



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

Date: Thursday, 29 November 2018
Time: 5.30pm
Location: Council Chamber
62-64 Menangle Street
Picton NSW 2571

AGENDA

Wollondilly Shire Local Planning Panel Meeting

29 November 2018

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1 OPENING**2 RECORDING OF THE MEETING**

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

3 WEBCAST NOTICE

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

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4 ACKNOWLEDGEMENT OF COUNTRY

The Chair will acknowledge the traditional Custodians of the Land.

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

7 LOCAL PLANNING PANEL REPORTS – SUSTAINABLE AND BALANCED GROWTH

7.1 DEVELOPMENT APPLICATION FOR A DWELLING HOUSE FOR 1 STARGARD CRES, PICTON

File Number: 10621#40

Reason for LPP Referral: 4.6 Variation greater than 10%

DA No: 010.2010.00000944.001 (Original Seven (7) lot subdivision and Six (6) dwellings) 010.2018.00000392.001

Lot & DP – Subject Site: Lot 27 DP 1173845

Proposal: Dwelling

Zoning: R5 Large Lot Residential

Permissibility: Permitted with Consent

Cost of Development: \$560,823.00

Applicant: Eden Brae Homes

Owner: Mrs L Froud and Mr S Potter

Notification: From 11/7/2018 to 26/7/2018

Submissions: 0

Variations: Variation to LEP Clause 4.2A

Site Inspection: 14 August 2018

Recommendation: That variation be approved subject to standard conditions for dwelling



EXECUTIVE SUMMARY

- The purpose of this report is to consider a development application for the above mentioned application due to a Wollondilly Local Environmental 2011 Variation to Clause 4.2A that is greater than 10%.
- Under Section 10.4 Disclosure of political donations and gifts of the *Environmental Planning & Assessment Act 1979*, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extends to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application
- It is recommended that this variation be supported and approve DA 010.2018.00000392.001 proposing the erection of a dwelling house.

REPORT

Background

The subject land, Lot 27, DP 1173845, No. 1 Stargard Crescent, Picton has an area of 3505m² and was created by a subdivision registered on 17 June 2013. It is located within the R5 – Large Lot Residential zone of Wollondilly Local Environmental Plan 2011 (WLEP 2011) which, in this location, sets a minimum allotment size for the erection of a dwelling house of 4000m².

Development Application 010.2010.00000944.001 was lodged with Council on 20 December 2010 and proposed a seven lot subdivision. At the time of lodgment of the development application, Wollondilly Local Environmental Plan 1991 (WLEP 1991) was in force and set a 3000m² minimum allotment size for subdivision within the then 1(c2) zoning of the land.

Shortly after receipt of the subject development application, Wollondilly Local Environmental Plan 2011 was published and commenced on 23 February 2011. This rezoned what was to become the subject land to RE2 – Private Recreation, and prohibited the erection of dwelling houses on the land.

Consequential to the commencement of LEP 2011, the development application continued to be assessed in accordance with the provisions of LEP 1991 due to the operation of Clause 1.8A of LEP 2011 which provided as follows:

“1.8A Savings provision relating to development applications

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.”

Development Application 010.2010.00000944.001 was, however, subsequently amended to a six (6) lot subdivision and the erection of a specific dwelling house on each of the allotments to be created, in order to allow the erection of dwelling houses on the proposed lots. Dwelling house plans were submitted for each of the proposed allotments.

This amendment of the development application to include proposed dwelling houses on each of the allotments to be created was necessary due to the provisions of WLEP 2011, which would have prohibited the subsequent approval of dwelling houses on the allotments so created once the lots were registered.

On 2 October 2015 Amendment 14 to LEP 2011 was commenced which rezoned the subject land to R5 – Large Lot Residential commensurate with the adjoining allotments within the original Stargard development (as approved in 2003). This permitted the erection of dwelling houses on the subject land, however, on lots with a minimum area of 4000m².

Despite having an approved dwelling house, the subject allotment remains vacant. The current owners of this lot have decided that the house design approved in conjunction with the subdivision in February 2012 is not suitable for their purpose.

