resolve to support the planning proposal in another form. With this option a new Gateway determination, amended specialist studies and a new public exhibition period may be required.
3. Resolve not to support the planning proposal. With this option there is no further action to be taken on the planning proposal other than to inform the applicant, submitters and the Department of Planning & Environment that the planning proposal has been terminated. The applicant could choose to submit a new planning proposal.

Option 1 is the recommendation of this report.

Greater Sydney Regional Plan – A Metropolis of Three Cities

The Greater Sydney Commission's A Metropolis of Three Cities – the Greater Sydney Region Plan and the Western City District Plan were finalised by the Greater Sydney Commission in March 2018. These 20-year plans with a 40-year vision are a bridge between regional and local planning. They inform local environmental plans, community strategic plans and the assessment of planning proposals.

There are over 100 actions between these plans, many of which are relevant to Wollondilly. These plans are structured around strategies for:

- **Infrastructure and Collaboration;** supportive infrastructure, use of public resources such as open space and community facilities, working through collaboration.
- **Liveability**; social infrastructure, healthy communities, housing supply and affordability, great places,

- **Productivity**; the 30 minute city, land use and transport infrastructure, leveraging from the Western Sydney Airport and Badgerys Creek Aerotropolis, jobs.
- **Sustainability**; green spaces and landscape, tree canopy, using resources efficiently, managing rural areas, resiliency, bushland and biodiversity, waterways, green grid
- **Implementation**; local strategic planning statements, monitoring and reporting.

A Plan for Growing Sydney (2014) and that review identified that while most of the directions in *A Plan for Growing Sydney* were still relevant, the plan required updating or strengthening to respond to new challenges for planning Greater Sydney to 2056.

Most of the Wollondilly Local Government Area is identified through high level mapping in the Regional and District Plan as being within the Metropolitan Rural Area (MRA). However, the land in West Appin area is located outside the MRA and in fact sits within an identified growth area being the Greater Macarthur Priority Growth Area in accordance with Figure 15 of this plan and within a 'land release area' in accordance with Figure 17. Metropolitan Rural Areas are identified in in Figure 37 of this report and the area subject to this planning proposal is excluded.

The proposal aims to support objective 10 of this plan in providing greater housing supply in land release areas within parts of the greater Macarthur Growth areas. The planning proposal is not inconsistent with *The Plan.*

Western City District Plan

The Western City District Plan (District Plan) is a 20-year plan to manage growth in the context of economic, social and environmental matters to achieve the 40-year vision for Western Sydney. It is a guide for implementing the Region Plan at a district level and is a bridge between regional and local planning.

Should the planning proposal progress, the proposal will contribute towards Wollondilly's Housing targets. Additionally, the proposal is generally consistent with the Wollondilly Growth Management Strategy 2011 to provide the majority of new housing growth to be focused within or immediately adjacent to existing settlements, rather than spreading it through rural areas.

The planning proposal is considered to be consistent with the regional and sub-regional strategic framework.

Greater Macarthur Priority Growth Area

It is noted that Council previously resolved in 2016 not to support development at West Appin, but instead, that the government should consider the growth options after 2036. Following the earlier resolutions, Council resolved to allow this proposal to proceed to exhibition.

A Plan for Growing Sydney sets out the NSW Government's Strategy for meeting housing supply needs. Action 2.4.2 of A Plan for Growing Sydney commits the NSW Government to developing a framework for the identification of new growth areas, with an initial focus on opportunities in the Greater Macarthur Investigation Area (Greater Macarthur).

This report investigates areas for potential urban development within the Greater Macarthur, and Appin is identified within the Greater Macarthur Investigation Area.

The Greater Macarthur land release investigation – preliminary Strategy and action plan identifies the Wilton and Menangle Park/Mt Gilead areas as priority growth areas within the Greater MacArthur area. The Preliminary Strategy and Action Plan also sets out the vision for the greater Macarthur area with areas outside the designated growth areas of Menangle Park, Mount Gilead and Wilton having significant infrastructure costs and environmental constraints but being able to provide opportunities for longer term housing supply.

The Preliminary Strategy and Action Plan notes these areas should remain rural in nature until 2036 with only small scale developments that can manage with existing infrastructure and

transport network. The rural setting of Appin Village will be protected, with only small scale expansion taking place, in line with existing post-Gateway Planning Proposals.

West Appin is identified as an '*Other Precinct'* in the Precinct analysis. The planning proposal site is named and identified as a known private proposal. The preliminary strategy identifies the possibility for only small scale expansion of Appin Village, in line with existing post-Gateway planning proposals. Compared to the other Appin proposals (west Appin and Appin East), this proposal is considered small scale expansion in the context of the overall Greater Macarthur Land Release Investigation Area and new housing growth is focused adjacent to existing settlements.

Section 117 Ministerial Directions

Ministerial Direction 1.1 – Business and Industrial Zones

This Ministerial Direction applies to the site and states that a planning proposal must:

(a) give effect to the objectives of this direction,
(b) retain the areas and locations of existing business and industrial zones,
(c) not reduce the total potential floor space area for employment uses and related public services in business zones,
(d) not reduce the total potential floor space area for industrial uses in industrial zones, and
(e) *ensure that proposed new employment areas are in accordance with a strategy that is approved by the Secretary of the Department of Planning and Environment.*

Direction 1.1 applies where a planning proposal will affect land within an existing or proposed business or industrial zone. A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning and Environment that the provisions of the planning proposal that are inconsistent are justified as outlined in Section 1.1(5) (a) – (d).

The proponent has submitted an Economic Impact report dated 24 October 2013 prepared by Macro Plan Dimasi and that study notes that re-zoning of commercial lands to R3 Medium Density Residential is consistent with the character of the area. It is likely to have a positive economic effect on the Appin village centre by consolidating existing retail and commercial development and supporting increased localised service provision within Appin and is therefore considered acceptable in this instance.

Ministerial Direction 1.2 – Rural Zones

This Ministerial Direction applies to the site and states that a planning proposal must:

(a) Not rezone land from a rural zone to a residential, business, industrial, and village or tourist zone.
(b) Not contain provisions that will increase the permissible density of the land within a rural zone (other than within an existing town or village).

The planning proposal would allow for the rezoning of land from a rural zone to a residential zone which would also enable an increase in density of the land which is inconsistent with the Ministerial Direction. The original Gateway determination for the site issued by the Minister dated 25 October 2011 advised that the inconsistencies were of minor significance. No change to this position by the Department in the revised Gateway determination dated 2014.

Ministerial Direction 1.3 – Mining Petroleum, Production and Extractive Industries

The objective of Direction 1.3 is to 'ensure future that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development'. The Gateway determination issued by the Minister

required Council to consult with the director General of the Department of Primary industries (Minerals and Petroleum).

Comments from Department of Planning and Environment Division of Resources and Geoscience have been received and those comments from the department have noted that target coal resources in the area have been depleted and the proposed rezoning is supported. The proposal is considered to be consistent with this direction.

Ministerial Direction 1.4 - Rural Lands

This Ministerial Direction applies to the site and this direction applies when:

(a) a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or

(b) a relevant planning authority prepares a Planning Proposal that changes the existing minimum lot size on land within a rural or environment protection zone.

This planning proposal proposes a change of land use to lands currently zoned RU2 Rural Landscape to E2 Environmental Conservation, RE1 Public Recreation, R2 Low Density Residential & R3 Medium Density Residential. The Gateway determination issued by the Minister does not raise any contention with this and is therefore considered of minor significance.

Ministerial Direction 2.1 - Environmental Protection Zones

This Direction applies as part of the site includes land which has been identified as critical habitat under the Threatened Species Conservation Act 1995.

The Specialist Studies have identified significant portion of the site is vegetated and includes approximate 51.17ha of native vegetation communities which have been identified as Cumberland Plain Woodland and Shale Sandstone Transition Forest.

Both of these vegetation communities are listed as Critically Endangered Ecological Communities (CEEC) on the NSW Threatened Species Conservation Act 1995 and the Commonwealth Environmental Protection and Biodiversity Conservation Act 1999.

A total of 34.31 ha of vegetated land is to be retained as part of this proposal and is proposed to be rezoned to E2 Environmental Conservation and identify this land as “sensitive land” by including it on the Natural Resources – Biodiversity Map under the WLEP 2011. To that end, Clause 7.2 Biodiversity

Protection of the WLEP 2011 will apply to the land.

Biodiversity certification under Part 7AA of the Threatened Species Conservation Act 1995 supplements this Planning Proposal and will aid in mitigating the impacts of the proposed rezoning. This Planning Proposal is reliant on this Biodiversity certification being endorsed by Council and will be presented to Council separately.

The revised Gateway determination for the site issued by the Minister dated 9 April 2014 required Council to consult with OEH in relation to this Ministerial direction. Correspondence from OEH dated 28 February 2018 noted that Condition 4 of the Gateway determination is satisfied.

The proposed amendments to the WLEP 2011 and mitigation measures via Biodiversity certification are considered consistent with this direction.

Ministerial Direction 2.3 - Heritage Conservation

The 117 Direction also requires a planning proposal to contain provisions that facilitate the conservation and management of items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or

place, identified in a study of the environmental heritage of the area and areas where Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey.

The Heritage Assessment prepared by Mary Dallas Consulting Archaeologists was submitted with the proposal and identifies two items of European cultural heritage significance which are relevant to the site; the former Union Revived Inn (Appin Inn) and Darcy's House. A description of the two items is provided below:

The former Union Revived Inn (Appin Inn)

The Appin Inn, established c.1835, is a building that is an important component of the historic landscape of Appin village and is a rare example of a wayside inn building of this period. The site was in a state of neglect and the planning proposal initially included restoration works as part of draft Planning Agreement . Post original public exhibition for the planning proposal and in response to Community concerns the proponent has removed the restoration from the draft Planning Agreement so that it is no longer associated with the Macquariedale Road PP.

Heritage Assessment recommends the preparation of a Conservation Management Plan or Strategy associated with future approvals required under the NSW Heritage Act.

Darcy's House

The site also contains an archaeological site of local significance in the WLEP 2011 known as "Darcy's House" and is located adjacent to the Appin Inn at No. 53 Appin Road.

The site of Darcy's House is significant as the location of one of the earliest Appin houses on an original land grant. The house was demolished in 1972 with the site listed as an archaeological site.

Further historical investigation and archaeological assessment is recommended to be carried out prior to any development on the site. Council's Heritage advisor has supported the position that further investigation is not considered necessary as part of the planning proposal process and if required could be carried out as part of a future development application

The proposal will not alter the statutory protection already provided to the Appin Inn and Council's Heritage Advise supports the position that further investigation to Darcy's House will form part of a separate development application. To that end, this proposal is considered to be consistent Direction 2.3.

Aboriginal Due Diligence Assessment

Three studies prepared to date which address Aboriginal heritage have been submitted as part of this Planning Proposal and not considered to provide sufficient information or analysis to support their recommendations as per correspondence by OEH.

A revised response prepared by Mary Dallas Consulting Archaeologists dated August 2014 has been prepared in response to the concerns raised by OEH. The additional information contained within the report has not changed the recommendations of the study.

Revised Due Diligence Assessment was publicly exhibited and comments from EOH dated 28 February 2018 noted, Condition 4 of the Gateway Determination is satisfied.

The revised Gateway determination for the site issued by the Minister dated 9 April 2014 required Council to consult with OEH in relation to this Ministerial direction. As mentioned above, correspondence from EOH dated 28 February 2018 noted, Condition 4 of the Gateway determination is satisfied.

Ministerial Direction 3.1 Residential Zone

The planning proposal is inconsistent with s. 117 Direction 3.1 as it includes land on the urban fringe. This inconsistency has been confirmed as being of 'minor significance' by the Department of Planning & Environment in their letter dated 25 October 2011 which accompanied the original Gateway determination for this site. This letter also advised that no further approval is required in relation to s.117 Direction 3.1. No change to this position by the Department in the revised Gateway determination dated 2014.

Ministerial Direction 4.2 - Mine Subsidence and Unstable Land

This direction applies to any planning proposal that is made on land within a Mine Subsidence District. The Subsidence Advisory NSW (formally Mine Subsidence Board) has been consulted and has advised that they have no objection to the proposed rezoning (letter dated 9 February 2018) subject to consultation with South32. South32 has been consulted and have no objection to the planning proposal.

The planning proposal is considered to be consistent with this Direction.

Ministerial Direction 4.4 – Planning for Bushfire Protection

This direction applies as the planning proposal affects land which is mapped as bushfire prone land on Wollondilly Shire Council's Bush Fire Prone Land Map. Condition 6 of the Gateway determination requires the Council to consult with the Commissioner of the NSW Rural Fire Service (RFS) and take into account any comments made in relation to this s.117 Direction.

The RFS has been consulted on numerous occasions regarding the planning proposal. The bushfire report prepared by Holiday Coast Bushfire solutions proposes a number of recommendations for the planning proposal which are generally supported by the NSW RFS.

The NSW RFS have provided a series of comments and recommendations that are matters that can be determined at Development application stage as these comments relate to subdivision layouts. Additionally, site specific development controls will be incorporated in the DCP to address RFS requirements with respect to future subdivision and bushfire requirements.

Recommendations as noted listed above will be included in Draft WDCP 2016 and presented to Council separately. The planning proposal is considered to be consistent with this Direction.

Ministerial Direction 6.2 Reserving Land for Public Purposes

The objective of this direction as it relates to the planning proposal is to "facilitate the provision of public services and facilities by reserving land for public purposes".

Direction 6.2 applies to the proposal as a small area of land, approximately 1,930m^2 located adjacent to the existing Gordon Lewis Oval is proposed to be rezoned from its current rural zone to RE1 Public Recreation.

Council's Land and Property Panel consider there is merit to the land being dedicated to Council to form part of and enhance the Gordon Lewis Oval facility. It is noted that this land falls within the area of land to be bio certified and is proposed to be dedicated to Council by the proponent after vegetation has been removed from the site.

The Planning Proposal no longer seeks to protect land required for the proposed future Appin Bypass. As a result, the land previously proposed as SP2 Infrastructure is mostly now proposed as E2 Environmental Protection.

The Planning Proposal is considered to be consistent with this Direction.

State Environmental Planning Policies

State Environmental Planning Policy No. 44 – Koala Habitat Protection

The Wollondilly Shire Local Government Area is listed under Schedule 1 of SEPP 44 and therefore requires consideration during the planning proposal process. Part 2 of the Policy outlines a three step process to assess the likelihood of the land in question being Potential Koala Habitat (PKH) or Core Koala habitat (CKH). Part 2 applies to land which has an area of greater than 1ha or has, together with any adjoining land in the same ownership, an area of more than 1ha.

The subject site is required to be considered under SEPP 44 as it falls within the Wollondilly LGA, which is listed on Schedule 1 of this Policy. In addition, the total area of the subject site is greater than 1ha, so Part 2 – Development Control of Koala Habitats applies.

Advice was provided by Council's Environmental Services Team during the exhibition of the planning proposal and Bio certification application, their advice notes that the consideration of the impact of the proposal on koala habitat in the area is based largely on the ecological assessment prepared by Travers (2015) to support the Planning Proposal.
Council's Environmental Services Team have identified the following matters in the ecological assessment which require further consideration in relation to core koala habitat:

- The significant number of koala sightings in the vicinity of Appin that have occurred since 2014.
- The sighting of a pregnant female koala on the development site which occurred shortly before the public exhibition of the Planning Proposal this sighting qualifies the site as Core Koala Habitat under definitions within the current version of SEPP 44.
- The Koala Project involving mapping and collaring of koalas that Council commenced participation in 2016 in partnership with OEH and the Australian Conservation Volunteers Trust.

Advice was received from the proponent in February 2018 which advised that the 2015 report was in the process of being updated and would be provided to Council.
In October, 2018 the following, further advice was forwarded to Council by the proponent:

an ecologist was sent to the site and no Koalas were observed during either the diurnal or nocturnal survey. This is typical of Koala populations where the density of Koalas is low or transient within the site or may not be resident all year round.

There was evidence of koala occupation (scratches and scats). This evidence was largely within areas being proposed to be rezoned as E2 Conservation.

As a result if these observations and the recent Bio Net records we would suggest that a local Koala Plan of management would be needed as part of any future subdivision DA. The KPoM would:

1. *Provide more detailed survey to accurately determine the existence of the koala; and*
2. *Determine any major threatening processes and make recommendations regarding the need for actions to ameliorate koala impacts as part of the proposed development application.*

Council is of the view that the response does not adequately address the issue surrounding koala habitat on the following grounds:

- The area has been identified by OEH as a Secondary koala corridor.
- In December 2017 there was a confirmed sighting of a female koala with back young within 200m of Area 3, Figure 1. Is this koala still present on site? what is its range?
- The green and turquoise areas on Figure 3 are higher quality koala habitat due to the presence of the primary food trees of Grey Box and Forest Red Gum on higher fertility soils, the purple areas contain Grey Gum on lower fertility soils. It is well know that koalas have a

preference for food tree on soils with a higher clay content. The soil fertility degrades heading west from the proposed development sites to the proposed biobanking site.

- From a fauna and particularly a koala perspective the Elladale road site does not appear to be connected to the biocertification area and therefore does not provide a functional connected habitat corridor.

The information above addressing the koala habitat should be provided in particular to clarify the following matters:

1. Confirm that the E2 Environmental Conservation Zone boundary is in the most suitable location;
2. Confirm that the land identified for conservation, and the land identified to be removed through the biodiversity certification process is accurate and accurately reflects the constraints and areas of core koala habitat across the site.

State Environmental Planning Policy No. 55 – Remediation of Land

A Preliminary Site Investigation (PSI) was undertaken. The PSI was consistent with the Contaminated Land Planning Guidelines and identified a total of 21 areas of environmental concern (AEC) within the site which require further investigation and possible remediation. Remediation of AEC, if required will likely be minor and could involve o off-site disposal. The remainder of the site is considered to have a low potential for contamination.

Based on the findings of this PSI, potential groundwater contamination is not considered to be significant, unless soil contamination is found within the AEC or within background area. If significant contamination is identified, then a groundwater investigation may be required.

The PSI considers that the site can be rendered compatible with future proposed residential subdivision subject to further investigation and remediation as required.

To determine whether any of the AEC's require remediation, a Detailed Site Investigation (DSI) would be required as part of a future development application for the site. This could be included as part of a site specific DCP control for the site.

Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River

Clause 6 of the REP identifies the Planning Policies and recommended strategies for development in the area. Consideration of these matters is set out below:

(2) Environmentally Sensitive Areas

The proposed E2 Environmental Conservation Zone will incorporate a riparian corridor to Ousedale Creek. Native vegetation within the E2 zone will be managed and conserved on an ongoing basis.

The proposed R2 Low Residential Zone and R3 Medium Density Residential are proposed to be located on land that is subject to a biodiversity certification application process (submitted to Council separately). Assuming standard stormwater management system and sewerage disposal, the future uses will not adversely impact on the Nepean River or its tributaries.

(3) Water Quality

No pollutants are anticipated to be released within the catchment areas as a result of the future residential development, subject to the imposition of appropriate stormwater management controls.

Significant measures are proposed to ensure that impacts of any future development of the site would not adversely impact on water quality. The incorporation of appropriate soil and erosion management controls, landscaping and riparian rehabilitation within the Draft WDCP 2016 amendments to ensure measures are proposed to ensure there will be no further degradation of the land.

(4) Water Quantity

Stormwater disposal will be assessed during a later environmental study process and appropriate development controls are to be incorporated in draft amendments to the WDCP 2016. It is anticipated that stormwater management systems can be designed to accommodate river flow objectives to achieve an appropriate outcome.

(5) Cultural Heritage

Various Consultant reports have been prepared for the site assessing the Heritage nature of the local items and Aboriginal & Historic Archaeological significance.

Further historical investigation and archaeological assessment is recommended to be carried out on this site as part of a future development application.

(6) Flora and Fauna

The proposed land use zones will have an effect on flora & fauna. To offset this impact mitigation measures via a biodiversity certification to the land within the subject site and biobanking offsite is proposed.

It is anticipated the biodiversity certification will achieve a gain in biodiversity through mitigation measures including permanently conserving 34 hectares onsite and an additional 19.7 hectares offsite. This biodiversity certification to be presented to Council separately and this planning proposal is subject to this biodiversity certification being endorsed by Council and approved by OEH.

(7) Riverine Scenic Quality

Bushland and a riparian corridor along Ousedale Creek is to be maintained and protected within the proposed E2 Environmental Conservation zone. This zone has a variable width from 100 metres to just over 450 metres. This corridor is considered significant and will ensure the character of the creek is maintained.

Additionally, subject to design of the dwellings it is unlikely that low scale residential buildings will visually dominate the locality with the building design and materials and landscaping to be given appropriate consideration at the Development application stage.

(8) Agriculture/Aquaculture and Fishing

The rezoning will affect approximately 13.62 hectares of cleared rural land. The land subject to this rezoning proposal is not considered of high agricultural quality in that the location adjoining an existing town creates potential for conflicts between rural and residential activities and its location adjoining an existing town with services and facilities that would be supported, used more efficiently and enhanced by an increase in population using them. In addition, the site is currently fragmented across multiple lots and will be further fragmented and reduced in size by the proposed Appin Bypass in the future.

(10) Urban Development

The rezoned land is likely to accommodate approximately 660 people and will be serviced by a reticulated sewerage system connected to the Appin Sewer Pump Station with the future residential areas subject to separate approval are achievable to be regular in shape and range in land size.

Draft Amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013

The majority of the site is identified in the future residential growth areas map of the Sydney Regional Environmental Plan Mining, Petroleum Production and Extractive Industries) 2007 as Future Residential Growth Area. The site also falls within the 2km buffer areas around a residential zone and therefore is within the coal seam gas exclusion zone. Future development applications will be referred to Department of Industries - Resources & Geoscience for comment.

Wollondilly Growth Management Strategy

Council's Growth Management Strategy 2011 (GMS) sets directions for accommodating growth in the Shire over the next 25 years.

The GMS contains Key Policy Directions which form the overarching growth strategy for Wollondilly. An assessment of the suitability against the GMS is included below:

Key Policy Direction	Comment
General Policies	
P1 All land use proposals need to be consistent with the key Policy Directions and Assessment Criteria contained within the GMS in order to be supported by Council.	The planning proposal is generally consistent with the Key Policy Directions and Assessment Criteria of the GMS.
P2 All land use proposals need to be compatible with the concept and vision of "Rural Living" (defined in Chapter 2 of the GMS).	The planning proposal is generally consistent with the concept of Rural Living.
P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.	The proposal was placed on Public Exhibition for 100 days from 15 November 2017 to 28 February 2018 and thirty (37) submissions were received during this period. The submissions received have been considered in this report.
P4 The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.	The personal financial circumstances of individual landowners have not been taken into account as part of this Planning Proposal.
P5 Council is committed to the principle of appropriate growth for each of our towns and villages. Each of our settlements has differing characteristics and differing capacities to accommodate different levels and types of growth (due to locational attributes, infrastructure limitations, geophysical constraints, market forces etc.).	The subject site is located on the fringe of an existing village and is in a location identified for potential residential growth in the GMS. It is recognised the proposal will require the removal of a significant vegetation, a biodiversity certification application and biobanking is proposed to offset this loss. This biodiversity certification will be presented to Council separately and this proposal is subject to this biodiversity certification being endorsed by council and the NSW Office of Environment and Heritage.
Housing Policies	
P6 Council will plan for adequate housing	The planning proposal would provide additional

Key Policy Direction	Comment
to accommodate the Shire's natural growth forecast.	housing in accordance with the GMS targets.
P8 Council will support the delivery of a mix of housing types to assist housing diversity and affordability so that Wollondilly can better accommodate the housing needs of its different community members and household types.	The planning proposal would enable a variety of housing types to be provided on the site.
P9 Dwelling densities, where possible and environmentally acceptable, should be higher in proximity to centres and lower on the edges of towns (on the "rural fringe").	The planning proposal requires a site-specific Master plan and controls in the DCP that will control the mix of dwelling densities for the subject site.
P10 Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.	The subject site is located immediately adjacent to the adjacent to the existing western boundary of the Appin residential area and is therefore consistent with this direction.
Macarthur South Policies	
Key Policy Directions P11, P12, P13 and P14 are not applicable to this Planning Proposal. The subject land is not with the Macarthur South area.	N/A
Employment Policies	
P15 Council will plan for new employment lands and other employment generating initiatives in order to deliver positive local and regional employment outcomes.	N/A
P16 Council will plan for different types of employment lands to be in different locations in recognition of the need to create employment opportunities in different sectors of the economy in appropriate areas.	The site is not zoned to facilitate further employment opportunities.
Integrating Growth and Infrastructure	
P17 Council will not support residential and employment lands growth unless increased infrastructure and servicing demands can be clearly demonstrated as being able to be delivered in a timely manner without imposing unsustainable burdens on Council or the Shire's existing and future community.	The proponent has prepared a Planning Agreement and is submitted to Council separately. Under this Planning Agreement provisions include the establishment of a "community chest" grants program to help manage impacts on the community caused by growth and "green fund" grants program to support community led environmental projects that will aid in supporting the existing and future community. Additionally, Contributions will be collected under future subdivision applications that will contribute to fund the necessary local infrastructure required to support any future development.
P18 Council will encourage sustainable growth which supports our existing towns and villages, and makes the provision of services and infrastructure more efficient and viable – this means a greater emphasis on concentrating new housing in	The planning proposal would support the growth of the Appin centre as the site is located approximately 400 metres east of this centre. The site has access to reticulated water and sewerage systems. The site adjoins the Appin urban area.