Development Application 010.2018.00000392.001 was submitted on 4 July 2018 proposing a different dwelling house to be erected on the subject land than approved by development application 010.2010.00000944.001.

Clause 4.2A of LEP 2011 now operates to prevent the approval of this new development application as the subject land does not fit the criteria within sub-clause (3) (a), (b), or (c) as the land does not have a minimum allotment size of 4000m², is not a lot created before the commencement of LEP 2011 on 23 February 2011, and is not a lot resulting from a subdivision approved before the commencement of LEP 2011, and registered after that commencement.

The applicant, has therefore, requested a variation to Clause 4.2A under the provisions of Clause 4.6 of LEP 2011. The Applicant's variation request is listed as an attachment to this report.

Consultation

Consultation with Councils Development Planners only been undertaken. The advice received is that the property does have dwelling entitlement only via the originally approved house design. For the development to go ahead using the new design the Applicant was required to apply for a variation to the LEP development standard. The request for a variation to the control has been submitted.

This application has been referred to the LPP for determination as the variation is greater than 10%.

1.1 Description of Site and Surrounding Area

The proposed site is located at the end of Stargard Crescent and slopes uphill from the road to the rear (southern) boundary which backs onto the Main Southern Railway, with residential development to the east and an access handle for residential development to the west.

1.2 Description of Development

The proposal is for a two storey residential development (dwelling house).

1.3 Section 4.15 Evaluation

1.3.1 Provisions of Relevant Environmental Planning Instruments

Instrument	Relevance	Instrument	Relevance
Wollondilly LEP 2011	X	Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (no. 2 – 1997)	X
State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011	NA	Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment	NA
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	X	State Environmental Planning Policy No 55 - Remediation of Land	NA

State Environmental Planning Policy (BASIX)

Question	Answer
Are the street address, postcode and LGA correct on the BASIX certificate?	YES
Are the dwelling type and the number of bedrooms correct?	YES
Is the site area on the certificate correct?	YES
Is the roof area correct?	YES
Are the conditioned and unconditioned floor areas on the certificate correct?	YES
Are the landscaping/lawn areas correct on the certificate?	YES

****Note: Acoustic condition to be imposed to ensure rail noise does not impact the occupants of this dwelling.**

State Environmental Planning Policy No. 55 – Remediation of Land

Question	YES		NO	
1. Does the proposal result in the establishment of a new residential use?	X	Proceed to Question 2		Assessment under SEPP 55 and DCP 46 not required.
2. Review the property file and conduct a site inspection of the site and surrounding lands. Is there any evidence that the land has been used for a listed purpose?		Refer to planners	X	Proposal satisfactory under SEPP 55 and DCP 46.

Sydney Regional Environmental Plan No 20 - Hawkesbury

Relevant Provisions	Comment
3. Aims of the Plan	The proposal is considered to be generally in accordance with the aims of the Hawkesbury Nepean Plan.
6. Planning Policies and Recommended Strategies	
(1) Total catchment management	The proposal is not considered to significantly affect the total catchment management of the areas.
(2) Environmentally sensitive areas	The proposal is not located within an environmentally sensitive area.
(3) Water quality	The water quality for this proposal is not considered to be significantly affected by the proposal.
(4) Water quantity	Conditions of consent shall control the water quantity.
(5) Cultural heritage	No cultural heritage has been identified on this site.
(6) Flora and fauna	No change to flora and fauna due to this proposed application – site cleared.

(7) Riverine scenic quality	Not applicable
(8) Agriculture/aquaculture and fishing	Not applicable
(9) Rural residential development	Proposed dwelling complies with development standards for the area.
(10) Urban development	Not applicable
(11) Recreation and tourism	Not applicable
(12) Metropolitan strategy	Not applicable
11. Development controls	
(7) Filling	Satisfactory – complies with controls.

Wollondilly Local Environmental Plan 2011

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

Zone of land: R5 Large Lot Residential
 Permissibility Permitted with consent.