Key Policy Direction	Comment
and around our existing population centres.	The necessary services and infrastructure are capable of supporting the development of the site (subject to a wastewater provisions). Upgrades to roads, footpaths etc would also be required and is detailed in Planning Agreement presented to Council separately.
P19 Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.	The site is located adjacent to an existing residential zone and would not result in dispersed population growth.
P20 The focus for population growth will be in two key growth centres, being the Picton/Thirlmere/Tahmoor Area (PTT) area and the Bargo Area. Appropriate smaller growth opportunities are identified for other towns.	The subject site is identified as a 'potential residential growth area' on the GMS Structure Plan for Appin. The proposal will provide for additional population growth in Appin and contribute towards Wollondilly's Housing target.
Rural and Resource Lands	
P21 Council acknowledges and seeks to protect the special economic, environmental and cultural values of the Shire's lands which comprise waterways, drinking water catchments, biodiversity, mineral resources, agricultural lands, aboriginal heritage and European rural landscapes.	The planning proposal achieves this through the application of an E2 zone to protect native vegetation and will be managed and conserved on an ongoing basis. Additionally, the proposal requires the removal of significant vegetation, a biodiversity certification application and biobanking is proposed to offset this loss. This biodiversity certification will be presented to Council separately and this proposal is subject to this biodiversity certification being endorsed by council and the NSW Department of Environment and Heritage
P22 Council does not support incremental growth involving increased dwelling entitlements and/or rural lands fragmentation in dispersed rural areas. Council is however committed to maintaining where possible practicable, existing dwelling and subdivision entitlements in rural areas.	The proposal would involve the fragmentation of a rural lot, however it would provide for small incremental growth to the existing township and would not involve development of an isolated rural lot.

Final Form of Planning Proposal

Wollondilly Local Environmental Plan 2011

Based on the specialist studies and consultation and engagement there are no changes to the Planning Proposal as exhibited.

The planning proposal seeks amendments to WLEP 2011 as described below:

- Amend land use zoning map from RU2 Rural Landscape to E2 Environmental Conservation, to R2 Low Density Residential, to RE1 Public Recreation as shown in Attachment 1;
- Amend land use zoning map from B2 Local Centre to R3 Medium Density Residential to lands that directly adjoin R3 lands as shown in Attachment 1;
- Amend the height of building map to lands proposed to be zoned R2 Low Density Residential and R3 Medium Density Residential to 9m as shown in Attachment 3;
- Amend the minimum lot size map to 450m^2 for the proposed R2 Low Density Residential zone as shown in Attachment 2;
- Amend the minimum lot size map to 450m^2 and 230m^2 for the proposed R3 Medium Density Residential zone as shown in Attachment 2;
- Amend the minimum lot size map to 5Ha and 20Ha for the proposed E2 Environmental Conservation zone as shown in Attachment 2;
- Amend the Natural Resources Biodiversity Map to include lands zoned for E2 Environmental Conservation and identified as sensitive lands as shown in Attachment 4.

Wollondilly Development Control Plan, 2016 (WDCP 2016)

Site specific amendments are proposed to WDCP 2016 and will be prepared in accordance with recommendations from external agencies and comments made during public exhibition.

Initial site specific amendments to the WDCP 2016 were prepared and publicly exhibited during public notification period November 2017 – February 2018. Those draft amendments were not exhaustive. It is proposed amendments to the initial site specific amendments to the WDCP 2016 to be actioned and those amendments will be presented to Council separately.

Should Council endorse those DCP amendments, the revised draft DCP will be re-exhibited.

Final Form of Planning Agreement (PA)

The planning proposal has been determined to generate the need for public works and services in addition to those planned in the Wollondilly Development Contributions Plan, 2011. These works and services have been negotiated in a Planning Agreement placed on public exhibition at the same time as the Planning Proposal.

A Planning Agreement has been lodged as part of this proposal and will be presented to Council separately.

Financial Implications

Funding for this project to date has been achieved through Council's adopted Fees and Charges.

Council has experienced a record increase in the number of planning proposals submitted in addition to the Wilton New Town growth area. All proposals which result in an increased intensity of land use within the Shire shall also lead to increased demand for Council services and facilities over time. Council will need to consider this in the adopted budget and forward estimates.

ATTACHMENTS

1. **Land Zoning Comparison Map**
2. **Minimum Lot Size Comparison Map**
3. **Height of Building Limit Comparison Map**
4. **Natural Resources Biodiversity Layer Comparison Map**
5. **Bushfire Hazard Assessment**
6. **Table Summarising Community Submissions**
7. **Appin Community Forum - Summary Outcomes Report**

RECOMMENDATION

1. It is recommended that Council support the Macquariedale Road Planning Proposal to amend the provisions of Wollondilly Local Environmental Plan, 2011 as follows:

   (a) Amend land use zoning map from RU2 Rural Landscape to E2 Environmental Conservation, to R2 Low Density Residential, to RE1 Public Recreation;

   (b) Amend land use zoning map from B2 Local Centre to R3 Medium Density Residential to lands that directly adjoin R3 lands;

   (c) Amend the height of building map to lands proposed to be zoned R2 Low Density Residential and R3 Medium Density Residential to 9m;

   (d) Amend the minimum lot size map to 450m^2 for the proposed R2 Low Density Residential zone;

   (e) Amend the minimum lot size map to 450m2 and 230m2 for the proposed R3 Medium Density Residential zone;

   (f) Amend the minimum lot size map to 5Ha and 20Ha for the proposed E2 Environmental Conservation zone;

   (g) Amend the Natural Resources Biodiversity Map to include lands zoned for E2 Environmental Conservation and identified as sensitive lands;

   Subject to the following:
   - (i.) Council endorses the Biodiversity Certification to the subject site;
   - (ii.) Council endorses the Planning Agreement to the subject site; and
   - (iii.) further information from the proponent in relation to potential and core koala habitat on the site to the satisfaction of Council and confirmation that the E2 Environmental Conservation zone boundary and area that is proposed to be cleared under the biodiversity certification provisions reflect the constraints of the site.

   (h) That in accordance with Section 3.36 (Former Section 59) to the Environmental Planning and Assessment Act, 1979 the Planning Proposal be forwarded to the Greater Sydney Commission with a request to make arrangements for the drafting of the amended Local Environmental Plan and that the Minister make the Plan in the form as detailed in this report and in the planning proposal**.**

   (i) The amendments to the Wollondilly Development Control Plan 2011 are to be finalised to reflect recommendations made throughout this report. The amendments to the WDCP 2016 are to be re-exhibited before submitting to Council for support and presented to Council separately.

   (j) That the applicant and persons who made submissions regarding the planning proposal be notified of Council's decision.

11.4 DRAFT PLANNING PROPOSAL - HERITAGE HOUSEKEEPING AMENDMENTS

File Number: **10619#41**

Applicant: **Wollondilly Shire Council**

Owner: **Various**

Proposal: **Draft Planning Proposal to make heritage related 'housekeeping' amendments to the Wollondilly Local Environment Plan 2011 in relation to various properties**

Location: **Various**

EXECUTIVE SUMMARY

- This report seeks Council's support to initiate a planning proposal for housekeeping amendments to Wollondilly Local Environment Plan 2011 to correct and/or update provisions as they apply to various heritage items.
- The changes are necessary to ensure adequate protection of heritage items and landscapes and also to remove unnecessary statutory burdens where there are no heritage items.
- This report recommends that:
  1. Council support the Heritage Housekeeping Planning Proposal for various sites to amend Wollondilly Local Environment Plan 2011 as follows;
     (a) Amend Schedule 5 (various changes),
     (b) Amend the Heritage Map (various changes), and
     (c) Amend the Land Zoning Map to identify an additional land use annotation for 'place of public worship' to the SP2 Infrastructure zone as it applied to St Mark's Church, Picton (Lots 1 and 2 DP 1225820) and St Luke's Church, Wilton (Lot 1 DP 1236516)).
  2. The Planning Proposal be forwarded to the Greater Sydney Commission for a Gateway determination.
  3. If it is determined that any component of the Planning Proposal requires the preparation of a specialist study then that component is removed from this housekeeping amendment prior to exhibition and considered for inclusion within the comprehensive Local Environmental Plan Review process.
  4. Landowners and persons who made submissions regarding the planning proposal be notified of Council's Resolution.

REPORT

Background

Schedule 5 of the Wollondilly Local Environment Plan 2011 (WLEP) provides a comprehensive list of Heritage items (Part 1), Heritage Conservation Areas (Part 2) and Archaeological sites (Part 3) that have been identified for their heritage value across the Shire. This list provides a description of the item, the item number and the item's property identifiers which include street address, relevant lot and deposited plan number and heritage significance.

The WLEP is accompanied by a series of maps. These include a set of Heritage Map's that identify the location of heritage items listed in Schedule 5 and a set of Land Zoning Map's which nominate the location of land zones listed in the Land Use Table.

Description of Proposal

The draft planning proposal seeks to make a number of housekeeping amendments to the WLEP.

The amendments have been identified from a review of heritage provisions within the WLEP as they apply to specific land holdings. This review has included:

- A desktop review of the information included in Schedule 5. For example, to check property information and heritage significance listed for each heritage item is correct.
- Reviewing individual properties where notification has been received from Development Management that a change is required in response to an issued development consent; For example, where land containing a heritage item will be subdivided and a boundary needs to be amended.
- A comparison of Schedule 5 against the State Heritage Register.
- Consideration of landowner feedback.

The housekeeping amendment has been limited to minor corrections or changes where no specialist studies are considered necessary to inform the changes. No new heritage items are proposed as part of these amendments.

No changes are proposed to Part 2 of Schedule 5 which lists Heritage Conservation Areas. However, it is proposed to amend the Heritage Map to increase the Menangle Landscape Conservation Area to include all land originally identified for protection.

Background to Menangle Landscape Conservation Area Boundary

In 2011 MUSEcape Pty Ltd were engaged by Council to undertake a heritage assessment of the significance of the landscape around the Menangle Village Conservation Area.

The report called 'Menangle Landscape Conservation Area Assessment of Significance & Proposed Boundaries' was finalised in 2012 and recommended the creation of a Landscape Conservation Area 'to protect the historical, associational, aesthetic and other heritage values of the wider cultural landscape setting of Menangle Village'.

The area currently included within the Menangle Landscape Conservation Area is slightly smaller than the boundary recommended by the study. This is because during the statutory process to establish the landscape conservation area Council was required to remove land identified for employment purposes under the planning proposal for land in Moreton Park Road, Menangle. That planning proposal was refused by the Joint Regional Planning Panel in 2014 and never proceeded. There are no planning proposals that currently apply to this land.

A report to Council in February 2018 on proposed planning controls for the Menangle Landscape Conservation Area identified a need to consider implementing the full boundary as originally intended. It is proposed to include approximately 50 hectares of new land within the Menangle Landscape Conservation Area. The additional land proposed to be included is shown in the Attachment titled Map identifying proposed extension of Menangle Landscape Conservation Area.

Need for Amendments

It is acknowledged that Council is commencing a review of the WLEP in response to the recent release of the Greater Sydney Region Plan and Western City District Plan by the Greater Sydney Commission.

However, a significant number of minor corrections and updates are considered necessary to Schedule 5 as soon as possible as the current planning controls have a number of implications for land owners;

- In some case landowners are unnecessarily burdened because their land is affected by heritage provisions where there are no heritage items;

- In some cases heritage is not currently being adequately protected and there is an immediate risk to conserving heritage items and landscapes, and
- In a couple of cases, the current land zoning presents barriers to the orderly development of land containing a heritage item.

Consultation

Formal consultation with Council staff that provide specialist comment

Council's Heritage Advisor has been consulted regarding the proposed amendments to Schedule 5 (Parts 1 and 3) of the WLEP and associated mapping and has supported all changes.

Planning staff have been encouraged to identify and provide advice on heritage items requiring an update in Schedule 5 or the associated Heritage Map series.

Given the Planning Proposal relates to administrative corrections and maintenance of planning instruments only, there is not considered to be a need to consult more broadly at this stage.

Consultation with Public Agencies

Consultation with public agencies usually occurs after a Gateway Determination is issued and it has been established that a proposal has strategic planning merit.

Should the proposal be supported by Council, any subsequent Gateway Determination will outline the consultation requirements with government agencies.

Community Consultation

An open community consultation period has not been held as part of the preparation of the proposed amendments. However, a letter has been sent to the owner(s) of each affected property for proposed changes to Part 1 Heritage items and Part 3 Archaeological sites to inform them of the proposed changes that will affect their property and inviting them to provide feedback. The letters were sent in June 2017 and February 2018. Council staff received a number of phone enquiries in response. In general, land owners were seeking to better understand the process, implications, and in some cases questioned the merit of the heritage listing. The scope of this heritage review has been to identify corrections and not to reassess the merit of heritage listing except where the heritage item has been legally demolished.

Only one written submission has been received in response to landowner consultation. This submission was received on behalf of Anglican Church Property Trust.

The submission raises no objections to the proposed amendment to apply the correct property address for the heritage item associated with St Mark's Anglican Church in Picton.

However, the submission has requested consideration to include an additional change within the housekeeping amendment to make corrections to the Land Zoning Map as it applies to St Mark's Anglican Church in Picton and also St Luke's Anglican Church in Wilton. Both of which, are heritage items under the local environmental plan.

At present, both of these land holdings are zoned SP2 Infrastructure with "Cemetery" as the annotated land use on the Land Zoning Map. However, both of these sites are currently being used as a Place of Public Worship as well as a cemetery.

It is not clear why the annotated land use for these sites has been restricted to a cemetery. From a quick review of other active churches around the shire with cemeteries there does not appear to have been a consistent approach applied in moving to the Standard Instrument format back in 2011.

The use of the infrastructure zone is appropriate given the presence of a cemetery. However, both of these locations now rely on existing use rights for the church component of the land use which is

not ideal, particularly as it limits flexibility. This issue could be rectified by including an additional land use annotation for 'Place of Public Worship' on the Land Zoning Map for these two sites.

It is considered reasonable to incorporate the submitter's request into this planning proposal given the sites are both heritage items and the change would reflect the current use of these heritage items.

In a second separate consultation, landowners within the area of the proposed extension to the Menangle Landscape Conservation Area were notified and invited to provide feedback during September 2018. One submission was received in objection to the proposed changes.

The submitter provided the following comments:

- There has not been enough justification provided has to why the proposed boundary relates to their property; and
- Their property is not of visual value or importance due to a hilltop and road visually separating it from the Menangle village.

According to the MUSEcape Pty Ltd report published in 2012, the northern section of the property in question is located within a rural landscape view corridor and can be seen from various points in the Menangle village and surrounding areas. It is important that the recommendations of the report are followed to ensure that the historic vista and hills of Menangle are preserved under one consistent boundary.

It is anticipated that consultation with the broader public will be undertaken if a Gateway Determination is issued for the Planning Proposal to proceed. It is considered that as part of any broader community consultation the following stakeholders should also be invited to provide comments:

- Tourism and Heritage Community Advisory Committee(s),
- Appin Historical Society,
- The Oaks Historical Society, and
- Picton & District Historical and Family History Society.

Preparation of a Planning Proposal

Should Council resolve to support the outlined changes, a planning proposal will be prepared in accordance with Section 3.33 (formerly Section 55) of the *Environmental Planning & Assessment Act 1979* and guidelines published by the Department of Planning & Environment. The planning proposal is then forwarded to the Greater Sydney Commission for a Gateway Determination.

Council's options are:

1. Resolve to support the changes and prepare a Planning Proposal accordingly, or
2. Resolve not to support a Planning Proposal for these changes.

Option ***1*** is the recommendation of this report.

Final form of planning proposal

Wollondilly Local Environment Plan, 2011

Following consideration of responses from initial consultation and notification and preliminary investigation of all items listed in Schedule 5, it is considered that the planning proposal should take the form detailed below.

The planning proposal seeks the following amendments to WLEP:

- Amend Schedule 5 Environmental Heritage to update information under Part 1 Heritage Items and Part 3 Archaeological sites as outlined in Attachment 1,
- Amend the relevant Heritage Maps as outlined in Attachment 1 of this report to correctly identify individual heritage items and archaeological sites.
- Amend the Heritage Map for the Menangle Landscape Conservation Area to include all the area shown at Attachment 2.
- Amend the Land Zoning Map to include an additional land use annotation for 'place of public worship' to the SP2 Infrastructure land use zone for land associated with St Marks Church Picton (Lots 1 and 2 in DP 1225820) and St Luke's Church Wilton (Lot 1 in DP 1236516).

Some of the proposed changes apply to land either in Council's ownership or at least under Council maintenance. For this reason it is not considered appropriate for Council to request delegation to make the amendments.

Wollondilly Local Planning Panel advice

The Draft planning proposal was reported to the Local Planning Panel meeting held on 26 July 2018. A copy of the Panel's advice is attached to this report. The Panel's recommendations are listed below along with the steps taken to address them:

1. *That the landowners in the Menangle Landscape Conservation Area (MLCA) extension area be advised of the preparation of the planning proposal prior to the reporting of the matter to Council, to ensure that all landowners are given the same opportunity to comment.*

The relevant landowners have been contacted.

2. *That all landowners of land proposed to be included in the Draft Planning Proposal be notified and invited to attend when this item is listed at a Council Community Forum prior to being reported to Council.*

The relevant landowners of all properties affected by these changes were notified of the Council Community Forum to be held on 8 October 2018.

3. *That the Table of Changes to Schedule 5 (Attachment 1 in report) be reviewed to ensure:*

   (a) *Where the places of public worship listed in this table have a special use zone, the correct land use description has been used.*

   (b) *The reference to curtilage in Item 187 be removed and replaced with a more descriptive reference.*

The table listing changes to Schedule 5 has been updated based on the advice provided above. The updated table is provided at Attachment 1.

The Panel also provided an Advisory Note related to the protection of Aboriginal Cultural Heritage. However, it was directed to the Local Environmental Plan review and not this draft planning proposal specifically.

Financial Implications

Funding for the maintenance of Planning Instruments is part of the ongoing operational budget for Strategic Planning and no additional funding source.

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

ATTACHMENTS

1. **Table Summarising Proposed changes to Schedule 5 of Wollondilly Locla Environmental Plan 2011**

2. Map identifying proposed extension of Menangle Landscape Conservation Area
3. Local Planning Panel Minutes from 26 July 2018 for Heritage Housekeeping Amendments Draft Planning Proposal

RECOMMENDATION

1. That Council support the Heritage Housekeeping Planning Proposal for various sites to amend Wollondilly Local Environment Plan 2011 as follows:

   (a) Amend Schedule 5 (various changes),

   (b) Amend the Heritage Map (various changes), and

   (c) Amend the Land Zoning Map to identify an additional land use annotation for 'place of public worship' to the SP2 Infrastructure zone as it applied to St Mark's Church, Picton (Lots 1 and 2 DP 1225820) and St Luke's Church, Wilton (Lot 1 DP 1236516)).

2. That the Planning Proposal be forwarded to the Greater Sydney Commission for a Gateway Determination.

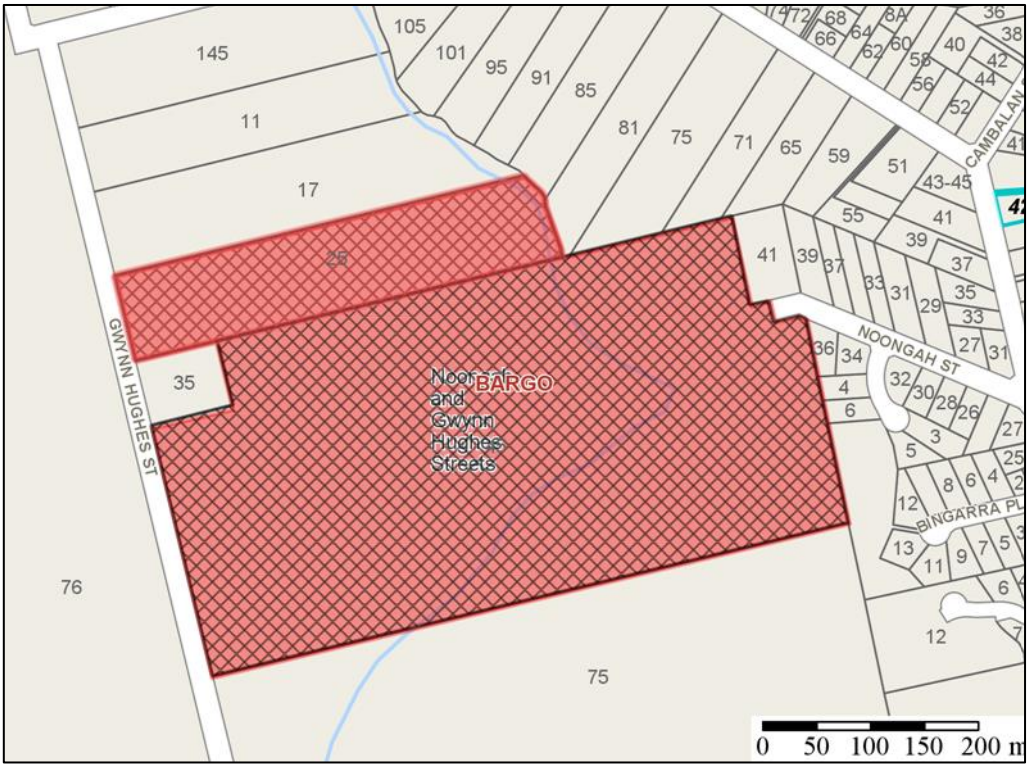
3. That if it is determined that any component of the Planning Proposal requires the preparation of a specialist study then that component is removed from this housekeeping amendment prior to exhibition and considered for inclusion within the comprehensive Local Environmental Plan Review instead.

4. That landowners and persons who made submissions regarding the Planning Proposal be notified of Council's Resolution.

11.5 PLANNING PROPOSAL - NOONGAH AND GWYNN HUGHES STREETS - POST GATEWAY REPORT TO COUNCIL

File Number: 10619#111

Applicant:	**Precise Planning**
Owner:	**Common Ground Property NSW Pty Ltd (45 Noongah Street) & Pudoro Pty Ltd (25 Gwynn Hughes Street)**
Lot & DP – Subject Site:	**Lot 22 DP 619150 (45 Noongah Street, Bargo) and Lot 95 DP 13116 (25 Gwynn Hughes Street, Bargo).**
Proposal:	**Draft Planning Proposal to amend the Wollondilly Local Environment Plan 2011**
Current Zoning:	**RU4 Primary Production Small Lots and RU2 Rural Landscape**
Proposed Zoning	**R5 Large Lot Residential and E2 Environmental Conservation**
Preliminary Notification:	**29 April – 27 May 2013 & 28 May - 25 June 2014**
Submissions:	**8**



LOCATION MAP N ↑

EXECUTIVE SUMMARY

- This report seeks Council's position on the Noongah and Gwynn Hughes Street Planning Proposal received for land at Lot 22 DP 619150 (45 Noongah Street, Bargo) and Lot 95 DP 13116 (25 Gwynn Hughes Street, Bargo).
- The proposal seeks to amend the provisions of the *Wollondilly Local Environmental Plan 2011* (WLEP) to increase the density of residential development on the subject site by rezoning a portion of the land from RU2 Rural Landscape and RU4 Primary Production Small Lots to R5 Large Lot Residential and reducing the minimum lot size for subdivision from two hectares and 16 hectares to 4,000 square metres. E2 Environmental Conservation zone is also proposed in association with the creek line.
- The proposal has been subject to preliminary notification in 2013 and again in 2014. A total of seven submissions were received in response, six in objection and one in support. The proposal has not progressed to formal public exhibition.
- A Gateway determination was issued by the Department of Planning on 29 January 2015 allowing the proposal to proceed subject to a range of conditions.
- This report recommends:
    - Council not support the planning proposal;
    - That a request be sent to the Greater Sydney Commission for an altered Gateway Determination requesting the planning proposal not proceed;
    - The proponent and landowners be notified of Councils decision; and
    - Persons who made a submission regarding the planning proposal be notified of Councils resolution.

REPORT

Background

Site Description

The planning proposal relates to two parcels of land within Bargo fronting Noongah Street to the east and Gwynn Hughes Street to the west.

The two lots are known as;

- Lot 22 DP 619150 – 45 Noongah Street, Bargo
- Lot 95 DP 13116 – 25 Gwynn Hughes Street, Bargo.

Lot 22 DP 619150 front Noongah Street and is currently zoned RU2 Rural Landscape and has a minimum lot size of 16 hectares under the provisions of the WLEP. Lot 95 DP 13116 fronts Gwynn Hughes Street and is currently zoned RU4 Primary Production Small Lots with a minimum lot size of two hectares under the provisions of the WLEP.

The combined area of the land parcels is approximately 20.7 hectares, with the larger of the two lots (Lot 22 DP 619150) approximately 17.4ha hectares. Both lots are currently vacant of built structures.

The site slopes from the west and south east towards Hornes Creek which runs through the site. This watercourse and the associated 30 metre riparian buffer is recognised as "sensitive land" under the provisions of Clause 7.3 of the WLEP. Hornes Creek runs along the eastern boundary of Lot 95 DP 13116 and from the southwest to the northeast with Lot 22 DP 619150. Smaller tributaries flow into Hornes Creek from the south and east.

25 Gwynn Hughes Street is consistently vegetated. 45 Noongah Street is well vegetation along the riparian corridors and lot boundaries but is cleared in the remaining areas.

The subject site is partially bushfire prone as per the relevant Bushfire Prone Lands Map. Lot 95 DP 619150 is identified as being wholly bushfire prone, and the majority of the land within Lot 22 DP 619150 is bushfire prone.

The subject site is identified as being wholly within the proclaimed Mine Subsidence District of Bargo.

Surrounding area

The subject site is within approximately 500m (from the eastern boundary) of Bargo Train Station and the bus stop located along Remembrance Driveway and Noongah Street. The Commercial area of Bargo is located approximately 500m to the east of the site boundary.

Land adjoining the subject site to the north is zoned RU4 Primary Production Small Lots, and appears to be used for predominately residential uses.

Land adjoining the subject site to the east is R2 Low Density Residential, and a RE1 Public Recreation zone, identified as Berrico Playground.

Land adjoining the south of the subject site is zoned RU2 Rural Landscape is and consistently vegetation with exception of one area containing a shed like structure.

To the west, the subject site shares three boundaries with a lot containing a dwelling and associated structures. The subject site also adjoins a crown road, which is not formed in its entirety. Land more generally to the west of the subject site is consistently vegetated, and predominately undeveloped.

Description of Proposal

The planning proposal (as amended) seeks to enable development of the land for large lot residential development and environmental conservation purposes. It seeks to do this through the following process:

- Amend the WLEP Land Zoning Map from zone RU2 Rural Landscape and RU4 Primary Production Small Lots to E2 Environmental Management for the riparian corridor of Hornes Creek and R5 Large Lot Residential for the remainder of the site. A current zoning map is provided in attachment 1 of this report.
- Amend the WLEP Lot Size Map from 16 hectares and 2 hectares to 4,000 square metres for the R5 zoned portion of the site and no minimum lot size for the E2 zoned portion of land.
- Amend the WLEP Height of Building Map to include a 9m height limit across the site.

This is illustrated in attachment 2 to this report.

Gateway Determination

The Gateway Determination was issued by the NSW Department of Planning % Environment on 29 of January 2015. The Gateway Determination also included approval to an inconsistency with Section 117 Direction 1.2 Rural Zones on the basis that it was is generally consistent with the Draft South West Subregional Strategy.

The original Gateway Determination was issued for the proposal to seeking rezone the land from R5 Large Lot Residential and E3 Environmental Management, and included advice that an appropriate lot size was to be determined following the completion of the specialist studies and consultation with Sydney Water to establish the servicing capacity of the site.

The proposal was amended following completion of the specialist studies and consultation with Sydney Water. The current form of the proposal is included in attachment 1 and proposes a minimum lot size of 4000 square metres in the R5 zoned portion of the site. An E2 Environmental Conservation Zone is also now proposed in lieu of the originally proposed E3 Environmental Management zone.

The planning proposal has not proceeded to public exhibition and therefore Condition 1 and 6 of the Gateway Determination have not yet been satisfied.

Additional studies and consultation with the prescribed public authorities as outlined in Condition 2 and 3 were undertaken, and have informed the recommendations of this report.

An altered Gateway determination was granted on 10 April 2017 to extend the timeframe for completion of Council's assessment.

Community Strategic Plan

The Create Wollondilly Community Strategic Plan 2033 (CSP) is Council's highest level long term plan. It identifies and expresses the aspirations held by the Community of Wollondilly and sets strategies for achieving those aspirations.

An assessment on the suitability against the CSP is included as Attachment 3.

Of particular note, the planning proposal raises environmental concerns regarding flooding and the impact of development on the riparian corridor.

The proposed development of the south eastern area of the site is heavily constrained due to flood constraints, and this would result in an isolated segment of rural zoned land being retained between the existing village and the proposed R5 zoned land to the west of Hornes Creek. This type of resulting development would be inconsistent with the desired pattern of development in the locality

Wollondilly Growth Management Strategy 2011 (GMS)

Council's Growth Management Strategy 2011 (GMS) sets directions for accommodating growth in the Shire over the next 25 years.

The GMS contains Key Policy Directions which form the overarching growth strategy for Wollondilly. An assessment of the suitability against the GMS is included in Attachment 4.

Greater Sydney Region Plan and Western City District Plan 2018

The Greater Sydney Commission's A Metropolis of Three Cities – the Greater Sydney Region Plan and the Western City District Plan were finalised by the Greater Sydney Commission in March 2018. These 20-year plans with a 40-year vision are a bridge between regional and local planning. They inform local environmental plans, community strategic plans and the assessment of planning proposals.

There are over 100 actions between these plans, many of which are relevant to Wollondilly. These plans are structured around strategies for:

- Infrastructure and Collaboration; supportive infrastructure, use of public resources such as open space and community facilities, working through collaboration.
- Liveability; social infrastructure, healthy communities, housing supply and affordability, great places,
- Productivity; the 30 minute city, land use and transport infrastructure, leveraging from the Western Sydney Airport and Badgerys Creek Aerotropolis, jobs.
- Sustainability; green spaces and landscape, tree canopy, using resources efficiently, managing rural areas, resiliency, bushland and biodiversity, waterways, green grid
- Implementation; local strategic planning statements, monitoring and reporting.

While the Plans do not provide strong direction regarding the order of Planning Priorities, a dominant focus for Wollondilly throughout the plan is the Metropolitan Rural Area (MRA).

Metropolitan Rural Area

The concept of the MRA was introduced by A Plan for Growing Sydney which was the region plan for the Greater Sydney area prior to the current A Metropolis of Three Cities.

The MRA is A Plan for Growing Sydney was relatively silent on the issue of housing growth and the MRA. By comparison, the current region plan has taken a much stronger stance. For example, the MRA is a core spatial element now shown on high level mapping throughout the document that part of Greater Sydney which is generally outside the established and planned urban area. For Wollondilly it takes in the whole Shire with the exception of the Wilton Growth Area and areas in Appin within the draft Greater Macarthur Growth Area. The objective of the MRA is to protect and enhance the wide range of environmental, social and economic values in rural areas across Greater Sydney. The 'values' to be enhanced and protected will vary from Council to Council and within local government areas depending on the areas characteristics and so the Region and District Plan's focus is on the need for 'place-based planning' so that outcomes can be targeted.

The Plans do, however, provide clear direction on the role of the MRA in terms of urban development. This is illustrated by statements within these documents shown in the table below:

Greater Sydney Region Plan	Western City District Plan
"Urban development is not consistent with the values of the metropolitan rural area." *"This Plan identifies that Greater Sydney has sufficient land to deliver its housing needs within the current boundary of the Urban Area…. This eliminates the need for the Urban Area to expand into the Metropolitan Rural Area.* *"Restricting urban development in the Metropolitan rural area will help manage its environmental, social and economic benefits."* *"Maintaining the distinctive character of each rural and bushland town and village is a high priority."*	*"Urban development in the Metropolitan Rural Area will only be considered in the urban investigation areas."* *"Rural residential development is not an economic value of rural areas and further rural residential development is generally not supported."* *"Limited growth of rural residential development could be considered where there are no adverse impacts on the amenity of the local area and the development provides incentives to maintain and enhance the environmental, social and economic values of the MRA"* *"Ongoing planning and management of rural towns and villages will need to respond to local demand for growth".* *"Rural and bushland towns and villages will not play a role in meeting regional or district scale demand for residential growth".*

Rural Lands Technical Working Group;

In response to the release of the District Plan councils are now required to complete a review and update of their Local Environmental Plan against the relevant district plan. Wollondilly has been identified as a high growth area and is required to complete this review within an accelerated timeframe of two years.

To assist Councils with this work the NSW Department of Planning & Environment along with the Greater Sydney Commission have facilitated a series of Technical Working Groups on key themes. On 20 July 2018 a Technical Working Group dedicated to rural lands was held.

In terms of 'local growth' and taking a 'place-based planning' approach the following points from the technical working group are considered relevant in providing direction:

- Local growth is about meeting the needs of the local community and achieving economic, social and environmental sustainability through identifying specific targeted outcomes (for

example a need to accommodate demographic shift, supporting or sustaining infrastructure or achieving a specific environmental outcome). This should be set out in a vision.

- Local growth needs to be defined in the context of the local area because it's different for each community. Subsequently, there is no consistent approach that can be applied across Council areas.
- Communities generally tend to grow at 1-2% per year in terms of population.
- Forward planning needs to be evidence based and needs to rely on a solid understanding of the current and future demographic direction.
- The Metropolitan Rural Area boundary is fixed in the short term and can only be changed by a decision of government.
- Housing delivery in the short term (i.e. 0-5 years) will be delivered from land already zoned and serviced. i.e. decisions already made about land use.

Planning Proposals with Council currently being progressed (i.e. land not yet rezoned) generally deliver housing for the mid to long term (i.e. 6 years +). Housing delivery in the short term is typically delivered through land that is already zoned and serviced.

Earlier this year Council wrote to the Greater Sydney Commission seeking guidance on the application of the MRA for existing planning proposals at an advanced stage. Greater Sydney Commission's response in May 2018 provides some additional direction to the points noted above.

- Towns and villages in the MRA will not play a role in meeting regional or district scale demand for residential growth. This is a fundamental consideration for any planning proposal in the Metropolitan Rural Area.
- Growth and infrastructure should be aligned. This is particularly relevant given the capacity of growth centres in Wollondilly and other nearby local government areas.

Where are we at now?

Further work is required to determine appropriate 'local growth' for villages and towns across Wollondilly. Given the direction in the Region and District Plan and the outcome of the Rural Lands Technical Working Group it is clear that this work involves a coordinated and holistic approach to establish what 'local growth' is in the Wollondilly context. It cannot be determined on an ad hoc basis through consideration of individual landowner or developer led proposals for rezoning land to enable residential development.

This view is consistent with Council's resolution to agenda item GR4 on 19 June 2018 that 'local growth' should be defined *through the preparation of a housing strategy and Local Strategic Planning Statements* (LSPS) *that will outline sustainable local growth for our villages*.

Recent amendments to the *Environmental Planning & Assessment Act 1979* embed a statutory requirement for Councils to review their Local Environmental Plans as soon as practicable after a District Plan is made. The recent amendments also introduced new requirements for councils to prepare and make Local Strategic Planning Statements (LSPS). Both the review of the WLEP and the LSPS need to be informed by a housing strategy.

The NSW Department of Planning & Environment have published an indicative timeframe for this review which includes the preparation of studies (including a housing study) and the preparation and exhibition of the draft LSPS by May/June 2019. Council is in the preliminary stages of this work at present.

Subsequently, given the significance of the MRA in determining the suitability of growth throughout Wollondilly and the difficulties in determining local growth, it is considered that draft planning proposals seeking to enable residential housing growth are premature and cannot be supported.

For planning proposals that have already received a Gateway determination, a different approach needs to be taken. These proposals have been considered by Gateway to have some broad

strategic merit and been allowed to proceed for further assessment, On this basis, it is important for the values of the MRA to be upheld and considered in each case.

Relevance of Noongah and Gwynn Hughes Street Planning Proposal to the Regional and District Plan and MRA provisions

Although the proposed level of development is not substantial in comparison to the other draft planning proposals reported on to Council over the past few months, the scenic landscape and character of land located along the rural fringe of Bargo presents a rural outlook for future houses located in the surrounding area and is worth retaining for its conservation, buffering and aesthetic value.

Section 9.1 Ministerial Directions

9.1 Directions apply to planning proposals lodged with the Department on or after the date the particular direction was issued. Below is assessment of the planning proposal against 9.1 Ministerial Directions. The proposal is deemed to be inconsistent with Directions

- 4.3 Flood Prone Land and
- 4.4 Planning for Bushfire.

Given that the proposal was updated to reflect the studies that were carried out, and agency consultation has not been carried out an assessment against each if the directions is provided below.

<u>Ministerial Direction 1.2 Rural Zones (effective 14 May 2016)</u>

The planning proposal would allow for the rezoning of land from a rural zone to an urban zone which would also enable an increase in density of the land which is inconsistent with the Ministerial Direction. The Gateway Determination acknowledged that the planning proposal is inconsistent with this direction, however the variation is of minor significance and is justified and therefore the planning proposal is able to proceed.

<u>Ministerial Direction 1.3 Mining, Petroleum Production and Extractive Industries (effective 1 July 2009)</u>

As per the Gateway Determination, Council consulted with NSW Trade and Investment (Division of Resources and Geoscience (DRG)). Advice provided from the Geological Survey of NSW Division states the following:

The planning proposal area is located within Consolidated Coal Lease (CCL) 747 held by Bargo Collieries (a subsidiary of Tahmoor Coal) and lies within the immediate vicinity of proposed longwall panels scheduled by the Tahmoor South Coal Project for which SEARs were issues on 9 June 2017. The site may be subject to subsidence impacts from longwall extraction of coal and is within the Bargo Mine Subsidence District. With recent changes to Mine Subsidence legislation, the subsequent cost of property repairs potentially represents a significant financial disincentive to mining companies seeking to operate in areas that will be subject to further intensification of urban development.

Accordingly, the Division has concerns regarding the location of the rezoning application and objects to the planning proposal because it is considered to be inconsistent with Section 9.1 Direction 1.3 Mining, Petroleum and Extractive Industries as it has the potential to restrict the development of coal resources. The Division supports sequential development of the area with rezoning of surface lands to facilitate residential development taking place after completion of longwall mining of underground coal seams.

<u>Comment:</u> The proposal is not consistent with Ministerial Direction 1.3 and is therefore unable to be supported.

Ministerial Direction 2.1 Environmental Protection Zones (effective 1 July 2009)

The subject site includes sensitive land as identified in the Natural Resources – Water Map under the LEP. The riparian buffer zone is mapped along Hornes Creek that transverses the subject site. It is proposed that an E2 Environmental Conservation Zone be applied to this land, and be held in private ownership.

The Office of Environment & Heritage (OEH) raised concerns about the proposed zoning and the future protection of significant vegetation on the land. OEH recommended the environmental land be zoned E2 Environmental Conservation and be held in public ownership to ensure protection in perpetuity.

These issues have not been resolved due to the cumulative impacts of flooding, bushfire and on-site waste water management.

Ministerial Direction 2.3 Heritage Conservation (effective 1 July 2009)

The subject site does not include any listed heritage items or conservation areas. An Aboriginal Cultural Heritage Assessment was submitted to Council, date 10 March 2017. The report identifies a number of Aboriginal artefact scatters and isolated objects within the subject site, including artefacts identified within subsurface deposits associated with Hornes Creek. The report notes that the zoning and subsequent development of the site would most likely directly impact on surface and subsurface deposits.

No comments have been received from Councils Heritage Officer nor OEH. Further consultation is required to ascertain the planning proposals consistency with this direction.

Ministerial Direction 4.2 Mine Subsidence and Unstable Land (effective 12 April 2016)

As of 13 March, 2015 Mine Subsidence Board had no objections to the proposed rezoning. As mentioned under Direction 1.3 recent developments within the mining context may have an impact on the proposal's consistency with this Direction. Further advice from the Department of Planning and Environment is pending.

Ministerial Direction 4.3 Flood Prone Land (effective 1 July 2009)

The planning proposal is deemed to be inconsistent with this ministerial direction.

The subject site is flood prone, with the 1 in 100 year flood level contained predominately within the proposed E2 zoning. The Probable Maximum Flood level will include the proposed R5 zone.

The Ministerial Direction provides that a planning proposal to rezone land must not contain provisions that apply to flood planning areas which:

- Permit development in floodway areas;
- Permit development that will result in significant flood impacts to other properties;
- Permit a significant increase in the development of the land.

The south eastern portion of the site has been identified as being within a floodway area and also being fully inundated in the Probable Maximum Flood scenario. It has also been identified that there would likely be an impact on upstream flood levels from any creek crossing. OEH have also made comment that the south eastern area of the site would have its access cut to Noongah Street in the 5% AEP flood. The proposal is therefore inconsistent with the Ministerial Direction. The Office of Environment & Heritage have also raised significant concerns regarding the flooding matters on this site and their response is provided in Attachment 7.

Ministerial Direction 4.4 Planning for Bushfire Protection (effective 1 July 2009)

It is considered that the proposal is inconsistent with this Ministerial Direction.

RFS raised no objections to the proposal subject to the consideration of a range of issues, as summarised below:

- Access: the planning proposal should contain provisions that will ensure future residential subdivision will provide a 'through' road scenario from Gwynne Hughes Street to Noongah

Street. The proponent has proposed a gated emergency access/egress road across Hornes Creek linking the public roads. RFS does not support this, instead recommends the egress is un-gated to allow unimpeded evacuation for future residents in the event of a bushfire emergency, and that such egress includes suitable flood immunity. Further any revegetation of the riparian buffer may increase the likelihood of access being blocked during a bush fire event.

- Access: the subject site is subject to a significant bushfire risk due to adjacent land including large strands of unmanaged vegetation. The proposal does not currently contain a perimeter road that complies with Planning for bushfire Protection 2006, as required by RFS.
- Asset Protection Zones: RFS recommends that APZs of BAL 29 or less be provided for all proposed lots. RFS advised in July 2018 that prior to the progression of the planning proposal Council should be satisfied that suitable areas for future residential development complying with BAL 29 construction can be achieved on all lots.

OEH raised concerns with the impact of the provision of APZs on land identified as moderate ecological constraint and encroachment into the riparian corridor. OEH states that APZs and/or perimeter roads should be located to protect and avoid clearing the moderate ecological constraint vegetation.

Due to the ecological and flooding constraints of the subject site, Council is not satisfied that sufficient outcomes can be achieved in regard to Bushfire protection with particular reference to access and the provisions of suitable APZs. Also, the land filling required to provide the low level crossing in the form of a public road across Hornes Creek, which is required to achieve the RFS requirements also poses a risk of increased flood impact.

Consultation

Consultation with Council Staff that Provide Specialist Comments

The following comments on the planning proposal were received from Council staff:

<u>Investigation & Design Engineer</u>

There has been extensive collaboration with Council's Design Engineer to work through the flooding issues and progress the planning proposal. The extent of flooding is shown in Attachment 6, highlighting the impact on the subject site and Kader Street Bridge.

A summary of correspondence is below:

- The 1% AEP flood modelling has identified impacts on exiting residential areas upstream on the eastern stream and any road access across the creek will necessitate filling and potentially increasing the upstream flood levels. As such the rezoning of the central/south eastern portion of the site should not proceed;
- The north-east portion of the site may be suitable for rezoning but OEH concerns must be reviewed and addressed;
- Access to the remaining two portions of residential development be separated by the riparian corridor (a shared path link across with low flood immunity would be acceptable) with vehicle access from either side. Furthermore that the flood immunity of the existing Kader St Bridge be assessed and upgrading considered if appropriate.
- The north east portion of the site is probably ok for rezoning. However OEH's submission needs to be reviewed as they have raised concerns about this part of the site. We will need to address this submission and this may require further investigation by the proponent.
- A road connection is required from the western portion of the site over the creek to connect with Noongah Street in response to feedback from NSW RFS.
    - A low level crossing (for example a causeway) could be provided over the creek but upgrades would be required to the bridge on the alternative evacuation route.

  - Alternatively a bridge could be provided over the creek but this may have flow on impacts on the flooding behaviour in the area. Further investigations would be required to establish what impacts there would be on flooding and where these were acceptable or could be effectively be mitigated.
  - If a low level crossing is provided over the creek then the bridge at Kader Street would need to be re upgraded to provide a higher level of flood immunity (i.e. potentially demolished and rebuilt).
- Existing overland flow path from Noongah Street towards the creek, may exacerbate the risk of property/dwelling inundation in the area.

Comment: the subject site is significantly constrained by flooding issues. The Flood study (see Attachment 6) highlights the extent of flooding, particularly across the south east portion of the site. The provision of a crossing has the potential to exacerbate the flooding impact, and influence the flood immunity level of the exiting Kader Street Bridge, further limiting the capacity of residents to evacuate in a flood event. OEH raised similar concerns, these have been outlined later in the report. These issues are further exacerbated when combined with the bushfire constraints of the site.

Environmental Outcomes

Councils Environmental Outcomes department raised a number of concerns in reference to the planning proposal as summarised below:

- E2 Zoning is recommended for the creek line and associated habitat corridor. The E3 zoning is not supported on ecological grounds alone.
- The Natural Resources Biodiversity Layer should be applied to all land identified as satisfying the definition of Shale Sandstone Transition Forest.
- The Flora and Fauna report notes a koala sighting in close proximity to the subject site in 2016. Consideration of provisions under SEPP 44 is required.
- Design and location of building envelopes and associated ancillary items to avoid impact on land where the Natural Resources Biodiversity mapping is recommended to be applied based on the Avoid/Minimise/Mitigate approach of Clause 7.3 of WLEP

Comment: the subject site contains a number of ecological constraints. OEH raised similar concerns, as outlined later in this report.

Facilities and Recreation

No concerns raised with the zoning proposal so long as the E3 land remains within private ownership and that the development contributes towards improvements to existing drainage problems at the existing RE1 Council land.

It was also recommended that consideration should also be given to how the development can best connect to the RE1 land to facilitate access between the development and Bingarra Place enabling new residents to walk to Bargo Sportsground.

Environmental Health Officer

Councils Environmental Health Officer provided the following comments:

- All lots should be provided with a minimum effluent application area of 600 square metres, located above the 5% AEP flood level.
- A 40 metre buffer shall be provided to all lots to the intermittent creek from all effluent disposal areas

Comment: A concept subdivision plan (which is indicative only) has been provided which demonstrates that the effluent disposal areas are able to be provided outside the 1% AEP area and also achieve the 40m buffer from the watercourse on the site.

Consultation with Public Agencies

The Gateway Determination required consultation with the following Public Agencies:

- Department of Trade and Investment – Resource and Energy
- Office of Environment and Heritage
- Greater Sydney Local Land Service
- Mine Subsidence Board
- Rural Fire Service
- Sydney Water;
- NSW Office of Water;
- State Emergency Services;
- Endeavour Energy; and
- Local Aboriginal Land Council.

The following is a summary of the matters raised by public authorities and assessment comments.

Department of Trade and Investment – Resource and Energy

NSW Trade & Investment – Geological Survey of New South Wales has no issues to raise with the proposal as per correspondence date 7 April 2015.

A further request for comment was made on 28 September 2018. No response has been received.

Office of Environment and Heritage (OEH)

OEH raised concerns regarding the impact the planning proposal would have on the ecological value of the subject site and floodplain risk management. The most recent response is contained in Attachment 7.

Biodiversity concerns are summarised:

- The high ecological constraint land along Hornes Creek should be E2 Environmental Conservation zone, rather than E3 Environmental Management.
- Land identified as high ecological constrain on the northern boundary is not proposed to be E2 land but proposed to be subdivided as R5 Large Lot Residential land.
- areas of high ecological value should be zoned E2 and consideration should be given to ensuring these areas are retained in a single parcel of land to be managed in perpetuity under a biobanking or via a community title scheme
- APZ zones encroach and impact on vegetation identified as moderate ecological constraint
- Proposed plan of subdivision shows the perimeter road 2 and APZ are located within the riparian extent of Hornes Creek and does not appear to have been offset.

Flood Plan Management Concerns are summarised below:

- The north-east side (along Noongah Street and proposed road 3) becomes isolated in the 1% AEP flood event which indicates no safe route is available. The south-east side along proposed road 3 has its access through Noongah Street cut off at 5% AEP which indicates that to ensure safe evacuation residents in the south-east area would evacuate in every flood event equal or larger than 5% AEP. The PMF developed scenario map shows this area fully inundated in the PMF. OEH supports Councils recommendation not to support the rezoning of the south-east area along Road 3.
- The flood immunity at the end of Noongah Street appears to be cut off in a 1% AEP event;

- Flood immunity of the existing Kader Street Bridge and the proposed river crossing at the end of Noongah Street has not been assessed;
- The 1% AEP appears to encroach on proposed lots or close to some proposed lots. New development should be above the 1% AEP plus 0.5m freeboard – this should be mapped and level adhered to as minimum floor levels for any future development.

Comment: the subject site is significantly constrained by environment and flood plain management. The proposed environmental land is to remain in private ownership, with the land too small to be effectively offset through a bio banking scheme.

Greater Sydney Local Land Service

No response provided.

Mine Subsidence Board

No objections as per correspondence dated 13 March 2015. Future development subdivision or construction subject to approval.

Rural Fire Service

The Rural Fire Service has not explicitly opposed the planning proposal but raised a number of concerns regarding emergency access to the western side of the subject side. More specifically, in correspondence dated 25 July 2018 RFS provided the following comments:

The proposal for a gated emergency access/egress road linking the public roads as depicted in additional information, does not adequately address the comment previously raised. The RFS advise that prior to progression of the planning proposal Council should be satisfied that the linking road;

- *Can be constructed to the standards of a public road in accordance with PBP 4.1.3(1) and*
- *Is un-gated to allow unimpeded egress for future residents evacuating in the event of a bush fire emergency, and*
- *Construction of the road includes suitable flood immunity.*

Comment: The proposed gated fire trail raises concerns of potential access issues in the case of emergency. The proposal does not provide a road which would provide greater certainty and would preferably be separate from the surrounding allotments rather than through. Further, the cumulative flood and bushfire impacts, particularly in cases of emergency make the proposal undesirable.

Sydney Water

The subject site is currently service by an existing water main in Kader Street and Noongah Street. Any future development would require the amplification of the existing system.

The subject site is located outside the subsidised service area for the Bargo Priority Sewerage Program. As such there is limited to no capacity to connect to the existing sewerage infrastructure.

Comment: The Sydney Water advice led to the alteration of the minimum lot size provision for the proposal, increasing the proposed minimum lot size from 1500 square metres to 4,000 square metres to allow for on-site waste water management.

NSW Office of Water

Riparian corridors are to be managed in accordance with the Controlled Activity Guidelines for riparian corridors on waterfront land. Public ownership is recommended to ensure the ongoing and effective management of the riparian corridors located within the subject site. The Office of Water is supportive of the management of wastewater via a communal wastewater treatment system –

this will minimise potential risks to surface and groundwater quality that would otherwise result from locating multiple individual effluent disposal areas.

Comment: NOW are supportive of the 4,000 square metre minimum lot size which would allow for improved outcomes for onsite waste water management in lieu of the originally proposed 1,500 square metres minimum lot size. Riparian buffer zone to be contained within E2 Environmental Management zoning. As per the proposed plan of subdivision, two (2) proposed lots will include the E2 land, and be burdened with a restriction on title. This is not considered an appropriate outcome as per the recommendations of NSW Office of Water.

State Emergency Services

No response received

Endeavour Energy

No specific comments or concerns, generalised safety advice only.

Local Aboriginal Land Council.

No response received

Community Consultation

In accordance with Council's notification policy, initial (pre-Gateway Determination) community consultation was undertaken between 29 April and 27 May 2013. The application was made available on Council's website and letters were sent to owners and occupiers of adjoining and potentially affected properties.

A total of seven submissions were received in response, six in objection and one in support.

The issues raised in submissions that are relevant to the assessment of the application are summarised below, further detail is provided in attachment 3.

Following the requested amendment to the planning proposal by the proponent, this proposal was again placed on preliminary consultation from 28 May to 25 June 2014.

A total of eight submissions were received in response, four in objection, one in support and three neutral. A summary of the main issues raised include:

- Loss of agricultural land
- Loss of rural character – lot sizes too small
- Traffic impacts
- Indigenous Significance of the land
- Environmental impact/degradation of Hornes Creek
- Stormwater management and drainage infrastructure

A submission was received from Tahmoor Coal that did not explicitly support or object to the proposal. This submission drew attention to the following issues:

- Mining Lease – Tahmoor Coal holds mining tenement CCL747, which is held over the Bargo and Pheasants Nest localities. The Tahmoor South Project proposes underground longwall mining of the coal resource from within CCL747.
- Mine Subsidence District – Tahmoor Coal note that the Bargo locality is designated within the Bargo Mine Subsidence District and recommend that the Picton office of the Mine Subsidence Board also be consulted regarding building design controls and guidelines to accommodate subsidence for any residential development proposed.
- Tahmoor South Project – Tahmoor Coal has submitted to the Department of Planning & Infrastructure a Preliminary Environmental Assessment (PEA) and obtained Director General's Requirements (DGRs) for the Tahmoor South Project. The PEA provides details

of the proposed underground mining operation and longwall mine plan and outlines potential subsidence impacts.

Key Issues with the planning proposal

- The south eastern portion of the site in wholly inundated in the probable maximum flood event. The flood modelling also shows that the eastern part of the site has its access cut to Noongah Street in the at 5% AEP which indicates that to ensure safe evacuation residents in the south-east area would evacuate in every flood event equal or larger than 5% AEP. The south eastern portion of the site is therefore not able to be supported.
- Not proceeding with the south eastern portion of the site would result in a fragmented area of rural zoned land being retained within the site and the remaining proposed R5 zoned land to the west of the watercourse not achieving any connectivity with the existing village of Bargo.
- The site is bushfire prone land and currently only contains one entry/exit point from a public road (being from Gwynne Hughes Street). The RFS has stated that they do not support a creek crossing being provided by way of a gated emergency access/egress road. A low level creek crossing could be provided by way of a formed road, however, this would require significant upgrades to the Kader Street Bridge to ensure that an evacuation path can be provided for residents on the western side of the site in a flood event. Filling of land to provide the creek crossing on the site could also increase flood issues off site.
- The proposal is not consistent with the principles of place based planning outlined in the district plan given that there will be a fragmented area of land between the existing village and area of the site outside the PMF flood area.

Conclusion

The planning proposal seeks to alter the zoning and minimum lot size maps as contained within the WLEP and as relevant to the subject site. The proposal will allow for R5 Large Lot Residential and E3 Environmental Management Land with a minimum lot size of 4,000 square metres.

The subject site is located on the western residential border and rural fringe of Bargo. The GMS does not indicate this area as a location for future growth.

Further to this, the site is significantly constrained in regard to ecological value and the cumulative impacts of bushfire and flooding threats. Hornes Creek significantly impacts on the evacuation ability of future residents in a bushfire or flood event, with the proposed egress across the creek considered to be an inappropriate solution. Further flood studies show the south-east portion on the subject site becomes wholly inundated in the probable maximum flood event.

The nature of Hornes Creek divides the subject site into what can be considered two (2) separate entities. This creates fragmented development with the western portion of the site have restricted access to the Bargo town centre. The proposal would also result in an isolated rural lot.

Options for Moving Forward

Council's options are:

1. Resolve to not support the continuation of this planning proposal and request an altered Gateway determination for the proposal not to proceed, noting that the proponent has the right to seek a Gateway review.
2. Resolve to support the progress of the planning proposal in the form as described in this report. With this option, an altered Gateway determination may be required in respect of an E2 Environmental Conservation Zone being applied to the Riparian Corridor in lieu of the previously proposed E3 Environmental Management zone.. All other issues with flooding, bushfire, mining coexistence and infrastructure would need to be satisfactorily addressed and resolved.
3. Resolve to support the planning proposal in another form. With this option an altered Gateway determination may be required

Option 1 is the recommendation of this report.

Financial Implications

Funding for this project to date has been partially offset through the adopted planning proposal fees and charges.

It is noted that no voluntary planning agreement or offer has been made to Council in respect to local infrastructure arrangements.

ATTACHMENTS

1. **Current zoning of Planning Proposal site and surrounds**
2. **Noongah Gwynne Hughes Street Planning Proposal - Subdivision Concept Plan (Rev C)**
3. **Assessment of Proposal against the Community Strategic Plan**
4. **Assessment of Proposal against the Growth Management Strategy 2011**
5. **Table of submissions recieved at preliminary consulation**
6. **Extracts from Flood Study**
7. **Office of Environment and Heritage referral response**

RECOMMENDATION

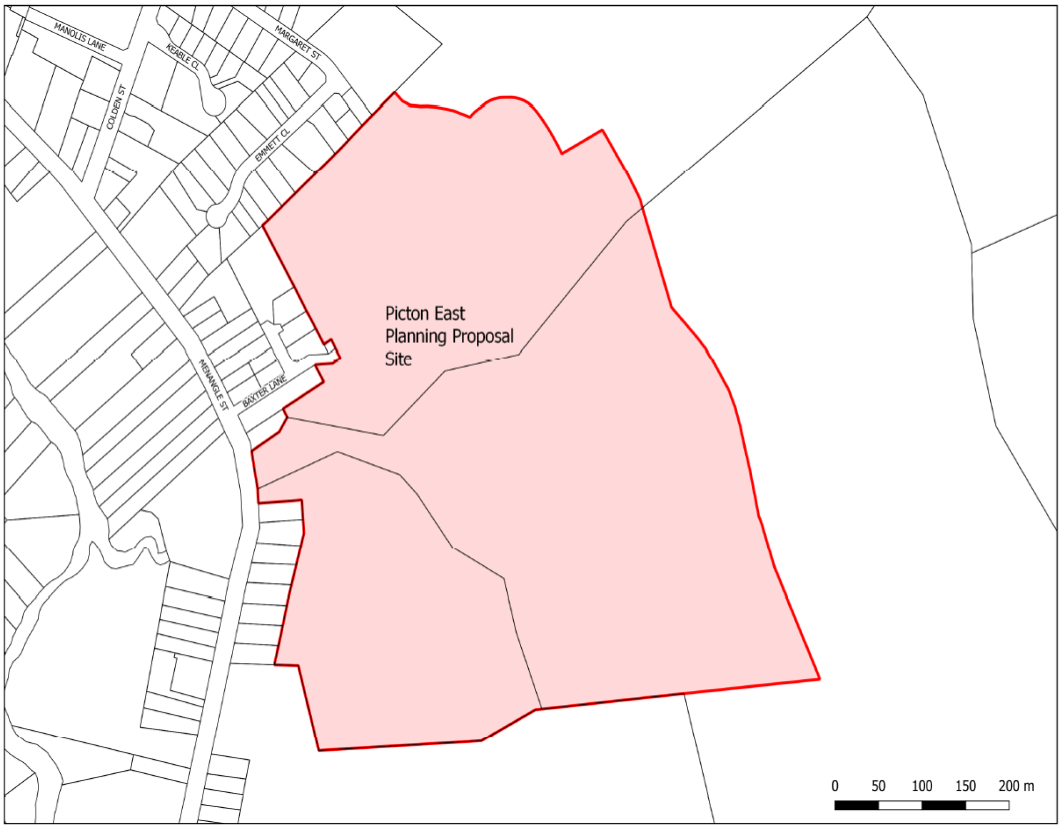
That in relation to the Noongah and Gwynn Hughes Streets Planning Proposal:

1. Council not support the planning proposal;
2. That a request be sent to the Greater Sydney Commission for an altered Gateway Determination requesting the planning proposal not proceed;
3. The proponent and landowners be notified of Councils decision; and
4. Persons who made a submission regarding the planning proposal be notified of Councils resolution.

11.6 PLANNING PROPOSAL - PICTON EAST

File Number: 10619#162

Applicant:	**Michael Brown Planning Strategies**
Owner:	**Mr L R Baxter, Reeves Junction Pty Ltd**
Subject site:	**Part Lot 106 DP 1111043 (Part 1735 Remembrance Drive, Picton), Part Lot 2 DP 229679 (Part 108-114 Menangle Street, Picton) and Lot 9 DP 233840 (116-118 Menangle Street, Picton)**
Current Zoning	**RU2 Rural Landscape**
Proposed Zoning	**R2 Low Density Residential, E4 Environmental Living, and E2 Environmental Conservation**
Exhibition period:	**12 September 2018 to 10 October 2018**
Submissions	**14**



LOCATION MAP

Stage	Completed
Preliminary notification	16 May to 8 June, 2012
Gateway Determination	28 March, 2013
Gateway Alteration	16 May, 2018
Consultation with Public Agencies	June 2013 and September 2018
Specialist Studies	Submitted and amended
Public exhibition/community consultation	12 September to 10 October, 2018

EXECUTIVE SUMMARY

- The purpose of this report is to seek Council support to finalise the Picton East Planning Proposal.
- This planning proposal has been prepared by Wollondilly Shire Council. It seeks to amend the provisions of *Wollondilly Local Environmental Plan 2011* with the intent of enabling the development of the subject site to create approximately 250 lots.
- Amendments to the Wollondilly Development Control Plan 2016 through the addition of site specific development controls are also proposed to guide future development of the site once rezoned.
- 14 submissions were received in response to community consultation period, of which all objected to the proposal.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extends to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended that the draft amendment to the Wollondilly Local Environmental Plan 2011 be supported in principle for the Planning Proposal as it relates to Part Lot 106 DP 1111043 (Part 1735 Remembrance Drive, Picton), Part Lot 2 DP 229679 (Part 108-114 Menangle Street, Picton) and Lot 9 DP 233840 (116-118 Menangle Street, Picton) subject to a number of matters as outlined in the report.

REPORT

Background

Description of Site and Surrounding Area

The site comprises an area of approximately 30 hectares across three properties (part of two and the whole of the third) located immediately east of Picton Town Centre. The site is bordered by Remembrance Drive/Old Hume Highway to the north and Menangle Street to the west. There are two roads leading into the site, Margaret Street and Baxter Lane. The site is below the southern side of Vault Hill, a dominant landmark near the town centre. Reeves Creek and its tributaries run through the site and connects to Stonequarry Creek through a drainage culvert under Menangle Street.

The planning proposal site comprises cleared land previously used for dairying and is currently used for grazing purposes. Significant stands of vegetation are located, along the banks of Reeves Creek and on some of the steeper slopes of the lower inner hills. There are also a large number of scattered mature trees throughout the site.

The address and cadastre details for the three properties and the site area are outlined in the table below:

Address	Lot and Deposited Plan	Area located within rezoning site (ha)	Total area of each property (ha)
Part 1735 Remembrance Drive, Picton	Part Lot 106 DP 1111043	10.2 (approximate)	41.75
Part 108-114 Menangle Street, Picton	Part Lot 2 DP 229679	12 (approximate)	72.6
116-118 Menangle Street, Picton	Lot 9 DP 233840	6.42	6.42
Total		29.62	120.77

Description of Proposal

This planning proposal seeks to:

- Enable the development of the site for the purposes of housing for around 250 dwellings;
- Enable the conservation of environmentally sensitive land;
- Restrict residential development on areas that are potentially geotechnically unstable; and
- Limit impact on the rural landscape, scenic hills and nearby heritage character.

It seeks to do this through the following amendments to the *Wollondilly Local Environmental Plan (WLEP) 2011*:

- Amend the Land Zoning Map from RU2 Rural Landscape (RU2) to R2 Low Density Residential (R2), E4 Environmental Living (E4) and E2 Environmental Conservation (E2).
- Amend the Lot Size Map from no minimum lot size to a minimum lot size of:
  - 400sqm, 450sqm, 700sqm and 1500sqm for R2 land,
  - 1500sqm for E4 land,
  - 5 ha for E2 land and 20 ha for the residual RU2 land on Lot 106 DP111043, and
  - 40 ha for the residual RU2 land on Lot 2 DP 229679 outside the rezoning site.
- Amend the Height of Buildings Map to a maximum building height of 9 metres.
- Amend the Natural Resources Water Map to provide riparian buffers of 10m, 20m and 30m along Reeves Creek and its tributaries.
- Identify the land on the Urban Release Area maps under WLEP 2011.
- Amend Part 7 Additional Local Provisions to include a clause entitled "Landslide Risk" and with an accompanying map detailing areas of landslide risk on the site that would require further investigation at the development application stage.

7.7 Landslide risk

(1) The objectives of this clause are to ensure that development on land susceptible to landslide:
(a) matches the underlying geotechnical conditions of the land, and
(b) is restricted on unsuitable land, and
(c) does not endanger life or property.

(2) This clause applies to land identified as "Landslide risk" on the Landslide Risk Map.

(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account the risk of landslide:
(a) site layout, including access,
(b) the development's design and construction methods,
(c) the amount of cut and fill that will be required for the development,
(d) waste water management, stormwater and drainage across the land,
(e) the geotechnical constraints of the site,
(f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development will

appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and that:

(a) the development is designed, sited and will be managed to avoid any landslide risk or significant adverse impact on the development and the land surrounding the development, or

(b) if that risk or impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that risk or impact, or

(c) if that risk or impact cannot be minimised—the development will be managed to mitigate that risk or impact.

Gateway Determination

Gateway Determination was issued on 28 March 2013 granted that the inconsistencies with Section 9.1 Direction 1.2 Rural Zones were of minor significance and no further approval on this matter was required for the project to proceed.

The Gateway Determination was amended on 16 May 2018. The conditions of the Gateway Determinations are summarised in the following table with comments as to how these have been addressed in the planning proposal process.

It is noted that the Department of Planning & Environment also clearly advised Council that the proposal was to be returned to it by the 30 November 2018 and that no further extensions would be provided.

Gateway Condition	Addressed by:
1. Prior to undertaking public exhibition, the maps are to be updated to consistently identify the subject land, consistent with Council's resolution.	The maps have been updated to clearly identify the subject land.
The 'subject land' is to only include land which is proposed to be rezoned and the proposal is to be clear on whether it applies to land currently zoned RE1 Public Recreation.	The subject land includes land currently zoned RE1 Public Recreation.
Council is to consider including land to the immediate west of the subject land, which is zoned RU2 Rural Landscape as part of this rezoning.	The current format of the planning proposal does not link to the rural land identified to the west of the subject land. The planning proposal is not considered to result in the fragmentation of rural land. In addition the VPA offer includes the construction of a walking path connecting the existing town and the proposed development to Vault Hill Lookout and heritage area. The VPA offer has yet to be finalised.
2. Council is to update the Planning Proposal to address acquisition arrangements for land proposed to be zoned RE1 Public Recreation, including identifying any necessary changes to be made to the Land Reservation Acquisition Map.	As part of the request for a Gateway Alteration, the proposed RE1 Public Recreation land is now proposed to be zoned E2 Environmental Conservation and R2 Low Density Residential. As such, Gateway condition 2 was deleted as part of the Alteration of Gateway determination issued on the 16 May 2018.
3. Council is to address the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land. Council is to prepare an initial site contamination investigation report to demonstrate the site is suitable for rezoning to the	As further discussed in Section 2.11 of this report, a Preliminary Site Investigation was undertaken and is considered to address the requirements of SEPP 55.

Gateway Condition	Addressed by:
proposed zoned. The report is to be included as part of the public exhibition material.	The Preliminary Site Investigation formed part of the Public Exhibition material.
4. Additional information regarding the below matters is to be placed on public exhibition with the Planning Proposal: • Drainage and stormwater; • Flora and fauna; • Flooding; • Bushfire hazard; • Traffic and transport; • Heritage; • Geotechnical; • Open space; • Scenic landscape analysis; • Residue land (protection and management of remaining agricultural land) • Water and wastewater servicing.	The required studies have been prepared and have informed the planning proposal as outlined in this report.
6. Council is to consult with the following public authorities and, where indicated, demonstrate consistency with relevant 9.1 directions: • Office of Environment and Heritage (Direction 2.1 Environment Protection Zones) • Department of Trade and Investment – Mineral Resources and Energy (Direction 1.3 Mining, Petroleum Production and Extractive Industries) • NSW Rural Fire Service (Direction 4.4 Planning for Bushfire Protection) • Fire and Rescue NSW • Transport for NSW – Roads and Maritime Services • Mine Subsidence Board (Direction 4.2 Mine Subsidence and Unstable Land) • Endeavour Energy • Commonwealth Department of Sustainability, Environment, Water, Population and Communities (if required) • Sydney Water • Hawkesbury – Nepean Catchment Management Authority • Department of Primary Industries – Agriculture • Department of Primary Industries – Crown	Each of the required agencies has been consulted and it is considered that the proposal is consistent with the relevant Section 9.1 directions as outlined in Section 2.6 of this report.

Gateway Condition	Addressed by:
Land (regarding the Vault Hill Cemetery)	
7. A public hearing is not required to be held into the matter by any person or body under Section 3.34(2)(e) of the Act.	A public hearing has not been held.
8. The timeframe for completing the Local Environmental Plan Amendment is to be by 30 November 2018	Noted.
5. and 9. Public Exhibition is required under Section 3.34(2)(c) of the Act	The planning proposal was placed on Public Exhibition from 12 September to 10 October 2018 in accordance with the requirements under Section 3.34(2)(c) of the Act.

Community Strategic Plan

The Create Wollondilly Community Strategic Plan 2033 (CSP) is Council's highest level long term plan. It identifies and expresses the aspirations held by the Community of Wollondilly and sets strategies for achieving those aspirations.

An assessment on the suitability against the CSP in terms of Council's position on growth is provided in the table below.

Council's Position on Growth	
Key Principles & Objectives	**Assessment**
1. Rural Protection Council is committed to managing growth so as to: • Protect our rural lands, rural landscapes and their surrounding environments; • Protect the natural resources and systems upon which agriculture depends; • Support and maintain a viable agricultural industry and encourage further agricultural investment in the Shire; • Minimise the fragmentation of rural lands; • Minimise rural land use conflict.	site is located adjacent to existing residential development and is close to the Picton town centre, community services and facilities. While the proposal seeks to rezone some rural land, it will not fragment remaining rural land surrounding Picton.
2. Growth in and around our existing centres Council will only support appropriately scaled growth within and around its existing towns and villages that: • Respects the character, setting and heritage of those towns and villages; • Supports the economic and social sustainability of those towns and villages;	The site is located adjacent to existing residential development and is close to the Picton town centre, community services and facilities. The site provides an excellent opportunity for well-located land to provide minor housing growth immediately adjoining Picton.

Council's Position on Growth	
• Mitigates or minimises adverse environmental impacts; • Retains green space/rural lands separation between towns and villages; • Incorporates appropriate and timely infrastructure provision to meet the needs of the existing and incoming population; • Addresses the cumulative impacts and infrastructure requirements when considered in conjunction with other proposals; • Does not compromise or conflict with the concept and vision of rural living (as defined in the following section of this CSP); • Has incorporated, and has been informed by extensive community engagement.	
3. Wilton New Town Council's priority focus for growth will be the development of a new town at Wilton and Council will not support the development of new towns or villages in other areas of the Shire. The vision for Wilton is to create a major new town over the next 20-30 years which will incorporate 16,600 homes for a population of approximately 50,000 people.	The proposal will provide local growth adjoining Picton
4. No other major growth areas Council will not be supporting major urban development or the development of new towns or villages within its rural areas including those parts of Wollondilly that are in the 'Greater Macarthur Land Release Investigation Area" (other than its commitment to the development of a major new town at Wilton). Council will therefore not be supporting major urban developments in the West Appin area.	This proposal does not contribute to a major growth area.
Outcome/Strategy; What do we want?	**Assessment**
Strategy GR1 – Growth • Manage growth to ensure it is consistent with Council's Position on Growth and achieves positive social, economic, and environmental outcome for Wollondilly's towns and villages.	Wollondilly's Growth Management Strategy 2011 outlines how growth should occur throughout the Shire. Consistency with the key policy directions in the GMS are discussed elsewhere in this report.

Wollondilly Growth Management Strategy

Council's Growth Management Strategy 2011 (GMS) sets directions for accommodating growth in the Shire over the next 25 years.

The GMS contains Key Policy Directions which form the overarching growth strategy for Wollondilly. An assessment of the suitability against the GMS is included below:

Key Policy Direction	Comment
General Policies	
P1 All land use proposals need to be consistent with the Key Policy Directions and Assessment Criteria contained within the GMS in order to be supported by Council.	The planning proposal is consistent with the assessment criteria and key policy directions within the GMS.
P2 All land use proposals need to be compatible with the concept and vision of "Rural Living" (defined in Chapter 2 of the GMS)	The planning proposal is consistent with the concept of Rural Living. Whilst the proposal would rezone rural land it would accommodate small incremental growth of the existing township.
P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.	The proposal was placed on public exhibition from 12 September to 10 October, 2018 and 12 submissions were received during this period. The submissions received have been considered in attachment 8 of this report
P4 The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.	There have been no such representations regarding this proposal and therefore this key policy direction has been satisfied.
P5 Council is committed to the principle of appropriate growth for each of our towns and villages. Each of our settlements has differing characteristics and differing capacities to accommodate different levels and types of growth (due to locational attributes, infrastructure limitations, geophysical constraints, market forces etc.).	The proposal represents a logical rezoning of the subject site for residential purposes in keeping with adjoining land uses and the sites location near the Picton town centre. The site is largely contained within a valley and detailed assessment was undertaken to consider sightlines from surrounding residential areas to ensure that views across to the scenic hills are maintained. Conservation and enhancement of environmentally sensitive land is proposed.
Housing Policies	
P6 Council will plan for adequate housing to accommodate the Shire's natural growth forecast.	The proposal contributes toward Council's dwelling target for Picton outlined in the GMS. The Structure Plan for Picton includes the subject land as a "potential residential growth area."
P8 Council will support the delivery of a mix of housing types to assist housing diversity and affordability so that Wollondilly can better accommodate the housing needs of its different community members and household types.	The proposal would provide land suitable for a range of housing types and affordability.
P9 Dwelling densities, where possible and environmentally acceptable, should be higher in proximity to centres and lower on the edges of towns (on the "rural fringe").	It is proposed to have a small amount of comparatively smaller lots than that traditionally developed in Picton but this is considered appropriate as these smaller lots will best utilise the location near Picton Town Centre.

Key Policy Direction	Comment
P10 Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.	The subject site is located immediately adjacent to the existing Picton Town Centre and is therefore consistent with this direction.
Macarthur South Policies	
Key Policy Directions P11, P12, P13 and P14 are not applicable to this Planning Proposal. The subject land is not within the Macarthur South area.	N/A
Employment Policies	
P15 Council will plan for new employment lands and other employment generating initiatives in order to deliver positive local and regional employment outcomes.	N/A
P16 Council will plan for different types of employment lands to be in different locations in recognition of the need to create employment opportunities in different sectors of the economy in appropriate areas.	N/A
Integrating Growth and Infrastructure	
P17 Council will not support residential and employment lands growth unless increased infrastructure and servicing demands can be clearly demonstrated as being able to be delivered in a timely manner without imposing unsustainable burdens on Council or the Shire's existing and future community.	It is anticipated that nearby reticulated water and sewer and other services can be readily extended onto the site. The Picton Wastewater Treatment Plant is being upgraded and will have increased capacity to service the site. Access roads and additional drainage would be provided at subdivision stage. The development is not expected to place any undue pressure on existing community facilities and services and future development contributions would assist in meeting any unmet demand. Information from service providers would be sought regarding the capacity of existing infrastructure to service the site.
P18 Council will encourage sustainable growth which supports our existing towns and villages and makes the provision of services and infrastructure more efficient and viable – this means a greater emphasis on concentrating new housing in and around our existing population centres.	This proposal will be concentrated around the existing residential areas surrounding the Picton town centre.
P19 Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.	The proposal does not contribute toward dispersed population growth as it proposes urban growth adjacent to the Picton urban area.
P20 The focus for population growth will be in two key growth centres, being the Picton/Thirlmere/Tahmoor Area (PTT) area and the Bargo Area. Appropriate smaller growth opportunities are identified for other towns.	This is an area identified as a being a potential residential growth area on the Picton Structure Plan in the GMS. The dwelling target for the Picton/Thirlmere/Tahmoor area have already been met.

Key Policy Direction	Comment
Rural and Resource Lands	
P21 Council acknowledges and seeks to protect the special economic, environmental and cultural values of the Shire's lands which comprise waterways, drinking water catchments, biodiversity, mineral resources, agricultural lands, aboriginal heritage and European rural landscapes.	The Planning Proposal achieves this through the application of an E2 zone to protect the riparian corridor and significant vegetation on the site.
P22 Council does not support incremental growth involving increased dwelling entitlements and/or rural lands fragmentation in dispersed rural areas. Council is however committed to maintaining where possible practicable, existing dwelling and subdivision entitlements in rural areas.	The proposed development will continue to connect rural lands and will not result in the fragmentation of rural land.

Greater Sydney Region Plan – A Metropolis of Three Cities and Western City District

The Greater Sydney Commission's A Metropolis of Three Cities – the Greater Sydney Region Plan and the Western City District Plan were finalised by the Greater Sydney Commission in March 2018. These 20-year plans with a 40-year vision are a bridge between regional and local planning. They inform local environmental plans, community strategic plans and the assessment of planning proposals.

There are over 100 actions between these plans, many of which are relevant to Wollondilly. These plans are structured around strategies for:

- **Infrastructure and Collaboration;** supportive infrastructure, use of public resources such as open space and community facilities, working through collaboration.
- **Liveability**; social infrastructure, healthy communities, housing supply and affordability, great places,
- **Productivity**; the 30 minute city, land use and transport infrastructure, leveraging from the Western Sydney Airport and Badgerys Creek Aerotropolis, jobs.
- **Sustainability**; green spaces and landscape, tree canopy, using resources efficiently, managing rural areas, resiliency, bushland and biodiversity, waterways, green grid
- **Implementation**; local strategic planning statements, monitoring and reporting.

While the Plans do not provide strong direction regarding the order of Planning Priorities, a dominant focus for Wollondilly throughout the plan is the Metropolitan Rural Area (MRA).

Metropolitan Rural Area

The concept of the MRA was introduced by A Plan for Growing Sydney which was the region plan for the Greater Sydney area prior to the current A Metropolis of Three Cities.

The MRA is A Plan for Growing Sydney was relatively silent on the issue of housing growth and the MRA. By comparison, the current region plan has taken a much stronger stance. For example, the MRA is a core spatial element now shown on high level mapping throughout the document. That part of Greater Sydney which is generally outside the established and planned urban area. For Wollondilly it takes in the whole Shire with the exception of the Wilton Growth Area and areas in Appin within the draft Greater Macarthur Growth Area. The objective of the MRA is to protect and enhance the wide range of environmental, social and economic values in rural areas across Greater Sydney. The 'values' to be enhanced and protected will vary from Council to Council and

within local government areas depending on the areas characteristics and so the Region and District Plan's focus is on the need for 'place-based planning' so that outcomes can be targeted.

The Plans do, however, provide clear direction on the role of the MRA in terms of urban development. This is illustrated by statements within these documents shown in the table below:

Greater Sydney Region Plan	Western City District Plan
"Urban development is not consistent with the values of the metropolitan rural area." *"This Plan identifies that Greater Sydney has sufficient land to deliver its housing needs within the current boundary of the Urban Area…. This eliminates the need for the Urban Area to expand into the Metropolitan Rural Area.* *"Restricting urban development in the Metropolitan rural area will help manage its environmental, social and economic benefits."* *"Maintaining the distinctive character of each rural and bushland town and village is a high priority."*	*"Urban development in the Metropolitan Rural Area will only be considered in the urban investigation areas."* *"Rural residential development is not an economic value of rural areas and further rural residential development is generally not supported."* *"Limited growth of rural residential development could be considered where there are no adverse impacts on the amenity of the local area and the development provides incentives to maintain and enhance the environmental, social and economic values of the MRA"* *"Ongoing planning and management of rural towns and villages will need to respond to local demand for growth".* *"Rural and bushland towns and villages will not play a role in meeting regional or district scale demand for residential growth".*

Rural Lands Technical Working Group

In response to the release of the District Plan councils are now required to complete a review and update of their Local Environmental Plan against the relevant district plan. Wollondilly has been identified as a high growth area and is required to complete this review within an accelerated timeframe of two years.

To assist Councils with this work the NSW Department of Planning & Environment along with the Greater Sydney Commission have facilitated a series of Technical Working Groups on key themes. On 20 July 2018 a Technical Working Group dedicated to rural lands was held.

In terms of 'local growth' and taking a 'place-based planning' approach the following points from the technical working group are considered relevant in providing direction:

- Local growth is about meeting the needs of the local community and achieving economic, social and environmental sustainability through identifying specific targeted outcomes (for example a need to accommodate demographic shift, supporting or sustaining infrastructure or achieving a specific environmental outcome). This should be set out in a vision.
- Local growth needs to be defined in the context of the local area because it's different for each community. Subsequently, there is no consistent approach that can be applied across Council areas.
- Communities generally tend to grow at 1-2% per year in terms of population.
- Forward planning needs to be evidence based and needs to rely on a solid understanding of the current and future demographic direction.
- The Metropolitan Rural Area boundary is fixed in the short term and can only be changed by a decision of government.

- Housing delivery in the short term (i.e. 0-5 years) will be delivered from land already zoned and serviced. i.e. decisions already made about land use.

Planning Proposals with Council currently being progressed (i.e. land not yet rezoned) generally deliver housing for the mid to long term (i.e. 6 years +). Housing delivery in the short term is typically delivered through land that is already zoned and serviced.

Earlier this year Council wrote to the Greater Sydney Commission seeking guidance on the application of the MRA for existing planning proposals at an advanced stage. Greater Sydney Commission's response in May 2018 provides some additional direction to the points noted above.

- Towns and villages in the MRA will not play a role in meeting regional or district scale demand for residential growth. This is a fundamental consideration for any planning proposal in the Metropolitan Rural Area.
- Growth and infrastructure should be aligned. This is particularly relevant given the capacity of growth centres in Wollondilly and other nearby local government areas.

Where are we at now?

Further work is required to determine appropriate 'local growth' for villages and towns across Wollondilly. Given the direction in the Region and District Plan and the outcome of the Rural Lands Technical Working Group it is clear that this work involves a coordinated and holistic approach to establish what 'local growth' is in the Wollondilly context. It cannot be determined on an ad hoc basis through consideration of individual landowner or developer led proposals for rezoning land to enable residential development.

This view is consistent with Council's resolution to agenda item GR4 on 19 June 2018 that 'local growth' should be defined *through the preparation of a housing strategy and Local Strategic Planning Statements* (LSPS) *that will outline sustainable local growth for our villages*.

Recent amendments to the *Environmental Planning & Assessment Act 1979* embed a statutory requirement for Councils to review their Local Environmental Plans as soon as practicable after a District Plan is made. The recent amendments also introduced new requirements for councils to prepare and make Local Strategic Planning Statements (LSPS). Both the review of the WLEP and the LSPS need to be informed by a housing strategy.

The NSW Department of Planning & Environment have published an indicative timeframe for this review which includes the preparation of studies (including a housing study) and the preparation and exhibition of the draft LSPS by May/June 2019. Council is in the preliminary stages of this work at present.

Subsequently, given the significance of the MRA in determining the suitability of growth throughout Wollondilly and the difficulties in determining local growth, it is considered that draft planning proposals seeking to enable residential housing growth are premature and cannot be supported.

For planning proposals that have already received a Gateway determination, a different approach needs to be taken. These proposals have been considered by Gateway to have some broad strategic merit and been allowed to proceed for further assessment. On this basis, it is important for the values of the MRA to be upheld and considered in each case.

It must be noted that the Gateway Determination for Picton East was issued prior to the release of the Greater Sydney Regional Plan and the Metropolitan Rural Area mapping. The Gateway determination represents the proposals broader strategic merit. The proposal is considered to be generally consistent with the key policy directions of the GMS and the Community Strategic Plan. The proposal is considered to maintain the character and amenity of Picton, as described in the Greater Sydney Region Plan and Western City District Plan. The proposal include the inclusion and expansion of 'sensitive land' as per the Natural Resources – Biodiversity Map which will protect the watercourses through the site and aid in maintaining the environmental value of the land. Further to this the proposal is located close to the existing amenity and services provided by Picton.

Section 9.1 Ministerial Directions

The Planning Proposal is generally consistent with the relevant Ministerial Directions as follows:

Ministerial Direction 1.2 Rural Zones

This Ministerial Direction states that a Planning Proposal must:

> *Not rezone land from a rural zone to a residential, business, industrial. And village or tourist zone.*
>
> *Not contain provisions that will increase the permissible density of the land within a rural zone (other than within an existing town or village).*

The planning proposal would allow for the rezoning of land from a rural zone to an urban zone which would also enable an increase in density of the land which is inconsistent with the Ministerial Direction. The Gateway determination issued by the Minister advised that the inconsistencies were of minor significance.

Ministerial Direction 2.1 Environmental Protection

The site contains environmentally significant native vegetation which is proposed to be conserved within environmental zones. The planning proposal is not inconsistent with Direction 2.1.

Ministerial Direction 2.3 Heritage Conservation

The site contains no listed European built heritage items of local, state or national heritage significance. An Aboriginal site is registered on the property but this land is not included within the part of the site that will be rezoned to permit residential development. It is considered that the planning proposal is consistent with Direction 2.3.

Ministerial Direction 3.1 Residential Zones

The planning proposal aims to increase the amount of residential land. The site is located adjacent to existing residential development and is close to the Picton town centre, community services and facilities. The site is serviced with the appropriate perimeter road and utility infrastructure which can be readily amplified to enable residential development.

The subject land will be included as an Urban Release Area under the WLEP 2011. This will ensure that any arrangements for State public infrastructure and public utility infrastructure are provided as well as a site specific DCP before development consent is granted for subdivision.

The rezoning will permit the development of a range of housing types, while ensuring the protection of environmentally sensitive land through the provision of E2 zones. The planning proposal is not inconsistent with Direction 3.1.

Ministerial Direction 3.4 Integrating Land Use and Transport

The site is accessible to public bus services along Menangle Street and to rail services from Picton railway station. A new planned road shall be integrated into the existing road network. The planning proposal is not inconsistent with Direction 3.4.

Ministerial Direction 4.2 Mine Subsidence and Unstable Land

The subject land is within the Wilton Mine Subsidence District. The Mine Subsidence Board has no objection to the proposal. The planning proposal is not inconsistent with Direction 4.2

Ministerial Direction 4.3 Flood Prone Land

The planning proposal site is located along Reeves Creek and its tributaries, beginning on the hillside above Picton and then flowing into Stonequarry Creek which has a history of flooding. Reeves Creek experiences a low magnitude and frequency of severe flooding. The Flood Impact Assessment and Hydrology Report evaluated the concept design of a future development

incorporating detention basins has found that there would be no impact on the peak flood levels downstream using these basins. Risks in terms of flooding for future residents may include isolation, low flood warning times and flooding of riparian areas but not properties during the PMF event. The report recommends an emergency plan in consultation with Wollondilly Council and the State Emergency Service to ensure future residents are made aware of potential flooding extents and risks associated with the riparian corridor and flood detention basins. Evacuation for the majority of the planning proposal site future residents is not required as access should be possible from proposed routes, north and south of the site. The report recommends multiple safe routes for events above the PMF events.

Additional information on flooding was provided to satisfy concerns raised by a drainage engineering consultant for Council and the response from the applicant is considered satisfactory. An emergency plan and subdivision layout which enables safe evacuation during flooding episodes would be required as part of any future development application and site-specific provisions to be included within Wollondilly DCP.

The planning proposal is not inconsistent with Direction 4.3

Ministerial Direction 4.4 Planning for Bushfire Protection

Consultation has been undertaken with the Commissioner of the Rural Fire Service following receipt of a Gateway determination. The land to which the planning proposal applies includes bushfire prone land and an assessment of requirements to limit bushfire hazard in accordance with Planning for Bushfire Protection 2006 has been undertaken. It is considered that the Planning Proposal is not inconsistent with Direction 4.4.

Ministerial Direction 6.1 Approval and Referral Requirements

The planning proposal does not seek to include further provisions to WLEP 2011 in respect to the concurrence, consultation or referral of development applications to a Minister of public authority. The planning proposal is not inconsistent with Direction 6.1.

Ministerial Direction 6.2 Rezoning Land for Public Purposes

The planning proposal will not create, alter or reduce existing zones or reservations of land for public purposes. It is considered that the planning proposal is not inconsistent with Direction 6.2. Walking trails to Vault Hill are likely to be dedicated to Council in a separate VPA process.

Ministerial Direction 7.1 Implementation of the Metropolitan Strategy for Sydney 2036.

The planning proposal is not inconsistent with the metropolitan strategy and is consistent with the Plan for Growing Sydney December 2014

State Environmental Planning Policies

State Environmental Planning Policy No.55 – Remediation of Land

A Preliminary Site Investigation was prepared to address the requirements of SEPP 55. Clause 6 of SEPP 55 (Contamination and remediation to be considered in zoning or rezoning proposal) requires a consideration of the possibility that the land may be contaminated.

The land was used for farming activities since at least 1901 and is currently used for grazing. Agriculture is identified as a potentially contaminating activity and accordingly a Preliminary Site Investigation was undertaken.

This investigation identified six potential areas of environmental concern (AEC). For the site overall contamination is considered to be of low potential and the AEC are localised and pose little or no current risk to human health or the environment. To determine whether any of the AEC's require remediation, a Detailed Site Investigation (DSI) would be required as part of a future development application for the site. This could be included in part of a site specific DCP control for the site, however, is also captured by the SEPP.

Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River

Clause 6 of the Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River (REP) identifies the Planning Policies and recommended strategies for development in the area. Consideration of these matters is set out below:

Environmentally Sensitive Areas:

An E2 Environmental Conservation Zone is proposed to be applied to the watercourse and associated riparian area which runs through the central area of the site. This would provide a significant buffer to the watercourses and Reeves Creek. The E2 zone would also assist in protecting aquatic habitat, riverine vegetation and bank stability in accordance with the requirements of the Plan.

Water Quality:

Significant measures are proposed to ensure that impacts of any future development of the site would not adversely impact on water quality. The Stormwater Management Report identifies that a variety of treatment measures such as bioretention basins and filtration devices may be used to achieve the water quality goals on the site. The application of the E2 zone to the riparian corridors on the site would also ensure that aquatic vegetation and bank stability is preserved in the area to the maximum extent in accordance with the requirements of the Plan.

Water Quantity:

The Stormwater Management Report undertaken with the proposal includes sufficient measures to ensure that the amount of stormwater run-off from the site and the rate at which it leaves the site would not significantly increase as a result of future development. Five onsite detention basins are proposed in order to limit the post development stormwater run-off to match existing peak flows for all storm events up to and including 1% AEP events.

Cultural Heritage:

As previously mentioned the site contains no listed European built heritage items of local, state or national heritage significance.

Flora and Fauna:

Strategy (a) in the REP is to conserve and where appropriate, enhance flora and fauna communities, particularly threatened species, populations and ecological communities, aquatic habitats, wetland flora, rare flora and fauna, riverine flora, flora with heritage value, habitats for indigenous and migratory species of fauna, and existing or potential fauna corridors. Reeves Creek is the main watercourse within the site and the vegetation within the associated riparian corridor on the site has been identified as endangered ecological community. This area would be suitably conserved through an E2 Environmental Conservation zone and there may be an opportunity to enhance this area in the future through restriction on the use of land on this part of the site which requires a vegetation management plan to form part of a future subdivision application.

Draft Amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013

The 2km exclusion zone around residential land for coal seam gas mining applies to this land.

Wollondilly Local Environmental Plan, 2011 (WLEP 2011)

Based on the specialist studies and consultation and engagement there are no changes to the planning proposal as exhibited.

The planning proposal seeks amendments to WLEP 2011 as described below:

- Amend the Land Zoning Map from RU2 Rural Landscape (RU2) to R2 Low Density Residential (R2), E4 Environmental Living (E4) and E2 Environmental Conservation (E2).

- Amend the Lot Size Map from no minimum lot size to a minimum lot size of:
  - 400sqm, 450sqm, 700sqm and 1500sqm for R2 land,
  - 1500sqm for E4 land,
  - 5 ha for E2 land and 20 ha for the residual RU2 land on Lot 106 DP111043 and,
  - 40 ha for the residual RU2 land on Lot 2 DP 229679 outside the rezoning site.
- Amend the Height of Buildings Map to a maximum building height of 9 metres.
- Amend the Natural Resources Water Map to provide riparian buffers of 10m, 20m and 30m along Reeves Creek and its tributaries.
- Identify the land on the Urban Release Area maps under WLEP 2011.
- Amend Part 7 Additional Local Provisions to include a clause entitled "Landslide Risk" and with an accompanying map detailing areas of landslide risk on the site that would require further investigation at the development application stage.

  7.7 Landslide risk

  (1) The objectives of this clause are to ensure that development on land susceptible to landslide:
  (a) matches the underlying geotechnical conditions of the land, and

  (b) is restricted on unsuitable land, and

  (c) does not endanger life or property.

  (2) This clause applies to land identified as "Landslide risk" on the Landslide Risk Map.
  (3) Before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account the risk of landslide:
  (a) site layout, including access,

  (b) the development's design and construction methods,

  (c) the amount of cut and fill that will be required for the development,

  (d) waste water management, stormwater and drainage across the land,

  (e) the geotechnical constraints of the site,

  (f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

  (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and that:
  (a) the development is designed, sited and will be managed to avoid any landslide risk or significant adverse impact on the development and the land surrounding the development, or

  (b) if that risk or impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that risk or impact, or

  (c) if that risk or impact cannot be minimised—the development will be managed to mitigate that risk or impact.

Wollondilly Development Control Plan, 2011 (WDCP 2011)

Site specific DCP controls will apply to any future development on the subject land. These will the subject of a later report.

Consultation

Formal Consultation with Council Staff that Provide Specialist Comment

The following comments on the planning proposal were received from Council staff:

Environment

- There is concern with protection of remnant native vegetation and ensuring that environmental weeds are removed and managed. The proposed E2 land requires significant improvement, revegetation and soil stabilisation. These matters should be addressed prior to any dedication of the land to Council. Potential salinity issues should be addressed.
- The ability of a number of allotments to support the necessary Asset Protection Zones to comply with the Planning for Bushfire Protection Guidelines with dwelling and other ancillary items is questioned. A specific control is therefore needed to ensure *that Asset Protection Zones must not under any circumstances, encroach into any E2 zoned land;*
- Recommended that the Natural Resource Biodiversity Layer be applied to all areas mapped as Good and Moderate Condition on the attached Map from the Biodiversity and Riparian Land Map to ensure that adequate avoidance and minimisation measures and possibly offsetting can be applied at the sub-division application stage. The Area to be applied to the Natural Resources Biodiversity Later is provided in attachment 9.

Comment: The creek line and associated E2 Land has been identified for revegetation, including the integration of bioretention basins and APZ's. Controls can be contained within the site specific DCP that will restrict any APZ encroaching into the E2 Land.

Infrastructure and Planning

- The Picton Traffic Management Plan 2026 has not yet been finalised.
- The decrease in lots will extend the lifespan of any proposed traffic upgrades rather than negate the need for it.

Comment: In conjunction with RMS response, the proponent is providing additional information to ensure any road upgrades are appropriate and practical. A VPA agreement is still being negotiated which will ensure a suitable contribution to the scope of works outlined in the Draft Picton Traffic Management Plan 2026

Engineering

Consultation with Council's Engineering Department raised the following concerns:

- Road width needs to be assessed to ensure bus route capabilities.
- Onsite detention should be implemented to reduce the post-development peak flow rate to a level below the pre-development peak flow rate for all storms up to 100 year ARI. Further detail can be addressed at the development application stage.
- Concerns raised regarding the steep lots up to 33% and some road excavations, for achieving satisfactory access from the road to the lots. Garages with not setbacks could provide access to steep lots if the access is ideally from a one way rear lane such as roads 4 and 5, however for access to lots such as those fronting road 3 a no setback garage could be considered from a minor two way local street.
- In relation to lots sizes it is considered that to improve accessibility to lots, allow for cut/fills & retaining walls that the proposed minimum lots sizes should be increased. In addition the typical cross sections provided for 2m & 4m falls do not include sections for the side slopes which would indicate cut/fill & retaining walls to achieve a building platform.

Comment: Further detail regard onsite detention can be addressed at the Development Application stage.

Consultation with Public Agencies

The Gateway Determination required consultation with the following Public Agencies:

- Office of Environment and Heritage
- Office of Environment and Heritage – Heritage Council
- Hawkesbury – Nepean Catchment Management Authority
- Department of Primary Industries – Agriculture
- Department of Trade and Investment – Mineral Resources and Energy
- Mine Subsidence Board
- Sydney Water
- NSW Transport – Roads and Maritime Services
- NSW Rural Fire Service
- Endeavour Energy
- Department of Primary Industries – Crown Land
- Fire and Rescue NSW

The following is a summary of the matters raised by public authorities and assessment comments.

Office of Environment and Heritage – Environment Division

The comments raised from 2013 and 2018 by Office of Environment and Heritage are summarised in detail below:

Biodiversity

- The site supports remnants of Cumberland Plain Woodland which listed as critically endangered under the Threatened Species Conservation Act, 1995 and Moist Shale Woodland, Shale Sandstone Transition Forest and Riverflat Eucalypt Forest which are listed as endangered under the Threatened Species Conservation Act, 1995. Cumberland Plain Woodland and Shale Sandstone Transition Forest are also listed as critically endangered at the Commonwealth level in the Environment Protection and Biodiversity Conservation Act.
- OEH notes that the proposed E2 Environmental Conservation, E3 Environmental Management and RE1 Public Recreation zones should afford some protection to the threatened species.
- OEH considers that protection is required for threatened species within the residue RU2 Rural Landscape zone. OEH recommends any ecological constraints identified should be mapped and included in a biodiversity overlay that can be used in combination with environmental protection zones to avoid development in areas which support important biodiversity values.
- Recommends to expand the E2 zoned land to better protect the vegetation mapped as Alluvial Woodland (AW) or Shale Hills Woodland (SHW).
- Agrees that the E2 zone land should not be subdivided further and should remain in one portion
- Supports the protection of riparian corridors by an E2 zoning.

- Supporting of revegetating the headwaters of streams B, C and D so as to improve habitat linkages to the ridge top.
- Seeks clarification on who will be responsible for managing/maintaining the E2 zoned land, and notes preference for E2 zoned land be in public ownership.
- OEH recommends that detention basin locations should avoid disturbing remnant native vegetation. OEH does not support locating detention basins in E2 zoned land or adding drainage as a permissible use within the E2 zone.
- OEH has preference that remnant Shale Hills Woodland (SHW) to be zoned E3 rather than E4 as currently proposed.
- Two separate patches of SHW on the western boundary of the site are identified as having high recovery potential. OEH recommends this remnant area is zoned E3 rather than R2.

Comment: Most of the site is cleared and contains exotic and weedy growth and patches of degraded remnant native vegetation throughout the site and along Reeves Creek. The original Biodiversity and Riparian Land Assessment included a larger site and native vegetation communities mapped at the study area included Shale Hills Woodland and Alluvial Woodland.

An addendum to this report which relates to the current site indicates there will be minor impact on Shale Hills Woodland which is a sub-community of Cumberland Plain Woodland, a critically endangered ecological community under both the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 and the NSW Biodiversity Conservation Act 2016. It is proposed to retain most of the remnant native vegetation within E2 Environmental Conservation and E4 Environmental Living zones. Native vegetation along Reeves Creek is currently degraded and impacted by weeds and it is proposed to revegetate this land with indigenous species. Requirements for a Vegetation Management Plan will be included within site-specific provisions of Wollondilly DCP. Riparian buffers based on findings from the riparian assessment are also proposed to be mapped on the Natural Resources Water Map.

Aboriginal Cultural Heritage

- OEH recommends the Aboriginal Cultural Heritage Assessment and Archaeological Technical Report submitted to Council are updated. OEH considers there are other Aboriginal land use factors that need to assessed;
- OEH recommends that the ceremonial/dreaming site is zoned E2 rather than RE1 to ensure the site is adequately protected.

Comment: An Aboriginal Cultural Heritage Assessment was prepared and the results of the AHIMS search and visual inspection both indicated that there are no registered Aboriginal sites in or within 300 metres of the site. Based on the observed disturbance within the site, the absence of lithic material suitable for the production of stone tools, and the absence of rock outcrops and trees suitable for cultural modification or scarring, the archaeological potential of the site has been assessed as low to nil. It has therefore been assessed that there is no identified risk of harm to any known Aboriginal objects or sites. However, aboriginal archaeological controls in Volume 1 of Wollondilly DCP would be included in a development application for subdivision to ensure the appropriate action is undertaken should heritage items be uncovered during the construction of any future subdivision.

Floodplain Risk Management

- Original concerns raised by OEH include:
    - Council should ensure the proposal includes sufficient additional information on flooding, drainage and stormwater to determine whether the proposal adequately addresses Section 9.1 Direction 4.3 Flood Prone Land.

- The steep nature of the site and overland flow paths may pose significant flooding risk within the site and may exacerbate flooding problems downstream.
- A hydrological and hydraulic flood risk assessment for both existing and proposed developed conditions is recommended. This assessment should include Reeves Creek and all watercourses within the site.

- The most recent advice from OEH considers that the Flood Impact Assessment prepared is fit for the rezoning purpose, noting that any future development should utilise Councils up-to-date flood studies.

Comment: The site is located along Reeves Creek and its tributaries, beginning on the hillside above Picton and then flowing into Stonequarry Creek which has a history of flooding. Reeves Creek experiences a low magnitude and frequency of severe flooding. The Flood Impact Assessment and Hydrology Report evaluated the concept design of a future development incorporating detention basins has found that there would be no impact on the peak flood levels downstream using these basins. Risks in terms of flooding for future residents may include isolation, low flood warning times and flooding of riparian areas but not properties during the PMF event. The report recommends an emergency plan in consultation with Wollondilly Council and the State Emergency Service to ensure future residents are made aware of potential flooding extents and risks associated with the riparian corridor and flood detention basins. Evacuation for the majority of the planning proposal site future residents is not required as access should be possible from proposed routes, north and south of the site. The report recommends multiple safe routes for events above the PMF events.

Additional information on flooding was provided to satisfy concerns raised by a drainage engineering consultant for Council and the response from the applicant is considered satisfactory. An emergency plan and subdivision layout which enables safe evacuation during flooding episodes would be required as part of any future development application and site-specific provisions to be included within Wollondilly DCP.

Site specific provisions of Wollondilly DCP

- OEH most recent response outlines a range of site specific controls to be included in the Wollondilly Development Control Plan. These will be considered in a future report to Council regarding the site specific controls for Picton East.

Office of Environment and Heritage – Heritage Council

Comments received from the Office of Environment and Heritage – Heritage Council are summarised as follows:

- The subject site is not a listed item of heritage significance.
- The site is located partially within the Picton Heritage Conservation Area and incorporates Vault Hill which includes an old cemetery and a dairy – both of which have been identified as being of potential heritage significance within the Planning Proposal report.
- A heritage assessment should consider the general suitability of the rezoning, the cultural values and significance of the cemetery atop of Vault Hill and adjacent dairy, and the potential for visual and physical impacts resulting from the future envisaged development of the subject site.
- The Heritage Branch recommends that the Planning Proposal be informed by the findings and recommendations of a heritage assessment.

Comment: The site has a long European history associated with early settlement and farming in NSW. No heritage items are listed on the State Heritage Register or in Schedule 5 of WLEP 2011

on the site. One heritage item, located adjacent to the site is the culvert under Menangle Street. A small portion of the site zoned R2 Low Density Residential fronting Menangle Street is within the Picton Conservation Area which is listed in the WLEP 2011. The Built Heritage Assessment has not identified any additional items on the site that should be heritage listed. It has recommended that consideration should be given to ensuring that any potential impacts on the culvert should be minimised and may require a Heritage Impact Assessment. It also recommends that future development should respect the heritage values of the Picton Conservation Area.

Department of Primary Industry – Agriculture

The Department of Primary Industry – Agriculture raised the following matters:

- The locality has Agricultural Land Class 4 (suitable for grazing not cultivation). There appears to be some land that has been irrigated or cropped within 108 Menangle Street.
- Most of the land is suitable for low stocking rate grazing.
- The location is not near an intensive animal establishment and would appear to have merit to provide the highest residential density potential to reduce pressure on the better quality agriculture land to the West of Picton.
- Recommend that the report includes a section on the impact on agriculture if removed from current production potential and that any suitable lands that could continue to be used for fodder production considered for water recycling.

Comment: The current agriculture land use represents the highest and best use of the land. The GMS 2011 identified the Reeves Creek locality as an area for future investigation for residential purposes. The Planning Proposal does not preclude the use of the residual lands for agricultural purposes.

Department of Trade and Investment – Mineral Resources and Energy

The comments provided from the Department of Trade and Investment – Mineral Resources and Energy are summarised as follows:

- The site overlies the Illawarra Coal Measures with the highly valuable Bulli Seam at a depth of approximately 500 to 600 metres. The site lies within the Wilton Mine Subsidence District and the nearest coal titles are held by Tahmoor Coal Pty Ltd approximately 600m to the west and Endeavour Coal Pty Ltd approximately 770m to the east.
- The location of the residential zoning is in accordance with the adopted Wollondilly Growth Management Strategy which adjoin existing residential zones.
- The Department of Trade and Investment – Mineral Resources and Energy does not oppose the rezoning with the Mine Subsidence Board providing building guidelines and densities.

Comment: The Department of Trade and Investment – Mineral Resources and Energy did not raise any objection to the planning proposal.

Mine Subsidence Board

The Mine Subsidence Board (MSB) now known as Subsidence Advisory NSW have provided the following comments:

- The MSB has not indicated any concerns with the planning proposal.
- The applicant should be advised to seek the Board's approval for any proposed subdivision or the erection of improvements at the appropriate time.

Comment: No issues of concern were raised by MSB. As such, no further action is required.

Sydney Water

Sydney Water have provided the following comments:

Water

- The current water supply system does not have adequate capacity to service the proposed 200 lot residential development. Significant amplification of the existing water supply system will be required to service any additional development in this area.
- Sydney Water is currently undertaking a detailed review of the water supply servicing strategy for this area. The investigation will be based on forecast development information being provided by Wollondilly Council.
- Detailed comments regarding capacity and connection points will be provided at the Section 73 application stage for each development.

Wastewater

- The proposed development is not in the 2010/11 Metropolitan Development Plan. The Picton wastewater amplification detailed planning project did not consider this development in the planning proposal.
- Servicing of the proposed development will be dependent on compliance with Sydney Water connection requirements, a planning approval and a capacity assessment to ensure that flows from future connections are:
    - Less than the approved Scheme capacity of the plant and farm and
    - The Scheme's Environmental Protection Licence conditions can be met when considering connection requests.

Comment: An assessment of water servicing indicates that an amplification from the existing 150mm diameter main to a 300mm diameter trunk main would be required from the existing 300 mm main in Remembrance Drive (near York Street in Tahmoor) to service the site – a distance of approximately 3.7 kilometres. Alternatively, the consultant has proposed an option to extend the existing 250mm main from Menangle Street along Argyle and Margaret Streets – a distance of around 720 metres.

The assessment of wastewater servicing has indicated that the existing 150mm diameter sewer mains in Menangle, Margaret and Argyle Streets have sufficient capacity to service the proposed development.

Sydney Water has advised that the proposed development is not in the 2010/11 Metropolitan Development Plan and was not considered in the Picton wastewater amplification planning study. Servicing of the proposed development will be dependent on the following criteria:

- The proponent's willingness to comply with Sydney Water's connection requirements.
- The proponent must have an existing relevant planning approval obtained under the Environmental Planning and Assessment Act 1979.
- The proponent is to submit a capacity assessment report to Sydney Water to ensure that flows from future connections are:
    - Less than the approved Scheme capacity of the plant and farm and

- The Scheme's Environmental Protection Licence conditions can be met when considering connection requests.

Sydney Water has advised that the developer must fund any adjustments needed to Sydney Water infrastructure as a result of the development

NSW Transport – Roads and Maritime Services

The issues raised by the RMS during the formal public exhibition of the Planning Proposal are summarised below:

- *RMS requests that the finalisation of the PP be placed on hold until additional information that adequately addresses the issues above has been provided. This ensuring that the PP, if approved, has minimal impacts on the state classified road network and correctly reflects the works required to be provided by the developer as part of any future development applications lodged.*
- *The sites access via Menangle Street (identified as the primary site access) will require an upgrade to a priority controlled access with auxiliary /deceleration left turn lane and channelised right turn, RMS requires a greater level of detail in relation to the design of the proposed intersection upgrade works. This information is required so as to demonstrate that a compliant design can be constructed within land available/within the legally defined road reserve boundaries noting the location of the proposed intersection appears to have a number of constraints (i.e. existing infrastructure such as power poles, culverts, guardrail, etc) and to allow RMS to undertake a preliminary assessment of the works proposed*
    - *Detailed strategic/concept design plans are required to be submitted for the proposed intersection upgrade works at the sites access to Menangle Street, which is a state classified road. These details are required to allow RMS to undertake a preliminary assessment of the works proposed.*
    - *Details regarding connectivity within and through the site for vehicles (cars, buses, etc), pedestrians and cyclists is required in order to minimise trips on the classified road network.*

<u>Comment:</u> RMS comments have been forwarded to the proponent for action, as such these comments have to yet been satisfied. The RMS information request is attached to this report. Concerns regard the availability of land within the legally define road reserve for the construction of the intersection upgrades which will need to be resolved prior to the finalisation of the Planning Proposal. Proponent is to submit detailed plans to Council to be forward to RMS for final comment.

NSW Rural Fire Service

The RFS has advised that they have no objection to the proposal in principle and notes that part of the site has been mapped as bush fire prone land.

The future subdivision development of the site:

- *Must comply with the requirements of Planning for Bushfire Protection 2006.*
- *Construction of dwellings shall be subject to the requirements of Section 79BA of the Environmental Planning and Assessment Act 1979.*
- *Design of the subdivision should enable the appropriate asset protection zones commensurate with the hazard to be achieved within the boundary of those lots which interface with a potential bush fire hazard including grasslands as a category of hazardous vegetation within the Australian Standard AS3953-2009 Construction of buildings in bushfire-prone areas.*

- *Consideration also should be given to ensuring that suitable access, water and utilities is made available to the lots.*
- *APZs extend into the Riparian Corridor proposed to be rezoned to E2 Environmental Conservation. A Vegetation Management Plan or suitable legal instrument will be required at subdivision stage that acknowledges the APZs and introduces controls to ensure management of the APZs in perpetuity.*

Comment: The Bushfire Assessment found that the bushfire hazard is low across the site and that the land is capable of accommodating future residential subdivision. The primary bushfire hazard is the woodland areas to the east of the site and the riparian corridors along Reeves Creek and tributaries. Potential hazards are areas of unmanaged grasslands on adjoining rural land. Asset protection zones are proposed on the boundaries of the site (10m width) where it adjoins rural or vegetated land. Asset protection zones along the watercourse range from 15 to 25m in width. A vegetation management plan or other legal mechanism for the protection of APZs that extend in the riparian corridor are to be considered for inclusion in the future site specific development control plan and will be subject to a future report. The provision of access and perimeter roads to provide safe access and egress for fire fighters and future residents has been assessed as satisfactory.

Endeavour Energy

No response to the Planning Proposal has been provided by Endeavour Energy.

NSW Department of Primary Industry – Crown Lands

No response to the Planning Proposal has been provided by NSW Department of Primary Industry – Crown Lands

Fire and Rescue

No response to the Planning Proposal has been provided by Fire and Rescue NSW.

Community Consultation

The Gateway determination specified a 28-day period of community consultation and public exhibition. During this time the Planning Proposal, specialist studies and other documents as required by the Gateway determination were made available for public viewing on Council's website, at Council's Administration Building and Library. A public notice was placed in the local newspaper. Letters were sent to those who made previous submissions and those considered affected by the proposal.

The issues raised in the 14 submissions that are relevant to the assessment of the planning proposal are summarised in an attachment to this report.

A late submission was received raising concerns about flooding and storm water impacts. This issue was raised by other submissions, and is addressed in this report.

Tharawal Aboriginal Land Council

Concerns were raised about the impact of the proposal on an identified Aboriginal Site located within the broader land area. The location of this heritage item is not within the proposed re-zoning and is located on the residual rural land. The Tharawal Aboriginal Land Council recommends further studies to confirm the site will not be impacts by any future development.

In summary, the matters raised in submissions have been addressed through the specialist studies or can be dealt with as part of the assessment of future development applications.

Financial Implications

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

ATTACHMENTS

1. **Land Zoning Comparison Map**
2. **Height of Building Comparison Map**
3. **Lot Size Comparison Map**
4. **Natural Resources - Water Comparison Map**
5. **Urban Release Area Comparison Map**
6. **Landslide Risk Comparison Map**
7. **RMS referral response and information request**
8. **Submission Matrix**
9. **Conservation Value Map - Land to be included on Natural Resources Biodiversity Layer**

RECOMMENDATION

It is recommended that:

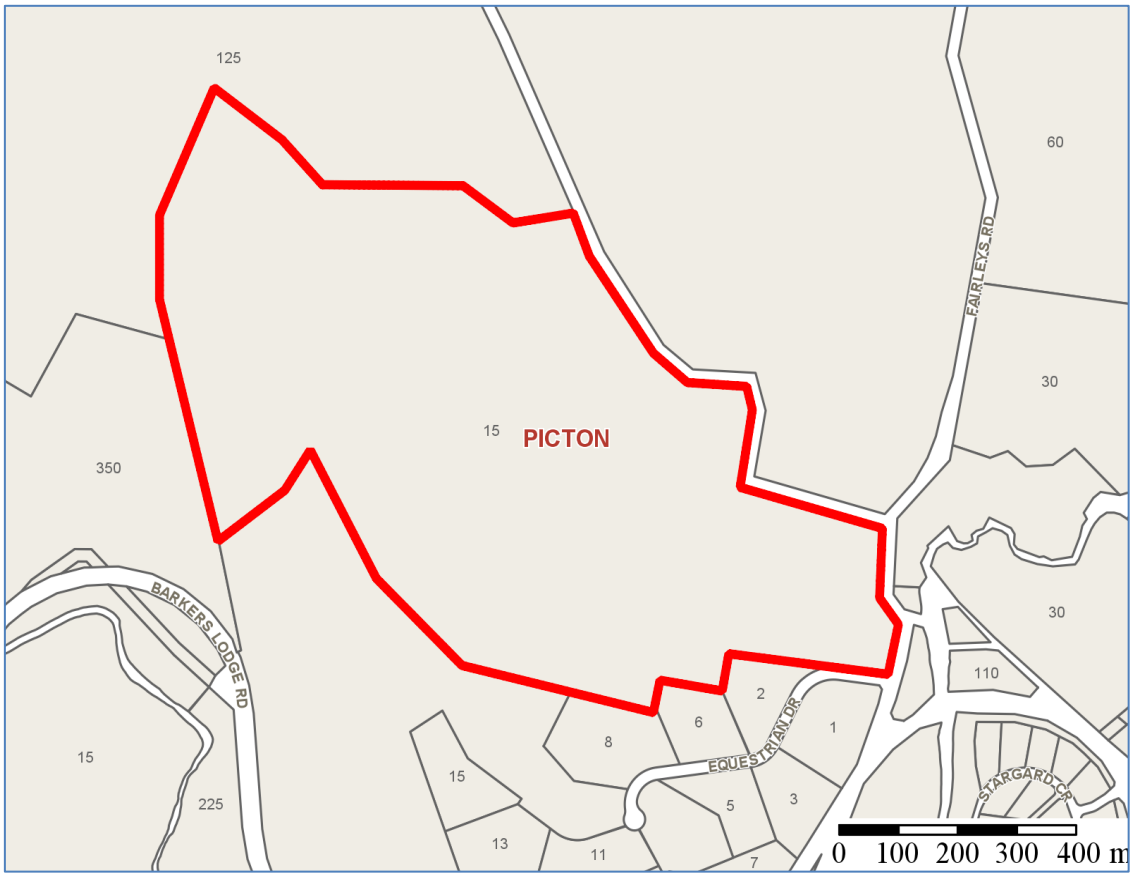
1. The draft amendment to the Wollondilly Local Environmental Plan 2011 be supported in principle for the Planning Proposal as it relates to Part Lot 106 DP 1111043 (Part 1735 Remembrance Drive, Picton), Part Lot 2 DP 229679 (Part 108-114 Menangle Street, Picton) and Lot 9 DP 233840 (116-118 Menangle Street, Picton) subject to:
   - (a) the finalisation of traffic concerns to the satisfaction of Council's Staff and NSW Roads and Maritime Services.
   - (b) satisfactory access arrangements being resolved;
   - (c) Amending the Land Zoning Map from RU2 Rural Landscape to:
     - (i) R2 Low Density Residential
     - (ii) E2 Environmental Conservation
     - (iii) E4 Environmental Living
   - (d) Amending the Lot Size from a minimum lot size category of 100 ha to minimum lot size of:
     - (i) 400 square metres
     - (ii) 450 square metres
     - (iii) 700 square metres
     - (iv) 1500 square metres for land zoned E4 Environmental Living
     - (v) 5ha for land zoned E2 Environmental Conservation
     - (vi) 40ha for the remaining rural land on lot 2 DP 229679
     - (vii) 20 ha for the remaining rural land on lot 106 DP 1111043
   - (e) Amend the Maximum Building Height Map from no maximum building height to a maximum building height of 9m.
   - (f) Amend the Natural Resources Water Map to provide a riparian buffer of 20m along a watercourse and the addition of 10m buffer along four minor watercourse.
   - (g) Amend the Urban Release Area Map to include the subject site.
   - (h) That upon the satisfaction of the requested information the planning proposal be forwarded to the Greater Sydney Commission for finalisation.
   - (i) That Council seek a further four month extension to the Gateway timeframe so that the matters above can be adequately resolved.

2. A report be brought to Council detailing proposed site specific planning controls for inclusion with the Wollondilly Development Control Plan 2016 to guide development on the site.

11.7 DRAFT DEVELOPMENT CONTROL PLAN FOR ABBOTSFORD PLANNING PROPOSAL

File Number: 10619#108

Location: 15 Fairleys Road, Picton – Part Lot 1 DP 1086066



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LOCATION MAP N

EXECUTIVE SUMMARY

- This report seeks Council support to publicly exhibit site specific planning controls for inclusion in the Wollondilly Development Control Plan for the Abbotsford Planning Proposal site.
- Council has previously resolved to support the finalisation of the Abbotsford Planning Proposal which has been forwarded to the Department of Planning & Environment to amend Wollondilly Local Environmental Plan 2011.
- Planning controls are required to ensure development is suitable in terms of heritage on the site but also to implement the outcomes of specialist studies, public agency consultation and Council's resolution related to the Abbotsford Planning Proposal.
- It is recommended that:
    - Council publicly exhibit the draft amendments to Wollondilly Development Control Plan 2016 to introduce planning controls in Volumes 3 and 4 for the Abbotsford site.
    - A further report on the outcomes of the public exhibition be provided to Council detailing the final controls for adoption.

REPORT

Background

On 18 June 2018 Council resolved to support the finalisation of the Abbotsford Planning Proposal. This proposal will amend the *Wollondilly Local Environmental Plan 2011* (WLEP) to rezone the land to enable rural residential style development while safeguarding items of historical interest across the site and facilitating the environmental management of sensitive land. Once rezoned the land is anticipated to have capacity for approximately 40 residential lots in an E4 Environmental Living land use zone.

The assessment of the planning proposal identified a need to prepare site specific planning controls for inclusion within the development control plan. This was supported by Council's June 2018 resolution:

> *'…that a report be brought back to Council detailing proposed site specific planning controls for inclusion within the Wollondilly Development Control Plan 2016 to guide development on the Abbotsford site. The Development Control Plan should include a requirement for heritage signs.'*

Site specific controls are required in response to the outcomes of the specialist studies, public agency consultation undertaken for the planning proposal and to reflect Council's resolution relating to heritage signage.

At the time of this report's preparation the WLEP amendment had not been made. However, the Department have indicated a need for Council to demonstrate progress on the implementation of site specific planning controls for inclusion in the development control plan to address public agency submissions and to inform the final form of the WLEP amendment.

Site Context

The Abbotsford site takes in approximately 67 hectares of land which forms part of Lot 1 DP1086066. It is located about 1km from the Picton town centre, in a direct line, and 1.5 km by road.

Of the land to be rezoned approximately 26 hectares of the site will be developed for rural residential style development within an E4 Environmental Living land use zone. The remainder of the site is constrained in terms of heritage, slope, wastewater and road infrastructure, and flood. Subsequently, any development will predominantly be restricted to the relatively flat eastern end adjacent to Abbotsford and Fairleys Roads.

The remaining area within the planning proposal site will be retained within a single lot which will take in the ridge line and upper slopes of the site.

Heritage Context

The site contains the 'Abbotsford' archaeological site which is listed on the State Heritage Register and is significant for its associations with the early settlement of the Picton area and its links with prominent colonial figure George Harper and later, the Antill family.

The Draft Planning Agreement which accompanies this planning proposal includes a Schedule of Required Stabilisation Works to the Abbotsford archaeological site. It is anticipated that the planning agreement, which also includes works to improve road infrastructure, will be signed by the end of October 2018.

The site also contains two other structures that are considered to be of local heritage significance and will be included in the WLEP as heritage items by listing them in Schedule 5 when the Abbotsford amendment is made to the WLEP. These are the 'Byrne's Exhibitions Dairy (two brick buildings)' and the 'Abbotsford Silos'.

A significant factor in heritage listing the silo structures was to proactively encourage their adaptive reuse by providing access to the heritage incentives clause within the WLEP (i.e. clause 5.10(10)).

As well as identifying new heritage items for inclusion in the LEP, the Abbotsford Planning Proposal will amend the Height of Buildings Map to introduce a maximum permissible height of 6.8 metres, effectively limiting the height of new dwellings to single storey to manage the conservation of the natural and cultural landscape values in the rural character and heritage on the site.

The need for heritage controls has also been triggered by feedback from the Heritage Council of NSW to the Abbotsford Planning Proposal. The Heritage Council of NSW raised a number of concerns in considering the heritage on the site. Some of these have been accommodated through amendments to the planning proposal, however the following matters need to be considered at the development application stage:

- Existing controls in the DCP are considered adequate to control the impacts of future development in the vicinity of the state heritage listed 'Abbotsford'
- The need for a detailed Heritage Impact Statement (HIS) to include an updated visual impact assessment to ascertain any potential impact on the heritage significance of the state heritage listed 'Abbotsford'.
- In light of the two new heritage items it is now considered that the HIS should also consider any potential impact on the heritage significance of all heritage on the site.
- A curtilage study which provides adequate information *on the siting rationale for the Abbotsford homestead in response to the topographic idiosyncrasies of the land*.

Consultation

It is proposed to exhibit the proposed site specific planning controls for 28 days as required by the relevant legislation. Community and stakeholder feedback will be encouraged by:

- Public notice in the local paper
- Posting on Councils Facebook page
- Access to documents at Council's offices and Wollondilly library
- Access to documents on Council's website
- Notify landowner and planning proposal proponent
- Notify all adjoining landowners
- Notify anyone who made a submission to the planning proposal
- Notify relevant public agencies; including
    - Heritage Council of NSW
    - Department of Planning & Environment
    - Department of Planning & Environment – Division of Resources & Geoscience, Geological Survey of New South Wales
- Seek feedback from relevant internal professional staff

The outcome of the consultation will be reported back to Council following the exhibition to finalise the amendments to the development control plan.

1.5 Proposed Site Specific Planning Controls

It is proposed to amend the Wollondilly Development Control Plan 2016 to provide site specific controls within the subdivision and residential volumes (volumes 3 and 4) to guide the future development on the site at the development application stage.

The need for site specific controls relates to the following matters identified during the planning proposal process:

- ensure the orderly development of the site
- protecting heritage
- ensure development is sympathetic to the sites existing and future desired character
- improve walking and cycling
- ensure development of the site does not pose a risk to human health
- managing flood risk

These controls are considered appropriate in response to the issued raised and it is proposed that the community and other stakeholders are invited to provide feedback on these controls.

The draft site specific planning controls for inclusion in Volume 3 – Subdivision of Land are provided at Attachment 1 and for Volume 4 – Residential Development at Attachment 2.

The nature of the controls for each volume is summarised in the table below:

Matter to be addressed	Description/purpose of Control(s)	DCP Volume for proposed controls
Ensuring orderly development	Requirement for concept plan	3
Heritage & character of development	Requirement for further studies, concept plan, building envelopes, built form design	3 & 4
Contamination	Requirement to address potential contamination issues at subdivision stage.	3
Improving walking and cycling	Requirement for pedestrian/bike connection to Picton Sportsground to connect to the existing shared path on the northern side of the Stonequarry Creek which connects to Picton Botanic Gardens and the town centre.	3
Flood Risk	Flag the need for an evacuation route to Ba	3

It should be noted that the statutory planning process for amending a development control under the *Environmental Planning and Assessment Regulation 2000* is that Council can only amend a development control plan for repealing the former plan. So although this report refers to amending the Wollondilly DCP within the inclusion of additional controls, in order for these to be lawful the current development control plan would need to be repealed and replaced with the new plan.

Financial Implications

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

ATTACHMENTS

1. **Draft DCP for Abbotsford Planning Proposal (Subdivision Controls)**
2. **Draft DCP for Abbotsford Planning Proposal (Residential Development)**

RECOMMENDATION

1. That Council publicly exhibit the draft amendments to the Wollondilly Development Control Plan 2016 to introduce site specific planning controls in Volumes 3 and 4 for the Abbotsford site.
2. That a further report on the outcomes of the public exhibition be provided to Council detailing the final controls for adoptions.

11.8 HIGH SPEED RAIL

File Number: 10619#165

EXECUTIVE SUMMARY

1. The purpose of this report is to update Council regarding staff discussions with the Federal Department of Infrastructure, Regional Development and Cities regarding participating in a Councillor Workshop on the value of High Speed Rail (HSR) to Wollondilly
2. It is recommended that Council seek a meeting with the Federal Member for Hume, Angus Taylor, to further discuss this matter.

REPORT

In July 2017 the Australian Government released a report entitled the *Corridor Protection: Planning and investing for the long term*.

At the July 2017 Ordinary Meeting, Council considered a Notice of Motion and resolved:

a) That Council write to the NSW Minister for Planning to have the Sydney – Canberra HSR Corridor protected and incorporated into planning for the Greater Macarthur Release Area, specifically the Wilton Priority Growth Area

b) Council write to the NSW Treasurer and Minister for Transport outlining that corridor protection for a high speed rail link could provide substantial savings for tax payers and request urgent action on key findings in the Infrastructure Australia report

c) Council liaise with Infrastructure Australia to understand the Casula to Douglas Park and Douglas Park to Yerrinbool segments identifying the key challenges within the identified growth corridor.

d) A further report come to Council outlining the strategic benefits to Wilton and Wollondilly by the inclusion of a high speed rail corridor and potential station located at Wilton. This report should identify the strategic location of Wilton New Town and benefits of being at the junction of key infrastructure (including the Hume Hwy, Picton Rd, possible rail link to second Sydney airport, M9).

e) Council write to Campbelltown Council to advise them of our position in regard to this matter and liaise with our neighbours and other stakeholders on the matter.

f) Council write to the Member for Wollondilly; Jai Rowel, and Lou Amato MLC, Member for Hume; Angus Taylor advising them of Councils position and requesting their support.

g) An advocacy paper be developed to support this position.

A copy of the requested correspondence listed at parts a), b), e) and f) of the above resolution is provided at Attachment 1.

Ministerial responses

Responses were received from the NSW Minister for Planning Anthony Roberts MP (Attachment 2) and the Parliamentary Secretary for Transport and Infrastructure, Mark Coure MP (Attachment 3).

The response from the Deputy Secretary, Department of Planning & Environment ('Department') on behalf of the Minister for Planning, acknowledged the potential benefits of "such a transport infrastructure project" for the community. The response continued that the Department would be guided by Transport for NSW's forthcoming Future Transport Strategy.

The response from Mark Coure MP, Parliamentary Secretary for Transport and Infrastructure, also cited the forthcoming Future Transport Strategy as the NSW Government's response to the matters raised by Council.

The NSW Government's *Greater Sydney Services and Infrastructure Plan* released earlier this year found that "…previously federally investigated (2012) mode of high speed rail (HSR) was not deemed to be feasible until the 20+ year timeframe".

The Plan continued "To increase potential passenger catchment, it is recommended that any higher speed connection travelling through Greater Sydney enters from Campbelltown and Hornsby and passes through Parramatta (Central River City) where rapid connections to the metro network would provide access to the Eastern and Western Cities".

Liaison with Infrastructure Australia

Council staff contacted staff from within the Australian Government's Department of Infrastructure, Regional Development and Cities (DIRDC) about their willingness to attend a Council Workshop to discuss HSR.

The DIRDC declined to attend such a workshop stating that the Australian Government's current commitment to HSR has not extended beyond the 2013 Phase II Feasibility Study.

Instead, the DIRDC referred Council to the Australian Government's Faster Rail Prospectus. This program sought to investigate improvements to the rail connections between our cities and surrounding regional areas through $20 million in funding to support the development of up to three faster rail business cases.

Following a competitive assessment process, conducted in accordance with the assessment criteria published in the Prospectus, the Australian Government announced on 9 March 2018 that it would provide matching funding for the development of the three following business cases:

No	Proponent	Corridor
1	Consolidated Land and Rail Australia (CLARA)	Melbourne to Shepparton (VIC)
2	NSW Government (Transport for NSW)	Sydney to Newcastle (NSW)
3	North Coast Connect Consortium	Brisbane to Nambour/Maroochydore (QLD)

Maps of these corridors are found in Attachments 4, 5 and 6.

Following the announcement of successful projects that will receive funding towards the development of business cases, project scope and governance arrangements are being finalised by the DIRDC in consultation with each project proponent.

Financial support for the development of a business case does not indicate Australian Government support for delivery of a project.

The final completed business cases for each of the three projects will be considered in the context of the Australian Government's wider infrastructure priorities and future budgets. Any future funding commitments will take into account state and private sector financial support.

Strategic Benefits of HSR to Wilton and Wollondilly

The location of the Wilton Priority Growth Area (WPGA) some 65 kilometres south West of the Sydney CBD and 25 kilometres south of Campbelltown presents significant transport planning issues.

Importantly, as a genuine satellite settlement of Sydney, local employment opportunities to service the incoming population of between 50,000 to 70,000 people are unlikely to be found locally. It is expected that employment hubs further afield in Campbelltown, Wollongong and the future Western Sydney Airport will continue to provide the bulk of employment opportunities for this region.

On 9 November 2017, Wollondilly Shire Council hosted a rail symposium, called *Trax to the Future.* At this symposium, the Mayor made a presentation outlining the benefits of better connectivity generally and HSR (Attachment 7).

The presentation highlighted that HSR would provide greater access to employment hubs, act to catalyse growth within the WPGA and help people access housing they can afford without the long commute.

The Sydney to Canberra HSR travel time is estimated to be 64 minutes. As such all things remaining equal, a station at Wilton would access Sydney in less than 20 minutes.

However, given the uncertainty surrounding HSR being commissioned at all and the likely long construction timeframe, there is opportunity to explore other options such as faster rail connectivity. This is using existing infrastructure with some adjustments to corridors to accommodate faster services. These can significantly reduce travel times if used between Wilton, Wollongong and the Western Sydney Airport.

Unfortunately, the Australian Government's Faster Rail Program as outlined above did not select any proposal for the Sydney to Canberra Corridor although Council has given its support to a number of projects to do so.

Council should continue to advocate for the NSW Government delivering on is commitment in the *Greater Sydney Services and Infrastructure Plan* to investigation passenger rail services to Wilton within 10 years. Further, Council should ensure that this investigation considers options for faster rail services of an interregional nature to accommodate access to employment hubs greater than 20 and 30 kilometres away.

Consultation

Nil

Financial Implications

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

ATTACHMENTS

1. **Letters to Ministers about HSR**
2. **Response from Department of Planning regarding HSR**
3. **Response from Transport for NSW regarding HSR**
4. **Map of Melbourne to Shepparton Faster Rail Project**
5. **Map of Sydney to Newcastle Faster Rail Corridor**
6. **Map of Brisbane to Nambour and Maroochydore Corridor**
7. **Trax to the Future Presentation**

RECOMMENDATION

That Council seek a meeting with the Federal Member for Hume, Angus Taylor, to further discuss this matter.

11.9 DRAFT WILTON PRIORITY GROWTH AREA SPECIAL INFRASTRUCTURE CONTRIBUTION LEVY

File Number: 10619#163

EXECUTIVE SUMMARY

- The purpose of this report is to inform Council of the public exhibition by the NSW Department of Planning & Environment of the Wilton Priority Growth Area Special Infrastructure Contributions (SIC) Levy.
- That Council makes a submission to the NSW Department of Planning & Environment raising the following matters:
  1. Council is maintaining its position of withdrawing it's 'in principal' support for Wilton New Town.
  2. Council has significant concerns as outlined in this report.
  3. Council call on the NSW Government to work meaningfully with Council to address critical infrastructure needs associated with the growth area.

REPORT

The NSW Department of Planning & Environment ('Department') on Friday 28 September 2018 placed a Wilton Priority Growth Area Special Infrastructure Contributions (SIC) Levy on Public exhibition. The exhibition period closes on 9 November 2018 however, Council has been granted an extension to 23 November 2018 to make a submission.

There are two documents on public exhibition, these are:

- A Special Infrastructure Contribution Levy Brochure (Attachment 1)
- A Special Infrastructure Contribution Feasibility Study – Wilton Special Contribution Area (Attachment 2)

A summary of these documents is provided below.

A Special Infrastructure Contribution Levy Brochure

The Special Infrastructure Contribution Levy Brochure contains the Proposed Infrastructure Schedule and Map which identifies the following investment:

Roads	**$654,936,429**
Picton Rd Upgrade - widening to 4 lanes	$219,547,268
Menangle Rd Upgrade - widening to 4 lanes	$36,932,927
Hume Motorway/Picton Rd Interchange Upgrade	$35,904,621
Wilton North Sub-arterial with potential future bridge links to Menangle Rd	$64,549,482
Picton Rd east and west of interchange - widening to 6 lanes	$30,073,280
West Wilton Sub-arterial with potential future Tahmoor Link	$70,000,000
Investigation of Wilton Rd including Broughton Pass Capacity Improvement	$2,400,000
Sub-arterial from Niloc Bridge Link to MDB Crossing including North Wilton Hume Motorway ramp access	$92,699,130
Sub-Arterial from MDB Crossing to Picton Rd	$26,279,721

Pembroke Rd and Picton Rd Intersection - Signalised upgrade	$4,750,000
Almond Street overbridge and connection to Picton Rd	$15,400,000
Picton Parade West Grade Separation	$15,400,000
Wilton Town Centre access bridge over Hume Highway	$41,000,000
Public Transport	**$5,000,000**
Bus Depot	$5,000,000
Education	**$31,250,000**
Land dedicated for Primary School - Wilton South East	$7,500,000
Land dedicated for Primary School - Wilton North	$7,500,000
Land Dedicated for K-12 School - Wilton Town Centre	$16,250,000
Health	**$750,000**
Community Health Facility - Land	$750,000
Emergency services	**$625,000**
Fire & Rescue Service Station - Land	$625,000
Biodiversity Conservation and Regional Open Space	**$65,032,199**
Biodiversity certification	$60,540,300
Regional open space	$4,491,899
Planning and delivery	**$13,863,904**
Precinct planning	$7,575,936
Precinct delivery	$3,787,968
Wilton business development director	$2,500,000

Overall, the Special Infrastructure Contribution is deficient in accommodating the needs of the new community which will grow to be between 50,000 and 70,000 people at full development. The Special Infrastructure Contribution in its current form does not provide sufficient infrastructure to justify the release of land within the Wilton Priority Growth Area without significant amendment.

In agreeing to support the NSW Government's Potential Homesites Program in 2012, Council clearly articulated that its support was contingent upon all necessary infrastructure including roads, public transport, health and education being provided for in an integrated masterplanned manner.

The Special Infrastructure Contribution Levy clearly falls short of addressing these matters.

The issues are explained in further detail in this report.

Roads and Public Transport

At a total cost of $655 million, roads infrastructure accounts for approximately 85 per cent of the Special Infrastructure Contribution Levy.

Conversely, the Special Infrastructure Contribution Levy only provides for a $5 million 'bus depot' as a response to ensuring sustainable modes of transport are provided to the new community. This represents less than 1 per cent of the total Special Infrastructure Contribution levy being invested in public transportation.

This is of significant concern given that the Wilton Priority Growth Area is located some 65 kilometres south west of the Sydney CBD and 30 Kilometres north-west of the Wollongong CBD. The closest employment hubs to the Wilton Priority Growth Area would be the Campbelltown and Narellan areas still some 25 kilometres away.

These significant distance impacts are exacerbated by the lack of electrification of the Main Southern Railway Line south of Macarthur which is not electrified and prioritises freight services ahead of passenger services. As a result there are only two morning passenger services from Picton to Campbelltown and these are often delayed or cancelled as a result of freight movements.

A much better integrated planning solution would see the electrification of the line south of Macarthur and commencing the first stage of the Maldon-Dombarton Corridor through to the Wilton Priority Growth Area to provide passenger rail services for the 50,000 to 70,000 people of this new community.

The NSW Government's Future Transport Strategy 2056 identifies the "completion of Maldon to Dombarton railway line within 10 to 20 years". However in the short term (0-10 years) the Strategy plans to investigate "Passenger train improvements to support growth at Wilton".

The NSW Government's *Regional NSW Services and Infrastructure Plan* further reinforces this initiative by identifying "Investigation of passenger rail link to Wilton" as a part of its plan to connect Greater Sydney and the Southern Highlands.

However, The NSW Department of Planning's approach is inconsistent with the Strategy adopted by the NSW Government by insisting in their *Wilton 2040: A Plan for the Wilton Growth Area – Finalisation Report* in reference to the Maldon-Dombarton railway line that "Discussions with Transport for NSW have confirmed that this is anticipated to be a freight rail link only." The Report uses this stance to justify its proposal for local bus services to be sufficient to service the Wilton Priority Growth Area and this is reflect in the Special Infrastructure Contribution Levy.

The Special Infrastructure Contribution Levy fails to provide for appropriate costs to commence investigations into the delivery of passenger rail service to support growth at Wilton. This is the adopted Strategy of the NSW Government and the Special Infrastructure Contribution Levy must reflect this.

Health

The Special Infrastructure Contribution Levy proposes to levy $750,000 for a 3,000m^2 parcel of land for a Community Health Facility (primary). This is approximately 0.1 per cent of the total Special Infrastructure Contribution Levy and is clearly deficient for a new city of between 50,000 and 70,000 people. By comparison, Wilton will be the size of Port Macquarie or Wagga Wagga at full development. Both of these cities have a public and private hospital.

The nearest hospitals in relation to Wilton are 25 kilometres away in Campbelltown and over 35 kilometres away in Wollongong or the Southern Highlands.

Considering that the NSW Department of Planning & Environment approach is inconsistent with the NSW Government's adopted strategy of investigating passenger rail services to Wilton, a very poor health outcome is in the making. By failing to deliver the adopted commitments of the NSW Government to invest in passenger rail services, Wilton risks becoming a car dependant satellite suburb of Sydney.

Car dependency is defined as high levels of per capita automobile travel, car-oriented land use patterns, and reduced transport alternatives. There is a growing consensus amongst planners and medical professionals that car dependency increases in the incidence of chronic diseases by encouraging sedentary lifestyle behaviours that contribute to poor mental and physical health.

This suggests that Wilton, within significant investment of public transport and local employment opportunities is on track to become a sick city thus increasing the need for local hospital services.

In September 2017, the Department presented a draft Special Infrastructure Contribution Levy Schedule to Council staff. This included a "Local Hospital Facility Expansion – 10Ha site" and was proposed to be apportioned at 33 per cent to the Wilton Priority Growth Area developers. That would collect total contributions of $16.6 million to a much more appropriate 10 hectare land take enabling a full tertiary health care facility (hospital). This was supported by Council and the Department was encouraged to ensure that the WPHA Land Use and Infrastructure Implementation Plan integrated a suitable site with good proximity to the Wilton town centre and rail corridor.

The Wilton 2040 (formerly the Wilton ILUIIP) released concurrently with the Special Infrastructure Contribution Levy states that:

> *"The South Western Sydney Local Health District is undertaking detailed planning of local health facility needs. Campbelltown Hospital will be significantly upgraded and provide access to the Macarthur population."*

This means that the Department considers it appropriate that the Wilton Priority Growth Area, which will be the size of Port Macquarie or Wagga Wagga at full development, be provided essential health care services at Campbelltown over 25 kilometres north.

Council, in partnership with the Wollondilly Health Alliance will soon prepare a Wilton Health and Wellbeing Strategy. This strategy will contribute to building a case for significant investment in healthcare infrastructure across the Shire. As an interim measure, Community based integrated care solutions should be in place early, be flexible and adaptable to the growing population and focused on preventative health. This should be provided in partnership by both Government and non-Government services.

The Special Infrastructure Contribution Levy must fully accommodate for a 6-10 hectare site for an integrated health care facility (secondary) ahead of a public hospital (tertiary) being constructed at a later date as the Wilton Priority Growth Area approaches full development.

Emergency Services Infrastructure

The draft Special Infrastructure Contribution Levy Schedule presented to Council staff in September 2018 included land for a new rural fire service station and police station totalling $1.25 million.

The Special Infrastructure Contribution Levy as exhibited only provides for land for a Fire & Rescue Service Station at a cost of $0.6 million. The police station has been omitted.

This means that the Department considers it appropriate that the Wilton Priority Growth Area, which will be the size of Port Macquarie or Wagga Wagga at full development, will not have a dedicated police station. The closest police station is at Picton over 8 kilometres away. It is not considered suitable from a public safety perspective.

Planning and delivery

The Special Infrastructure Contribution Levy provides for $13.8 million for planning and delivery costs. Of this amount, $2.5 million is allocated for establishment of the Wilton Business Development Board. The Department propose this as an alternative to delivering a house to job target of 1:1 as mandated by Council is agreeing to support the NSW Government's Potential Homesites Program.

Under the negotiated State VPA, Bradcorp will provide $500,000 per annum for 5 years to establishment of the Wilton Business Development Board, which includes employment of staff and marketing. In this regard no funding flows to Council for economic development purposes. Council has significant concern about this arrangement, particularly if it was to resemble the scheme used during the development of the Bingara Gorge precinct.

This is not an acceptable outcome for Council and will not materially ensure that the 1:1 hose to job target will be achieved.

There is no case study presented by the developers or the Department where this was achieved such an outcome.

Consultation

Council has not consulted separately with the community regarding the draft Special Infrastructure Contribution Levy.

Financial Implications

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

ATTACHMENTS

1. Wilton Special Infrastructure Contribution Levy Brochure
2. Special Infrastructure Contribution Levy Feasibility Report

RECOMMENDATION

That Council makes a submission to the NSW Department of Planning & Environment raising the following matters:

1. Council is maintaining its position of withdrawing it's 'in principal' support for Wilton New Town.
2. Council has significant concerns as outlined in this report.
3. Council call on the NSW Government to work meaningfully with Council to address critical infrastructure needs associated with the growth area.

11.10 WILDLIFE PROTECTION POLICY

File Number: 10619#112

EXECUTIVE SUMMARY

- This report seeks Council adoption of the Draft Wildlife Protection Policy.
- Following Council's previous resolution at the June 2018 Ordinary Meeting, the Draft Wildlife Protection Policy has been publically exhibited resulting in 12 submissions. All respondents were in favour of the establishment of the proposed Wildlife Protection Areas.
- It is recommended that:
    - The two nominated trial sites – Scotcheys Creek Reserve, Silverdale and Lin Gordon Reserve, Thirlmere be declared as Category 2 land under the *NSW Companion Animals Act 1998* and monitored in accordance with the Draft Wildlife Protection Policy.
    - Council erect conspicuous signage in these locations, which clearly delineates the Wildlife Protection Area.

REPORT

Council considered a report on 18 June 2018 in regards to exhibition of a Draft Wildlife Protection Policy ('Draft Policy'). Council resolved that:

1. *Council support the exhibition of the Draft Wildlife Protection Policy.*
2. *That two trial sites – Scotcheys Creek Reserve, Silverdale and Lin Gordon Reserve, Thirlmere be proposed as Category 2 land and monitored in accordance with the Draft Policy which will prohibit cats as per S.30.c.1(b) of the NSW Companion Animals Act 1998.*
3. *Upon endorsement by Council, the proposal shall be publically exhibited for a minimum of 28 days including written notification to adjoining landowners and the use of Survey Monkey to gauge residents' opinions.*
4. *Following completion of the exhibition period, a report on submissions received and a recommendation to proceed with a declaration or otherwise will be prepared for Council's consideration.*
5. *If a Wildlife Protection Area is to be established in these locations, that Council erect conspicuous signage which provides notification of the Wildlife Protection Area.*
6. *That the proposed Education and Information Program be adopted.*

Consultation

Exhibition of the Draft Policy has been completed. Council has:

- written to all adjoining residents;
- publicly exhibited for a period of 31 days between 25 July and 31 August 2018, including newspaper advertisement; Engage.Wollondilly project page; a media release and via Survey Monkey;
- Provided a copy of the Draft Policy and conferred with members of the Companion Animals Reference Committee at a meeting on 4 September 2018. No additional comments or objections were provided to the proposal;
- Internal consultation has also occurred with Compliance Staff and the Manager of Environmental Outcomes.

Twelve responses have been received in total from members of the community. All respondents supported the Draft Policy.

Ten submissions were received via the Survey Monkey referred to above. It is intended to prepare a separate report to Council detailing the survey results and make recommendations in response to the Notice of Motion moved by Cr Landow regarding the meed for legislative change to promote responsible pet ownership.

Financial Implications

It is proposed to utilise funding in the current budget allocated for Environmental Projects to cover the following costs:

- Signs, graphics and installation - $1500
- Cost of traps - $250

ATTACHMENTS

1. Draft Compliance Wildlife Protection Areas Policy
2. Wildlife Protection Policy Community Feedback

RECOMMENDATION

1. That the two nominated trial sites – Scotcheys Creek Reserve, Silverdale and Lin Gordon Reserve, Thirlmere be declared as Category 2 land under the *NSW Companion Animals Act 1998* and monitored in accordance with the Draft Wildlife Protection Policy.
2. That Council erect conspicuous signage at these locations, which clearly delineates the Wildlife Protection Areas.

12 MANAGEMENT AND PROVISION OF INFRASTRUCTURE

12.1 TRAFFIC MANAGEMENT UPGRADES - OCTOBER 2018

File Number: 10619#200

EXECUTIVE SUMMARY

- The Local Traffic Committee Agenda & Notice of Meeting was issued on 11 October 2018 to consider a number of reports for traffic management in the Wollondilly Local Government Area and to submit recommendations for Council's consideration at the Local Traffic Committee Meeting held 17 October 2018. The agenda papers were also distributed to all Councillors.
- This report recommends that the traffic management proposals, as considered by the Local Traffic Committee Meeting of 17 October 2018, be adopted.

REPORT

Background

The Local Traffic Committee is a Technical Committee of Roads and Maritime Services (RMS). The Committee operates under the authority conferred to Council by the RMS under the *Transport Administration Act 1988*.

Council has been delegated certain powers by the RMS with regard to traffic matters upon its local roads. A condition of this delegation is that Council must take into account the advice of the Local Traffic Committee.

There are four permanent members of the Local Traffic Committee, each of whom has a single vote only. The members are representatives of the NSW Police Force, the RMS, the Local State Member of Parliament (for the location of the issue to be voted upon) and a representative of Council.

The Minutes of the Local Traffic Committee Meeting of 17 October 2018 have been distributed and are available on the Council website:

https://www.wollondilly.nsw.gov.au/assets/Uploads/Minutes-of-Local-Traffic-Committee-Meeting-held-17-October-2018.pdf

Only matters requiring a resolution of Council are included in this report, other endorsed upgrades have been approved under delegated authority.

Consultation

Refer to Local Traffic Committee Agenda details included in the minutes.

Financial Implications

The proposals for Council projects contained within the Traffic Committee Agenda are able to be funded from Council's current budget allocations or remain the responsibility of an external applicant.

ATTACHMENTS

Nil

RECOMMENDATION

- That the Minutes of the Traffic Committee Meeting held on 17 October 2018 be received and the recommendations therein be adopted; including:

  1.2 **THIRLMERE FESTIVAL OF STEAM 2019 ROAD CLOSURES**
  That Council approve the temporary closure of the following roads between the hours

of 6.00am and 5.00pm on Sunday 3 March 2019 for the staging of “Thirlmere Festival of Steam 2019” subject to the requirements for the issue of a permit for “Road Event – Road Closure”:

- Oaks Street between the Thirlmere Railway Station roundabout and Carlton Road
- Mason Street from Barbour Road to Goodlet Street
- Close Street from Barbour Road to Campbell Street
- Barbour Road between Oaks Street and Lakes Street
- Westbourne Avenue from North Street to Oaks Street
- North Street will be one way from Westbourne Avenue to Carlton Road

12.2 ADOPTION OF BONDS POLICY

File Number: 10619#201

EXECUTIVE SUMMARY

- The intent of the Bonds Policy is to establish clear guidelines for considering the acceptance of a financial Bond as security, for certain works on Public Land by parties other than Council typically, but not necessarily limited to, roads required to be constructed in association with a Development Consent or other valid planning approval.

REPORT

The external audit of Development Engineering highlighted the absence of a Policy in relation to when a security Bond could be entered into in relation to planned or incomplete development works.

The provisions of the *Environmental Planning & Assessment Act 1979* (EP&A Act) enables a consent authority (e.g. Council) to enter into an agreement with an applicant/developer to accept security for certain incomplete public works (e.g. roadworks, kerb and guttering, drainage works, etc) in order to enable the issue of the Subdivision Certificate or Interim Occupation Certificate prior to the completion of certain works.

Additionally, the EP&A Act enables Council to issue a Subdivision Certificate that involves work where agreement has been reached between the applicant and Council, concerning the security to be given by the applicant to Council regarding work to be completed, and when it will be completed.

The granting of a permit or approval allowing third parties to carry out works to public infrastructure presents an inherent risk to Council if the works are not carried out to the required standard or are left incomplete.

This was recognised in time to influence the revised Fees and Charges adopted with the 2018/19 Operational Plan for roadworks.

This Policy has been developed for:

- Roadworks on a Public Road - in accordance with a permit for carrying out roadworks or structures on a Public Road (Section 138 of *Roads Act 1993*) that are considered long term or have high impact (significant disruption) to the normal operation of the road. Such a permit would normally be submitted to carry out roadworks that would require traffic management such as lane or road closures; or
- Incomplete Works on Public Land or Road - that has been conditioned to be constructed as part of a Development Consent and/or Construction Certificate where those works are required to be dedicated to Council and later become Council's asset, when completed.

Consultation

Internal only.

Financial Implications

This matter has no financial impact on Council's adopted budget or forward estimates due to the fees and charges being adopted in the Operational Plan and will assist in managing Council's financial risks for third party works on Council's assets or future assets.

ATTACHMENTS

1. DRAFT - Bonds Policy

RECOMMENDATION

The Bonds Policy be adopted.

13 CARING FOR THE ENVIRONMENT

13.1 RESPONSE TO ENVIRONMENTAL QUESTIONS RAISED BY CR GOULD AT ORDINARY COUNCIL MEETING OF 15 OCTOBER 2018

File Number: 10619#213

EXECUTIVE SUMMARY

- The purpose of this report is to to respond to the Questions for Next Meeting raised on notice by Cr Gould.
- It is recommended that Council note the answers.

REPORT

At the Ordinary Council Meeting of 15 October 2018, Cr Gould raised on notice five Questions for Next Meeting. The responses are provided as follows:

1. ***What advice or information does Council have from OEH on the appropriate minimum width of the Allen's Creek Corridor in order to provide an appropriate habitat buffer for Koalas?***

   Council has not received formal advice from OEH regarding the appropriate width of the corridor. We are aware of advice to OEH from the Department of Planning & Environment's consultant that opines:

   "Given the OEH draft report koala density estimate of 0.052 koalas ha, I would estimate a habitat area requirement of approximately 100 to 125 ha either side of the two underpasses structures that currently service drainage needs as necessary to give full effect to the connectivity potential for koalas in this area. To achieve this outcome would require a widening of the Allen's Creek corridor to something in the order of the 425 m (say +/- 50 m) as I have already alluded to in the preceding paragraph. On the ground, this would translate to a minimum buffer width of 200 m from top of bank either side of Allen's Creek, and a similar distance when considered in the context of Picton Road once it is fenced, to direct koala movement to the existing connectivity infrastructure. These requirements are currently not met by the envisaged development outcome proposed by Walker."

2. **What was the recommended habitat buffer width from the top of the bank of the two Allen's Creek tributaries?**

   Based on the advice to OEH (as outlined in 1. above), this corridor specification would equate to a minimum buffer width of 200 m from top of bank either side of Allen's Creek. In addition, a similar distance may be required when considering Picton Road, once it is fenced, to direct koala movements to the existing connectivity infrastructure i.e. the culverts.

3. **What will be the minimum width of the habitat buffers referred to above in the area rezoned by the NSW Government in the vicinity of Wilton South East? If this is less than the recommendations from OEH, what justifications have been provided to explain this discrepancy?**

   As mentioned above, Council has not received formal advice from OEH on this issue; however, based on the advice the OEH has received, a plot of the buffers has been drafted, please see attached aerial photo with buffers drawn (Figure 1).

   These requirements are currently not achieved by the areas set aside as the Conservation Zone rezoned area of the South Eastern Wilton Development. To obtain adequate buffer width, additional development controls with appropriate environmental outcomes would have to be added to the Urban Development Zone.

   Current buffers proposed under current development proposal are:

- Allen's Creek north west arm - area South of Picton Road is ~25ha, recommended 100-125 ha. Buffer on north western side of the creek averages 60m. Recommended is 200m.
- Picton Road pinch point 100m corridor.
- Allen's Creek south east arm - main arm ranges from 85 to 100 m for a distance of ~ 350 m for heading upstream, south from culvert 2.

Council is unaware of any justification or rational for the buffer zones allocated in the final rezoning plan. Noting that the original master planning process for Wilton Junction had not finalised fully addressing this issue.

4. **Is Council aware of any potential for future widening of Picton Road to further reduce the width of these habitat buffers? If so, what advice or information does Council have on what the width of these buffers may be after the road is widened, particularly in the vicinity of the existing "pinch point" in the corridor at Picton Road?**

   Council is currently waiting on confirmation from RMS on the corridor plans for Picton Road; however, it is acknowledged that current transport planning projects indicate that further widening and/or realignments works will be required.

   Current advice from RMS is that that any major widening(s) will be some time off (i.e. +10 years) and hence not developed enough for a comprehensive wildlife protection plan. Accordingly, road side fencing improvements will proceed in late 2018/19 based on current road corridor alignments.

   RMS have advised that any subsequent widening projects would include wildlife protection alterations or improvements to be included in the scope of the individual projects. The plan would be to include fencing movement / rebuild in future road upgrade budgets.

5. **What measures are outlined in the NSW Koala Strategy released earlier this year to protect and restore koala corridors in the Wilton Area and within Wollondilly Shire?**

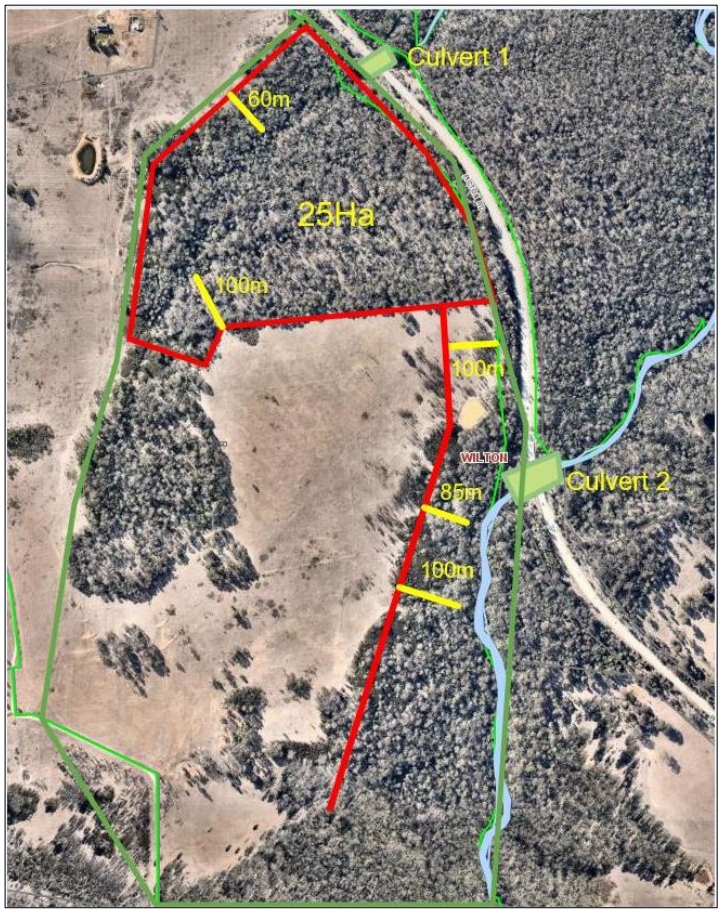
   There are no specific measures in the NSW Koala Strategy to protect and restore koala corridors within the Wilton Area.

   The Strategy identifies an action that would be applicable to Wollondilly in:

   - Roads and Maritime Services and Office of Environment and Heritage will identify vehicle strike hotspots and implement appropriate mitigation responses.
   - Mitigation responses will consider:
     - the size and viability of the koala population in question
     - the future planning and zoning intentions of the proposed mitigation site
     - the cost of the proposed measures.

   Subsequent to the release of the Strategy, meetings with RMS have indicated that the Picton Road corridor is being considered for inclusion as an identified "hot spot" and additional wildlife protection funding.

Figure 1



ATTACHMENTS

Nil

RECOMMENDATION

That Council note the responses.

14 LOOKING AFTER THE COMMUNITY

Nil

15 EFFICIENT AND EFFECTIVE COUNCIL

15.1 INVESTMENT OF FUNDS AS AT 30 SEPTEMBER 2018

File Number: 10619#130

EXECUTIVE SUMMARY

- The purpose of this report is to provide details of Council's invested funds as at 30 September 2018.
- It is recommended that the information and certification in relation to the investment of funds as at 30 September 2018 be noted.

REPORT

At its last meeting, the Reserve Bank maintained the cash rate at 1.50%. In relation to the domestic market, the Board of the Reserve Bank commented that:

"*The latest national accounts confirmed that the Australian economy grew strongly over the past year, with GDP increasing by 3.4 per cent. The Bank's central forecast remains for growth to average a bit above 3 per cent in 2018 and 2019. Business conditions are positive and non-mining business investment is expected to increase. Higher levels of public infrastructure investment are also supporting the economy, as is growth in resource exports. One continuing source of uncertainty is the outlook for household consumption. Growth in household income remains low and debt levels are high. The drought has led to difficult conditions in parts of the farm sector.*

Australia's terms of trade have increased over the past couple of years due to rises in some commodity prices. While the terms of trade are expected to decline over time, they are likely to stay at a relatively high level. The Australian dollar remains within the range that it has been in over the past two years on a trade-weighted basis, but it has depreciated against the US dollar along with most other currencies.

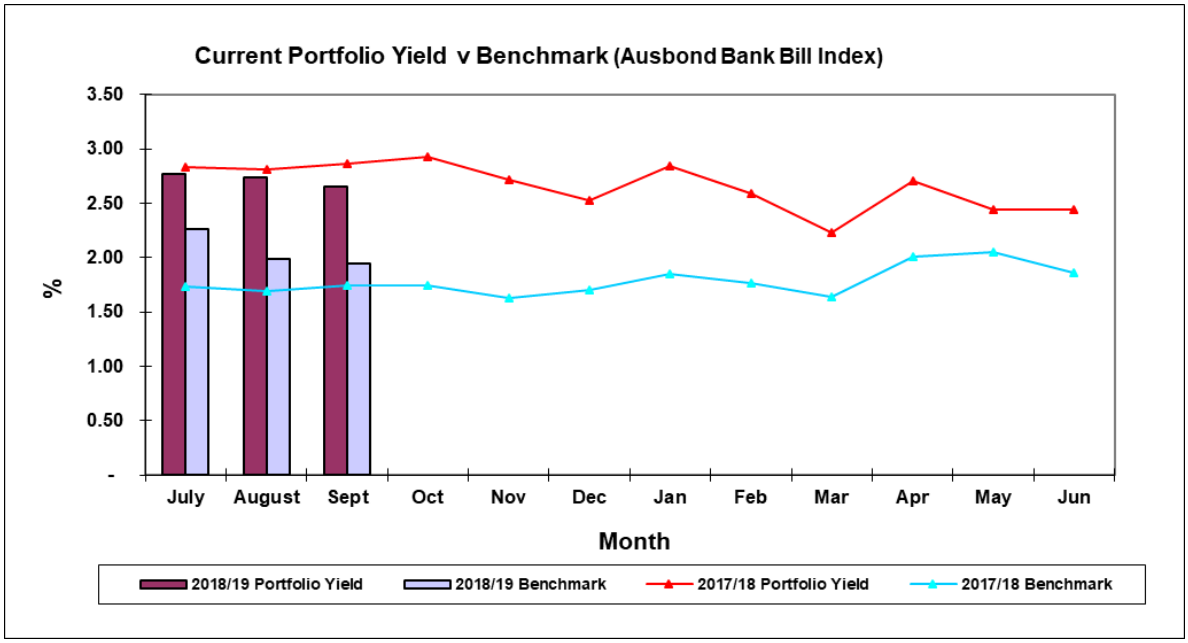
The outlook for the labour market remains positive. The unemployment rate is trending lower and, at 5.3 per cent, is the lowest in almost six years. The vacancy rate is high and there are reports of skills shortages in some areas. A further gradual decline in the unemployment rate is expected over the next couple of years to around 5 per cent. Wages growth remains low, although it has picked up a little. The improvement in the economy should see some further lift in wages growth over time, although this is likely to be a gradual process.

Inflation is around 2 per cent. The central forecast is for inflation to be higher in 2019 and 2020 than it is currently. In the interim, once-off declines in some administered prices in the September quarter are expected to result in inflation in 2018 being a little lower than otherwise.

Conditions in the Sydney and Melbourne housing markets have continued to ease and nationwide measures of rent inflation remain low. Growth in credit extended to owner-occupiers remains robust, but demand by investors has slowed noticeably as the dynamics of the housing market have changed. Credit conditions are tighter than they have been for some time, although mortgage rates remain low and there is strong competition for borrowers of high credit quality."

The majority of Council's investment portfolio (97%) is invested in deposits / securities with Australian Authorised Deposit taking Institutions (ADI's). Council has been taking advantage of term deposit "specials" from various institutions without overexposing the portfolio to any one institution. Note that the marked to market valuations on some of the direct investment products in Council's portfolio remain at less than the face value of the investment. The marked to market value of these investments is expected to be equal to or greater than the face value by the time they reach their maturity date. Early exit from these products would realise losses.

The following chart compares Council's portfolio yield with the benchmark AusBond Bank Bill Index rate in each month for 2017/18 and 2018/19.



As shown in the chart above, Council's portfolio yield has continually exceeded the benchmark AusBond 3 month Bank Bill Index due to the prudent investment of Council's portfolio.

Under Reg 212 of the Local Government (General) Regulation 2005, Council's Responsible Accounting Officer must provide Council each month with a written report setting out details of all money that Council has invested under section 625 of the Act.

Council's investment portfolio as at 30 September 2018 is summarised below.

By Product	Face Value ($)	Current Value ($)	Current Yield (%)
Cash	4,793,403.83	4,793,403.83	1.5500
Floating Rate Note	19,700,000.00	19,863,801.69	3.0866
Mortgage Backed Security	1,592,763.49	1,074,747.82	2.4875
Term Deposit	42,000,000.00	42,389,252.88	2.7671
	68,086,167.32	**68,121,206.22**	**2.7673**

Details of Council's investment portfolio as at 30 September 2018 are provided in Attachment 1.

Consultation

Independent advice regarding the investment of Council funds was provided by Prudential Investment Services Corp.

Financial Implications

Interest earned is allocated to restricted cash and income in accordance with Council's adopted budget, policy and legislative requirements.

The Reserve Bank of Australia has continued to keep interest rates low and the expected investment income will be reviewed and revised as more information becomes available.

Certification

I hereby certify that Council's investments have been made in accordance with Sec 625 of the Local Government Act 1993, clause 212 of the Local Government (General Regulations) 2005 and Council's Investment Policy.

Ashley Christie
Chief Financial Officer
WOLLONDILLY SHIRE COUNCIL

ATTACHMENTS

1. Investment Summary Report as at 30 September 2018

RECOMMENDATION

That the information and certification in relation to the investment of Council funds as at 30 September 2018 be noted.

15.2 PRESENTATION OF 2017-18 ANNUAL FINANCIAL STATEMENTS TO THE PUBLIC

File Number: 10619#167

EXECUTIVE SUMMARY

- Council's Annual Financial Statements for the year ended 30 June 2018 have been audited and the Auditor's reports have been received.
- In accordance with the Local Government Act, the audited Annual Financial Statements must be presented at a meeting of Council and made available to the public.
- Any submissions received within the 7 day period of notice are to be referred to Council's auditor.
- The audited Annual Financial Statements are to be included in Council's Annual Report and provided to the Minister by the 30th November and made available to the public by placing on Council's website.

REPORT

Council's Audited Financial Statements for the year ended 30 June 2018 were authorised for issue at the Ordinary Meeting of Council on 15 October 2018. At the meeting, a date was set to present the Audited Financial Statements to the public, the date being 19 November 2018.

The Annual Financial Statements were tabled at the meeting and showed Council to be in a sound financial position.

Public notice of the presentation of the Annual Financial Statements at this meeting was given in the local newspapers and on Council's website. The public notice was in accordance with Section 418 of the Local Government Act 1993.

Copies of the audited Annual Financial Statements are available for inspection by members of the public at Council's Administration Building and in accordance with Section 420 of the Local Government Act 1993, any person can make written submissions to Council with respect to the Statements within the next seven day period.

Section 428 of the Local Government Act 1993 requires a copy of the Annual Financial Statements to be included within Council's Annual Report and a copy of the Annual Report be provided to the Minister within 5 months after the end of the financial year (ie: by 30 November).

Council has professionally qualified staff to ensure compliance with the reporting requirements. Council staff have also undertaken additional training in specialised areas.

A higher level of assurance is attained from the Audit Office NSW's external audit.

Council is now presented with a set of Annual Financial Statements that have been prepared in accordance with the Local Government Act 1993, Australian Accounting Standards and other professional pronouncements and the NSW Code of Accounting Practice and Financial Reporting.

Consultation

The audited Annual Financial Statements were presented to Council's Audit, Risk & Improvement Committee on 4 October 2018.

The Audit team from Prosperity Audit Services and the NSW Audit Office have been consulted throughout the preparation of the statements.

The Annual Financial Statements were presented to Council on 15 October 2018.

The statements are now ready for presentation to the public and submissions may be received until 26 November 2018.

Financial Implications

The Annual Financial Statements show Council's short term financial position to be very sound. However, Council will need to constantly monitor its long term financial position to ensure it has the ability to maintain its infrastructure to a satisfactory standard.

ATTACHMENTS

1. Annual Financial Statements for the year ended 30 June 2018

RECOMMENDATION

1. That the audited Annual Financial Statements for the year ended 30 June 2018 be received.
2. That public submissions on the audited Annual Financial Statements be received up until the close of business Monday 26 November 2018.
3. That any public submissions received by the due date are to be referred to the NSW Audit Office.
4. That the audited Annual Financial Statements be included in the 2017/18 Annual Report
5. That the 2017/18 Annual Report be provided to the Minister by 30 November 2018 as prescribed by the Local Government Act 1993.
6. That the 2017/18 Annual Report be made available to the general public by posting on Council's website.

15.3 QUARTERLY BUDGET REVIEW STATEMENT FOR THE PERIOD ENDED 30 SEPTEMBER 2018

File Number: 10619#168

EXECUTIVE SUMMARY

- The purpose of this report is to present the Quarterly Budget Review Statement for the period ending 30 September 2018.
- The document reports detailed information on Council's financial progress for the first quarter of the 2018/19 financial year.
- It is recommended that the Quarterly Budget Review Statement for the period ending 30 September 2018 and proposed adjustments to the 2018/19 budget estimates, be adopted.
- A current list of projects comprising the Capital Works Program will also be tabled for information purposes.

REPORT

This Quarterly Budget Review reports on the financial progress towards achieving Council's 2018/19 Operational Plan objectives as at 30 September 2018.

The Quarterly Review also reports on Council's progress towards delivering the Draft Capital Project program 2017/18. A list of the current projects comprising the 2018/19 Capital Works Program will be tabled.

The Quarterly Budget Review Statement measures Council's financial health as we progress through the year. It needs to adequately disclose Council's overall financial position and provide sufficient information to enable Councillors to make informed and transparent decisions. It is also a means by which Councillors can ensure that Council remains on track to meet its objectives, targets and outcomes as set out in the Delivery Program and Operational Plan.

The Office of Local Government has prescribed that the Quarterly Budget Review Statement includes (as a minimum) the following components:

- Statement by the Responsible Accounting Officer on Council's financial position at the end of the year based on the information in the review documents
- Income and Expenses Statement, showing the original and revised budgets, along with any changes proposed in the current Quarterly Review. Actual income and expenditure to date is also required to be shown.
- Explanation for material variations between the revised budget and projected year end result and likely impacts of the variation.
- Capital Budget, also showing the original and revised budgets, along with any changes proposed in the current Quarterly Review. Actual income and expenditure to date is also required to be shown.
- Explanation for variations between the revised capital budget and projected year end result and likely impacts of the variation.
- Cash and investments position
- Key Performance Indicators
- Contracts entered into during the quarter (>$50,000)
- Expenditure to date for Consultancies and external Legal Fees.

Collectively, these documents form the Quarterly Budget Review Statement (QBRS). Clause 203 (1) of the Local Government (General) Regulation 2005 requires a QBRS to be submitted to Council within two months after the end of each quarter (except the June quarter).

This is the first Quarterly Budget Review of Council's 2018/19 Operational Plan, which in turn contributes to the delivery of Council's four year Delivery Program and the twenty year Community Strategic Plan. In accordance with the Local Government Act 1993, the QBRS for the period ending 30 September 2018 is presented for Council's consideration.

Consultation

All members of the Executive and Senior Management have had input into the production of this budget review. The QBRS is an internally produced document that reports the progress of the 2018/19 Operational Plan. Therefore, in the preparation of this document there was no need for public consultation.

Financial Implications

The QBRS provides Council and the Community with information in relation to Council's projected financial position. Having regard to the projected budget estimates and the original budget, Council's financial position is considered to be satisfactory.

For the 2018/19 financial year, Council originally adopted a balanced working funds position. Budgetary adjustments identified during the quarter have enabled Council to maintain its available working funds at a balanced position.

Details of the proposed budget variations for the first quarter of the 2018/19 financial year are provided in the Quarterly Budget Review Statement for the period ending 30 September 2018 (provided under separate cover).

The Quarterly Budget Review Statement for the period ending 30 September 2018 indicates that Council is progressing well in meeting the objectives contained within the 2018/19 Operational Plan.

A copy of the QBRS and the current list of projects comprising the 2018/19 Capital Works Program will be placed on Council's website.

There are no attachments to this report. The Quarterly Budget Review Statement for the period ending 30 September 2018 will be provided under separate cover and be publicly available by the Community Forum on Monday 12 November 2018. The current list of projects comprising the Capital Works Program will be tabled at the meeting.

ATTACHMENTS

Nil

RECOMMENDATION

1. The Quarterly Budget Review Statement for the period ending 30 September 2018 and proposed adjustments to the 2018/19 budget estimates, be adopted.
2. The information provided in the tabled "Current List of Projects Comprising the Capital Works Program" be noted.

15.4 APPOINTMENT OF NATIVE TITLE MANAGER

File Number: 10619#212

EXECUTIVE SUMMARY

- Council is required to give notice to the Minister for Lands and Forestry of the name and contact details of Council's nominated Native Title Manager by 31 October 2018. The attached letter has informed the Minister that subject to Council resolution the nominated Native Title Manager is Council's Property Officer – Sandra Smith.
- It is recommended that Council:
  1. Endorse Council's Property Officer, as its Native Title Manager and
  2. Give notice to the Minister for Lands and Forestry of contact details of Council's Property Officer, Sandra Smith, as its Native Title Manager as required under Section 8.8 of the Crown Land Management Act 2016.

REPORT

The Crown Land Management Act 2016 (CLM 2016) commenced from 1 July 2018. The practice of managing Crown Lands in Wollondilly shire will be changing significantly to comply with the requirements under the CLM 2016. One of the changes relates to a need for each Council to nominate its qualified Native Title Manager.

To be qualified as a Native Title Manager, a person must attend a training session jointly provided by the Crown Solicitors Office and the Department of Industry (Crown Lands Office).

Council's Property Officer, Sandra Smith attended the one-day training required for qualifying as a Native Title Manager on 30 October 2017 and attained the Native Title Manager qualification. **More training and practical experience will be required in this complicated area of law**. However, Council's Property Officer is considered the most suitable person to be appointed as Council's Native Title Manager. Once Council has endorsed its Native Title Manager, a notice can be given to the Minister accordingly.

STATUTORY AND POLICY IMPLICATIONS

Section 8.8 of the Crown Land Management Act 2016 (CLM 2016) requires each Council to give notice to the Minister for Lands and Forestry of the name and contact details of any person the Council has engaged or employed as a Native Title Manager. The notice must be given as soon as practicable after 30 June (but not later than 31 October) of each year.

Section 377(1) of the Local Government Act 1993 states that the giving of a notice to the Governor or Minister is a non-delegable function meaning a resolution of council is required.

Consultation

Minister for Lands and Forestry

Financial Implications

This matter has no financial impact on Council's adopted budget or forward estimates currently. If, in the course of performing the duties of the Native Title Manager, additional costs are incurred there may be a need to adjust future estimates.

ATTACHMENTS

Nil

RECOMMENDATION

That Council:

1. Nominate Council's Property Officer as its Native Title Manager
2. Give notice to the Minister for Lands and Forestry of contact details of Council's Property Officer, Sandra Smith, as its Native Title Manager as required under Section 8.8 of the Crown Land Management Act 2016.

16 NOTICE OF MOTION/RESCISSIONS

Nil

17 CLOSED REPORTS

Nil

18 QUESTIONS FOR NEXT MEETING

Nil