Zone R5 Large Lot Residential

Objective	Comment
R5	
• To provide residential housing in a rural setting	The proposal meets this objective by providing

while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.	a dwelling house on a larger lot size in a smaller subdivision, thus ensuring minimal impact on the surrounding rural setting.
• To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.	Proposed dwelling will not hinder development of future urban areas.
• To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.	Single dwelling only proposed, will not unreasonably increase demand for public services or facilities.
• To minimise conflict between land uses within this zone and land uses within adjoining zones.	Will not create conflict between land uses within zones.

Clause	Comment
Part 2 Permitted or prohibited development	
2.4 Unzoned land	This site is zoned R5 Large Lot Residential.
2.6AA Demolition requires consent	No demolition is required for this proposal.
Part 4 Principal development standards	
4.2A Erection of dwelling houses on land in certain residential, rural and environmental protection zones	<p>Variation required to this clause to permit current proposal to be built on lot. LEP 2011 specifies that R5 Large Lot Residential lots must have a minimum of 4000m² to have a dwelling entitlement. This lot is only 3505m². Applicants justification for the variation is detailed below:</p> <p><i>"The lot size map stipulates that the minimum subdivision lot size is 4,000m². The subject site, Lot 27 was created as part of a six (6) lot subdivision of Lot 24 DP 1087690 that was approved by Wollondilly council on 20 February 2012. The approval of the subdivision was made after the Wollondilly LEP came into effect on 23 February 2011. The site is currently vacant. As the approval for the subdivision was granted after the commencement of the Wollondilly LEP, a request for a variation to a development standard is required to be made under Clause 4.6 of the Wollondilly LEP. The variation to the development standard is 495m² or 12.4%.</i></p>
4.3 Height of buildings	Complies
4.6 Exceptions to development standards	<p>Variation required to Clause 4.2A using this clause to enable dwelling entitlement for proposed dwelling to be approved. This lot already has a dwelling entitlement attributed to it under the subdivision consent, which approved specific dwelling plans on each of the lots. The current owners have looked at the approved plans that are currently relate to this lot but feel that this house will not suit their needs and would like to build a home of their own choosing. The lot was created with the intention of a dwelling house being constructed on it in the future but will now be void due to the operation of WLEP2011. This is evident as the 88b instrument has restrictions on this lot that reference the construction of a dwelling house and ancillary buildings. The</p>

Clause	Comment
	construction of a dwelling would not be unusual for the particular lot or the adjoining area / locality.
Part 5 Miscellaneous provisions	
5.1A Development on land intended to be acquired for public purposes	Not Applicable
5.6 Architectural roof features	In line with current DCP – modulated and articulated to provide visual interest.
5.9 Preservation of trees or vegetation	No trees on site.
5.10 Heritage conservation	Not Applicable
Part 6 Urban release areas	
6.2 Public utility infrastructure	Not Applicable – the proposal is not located within an Urban Release Area.
6.3 Development control plan	Volume 1, Volume 4.
Part 7 Additional local provisions	
7.1 Essential services	Complies - existing
7.2 Biodiversity protection	No biodiversity protection is identified on this site.
7.3 Water protection	No water protection has been identified on this site.
7.4 Flood planning	Site is not mapped as flood prone.
7.5 Earthworks	Minimal earthworks are proposed, comply with the relevant DCP controls.

1.3.2 Provisions of Relevant Draft Environmental Planning Instruments

None

1.3.3 Provisions of Relevant Development Control Plans

DCP Volume	Relevance
Volume 1 – General	X
Volume 4 – Residential Development	X

Volume 1 – General		
Relevant Provisions		Comment
Part 1 - Preliminary		
1.2	Objectives of the Plan	
1	To assist in the realisation of the aims of Wollondilly Local Environmental Plan, 2011.	

2	The specific controls and volumes of this plan each have objectives as detailed throughout this plan.	The proposal is considered to meet the aims of the Wollondilly Development Control Plan 2016.
1.4	Application of the volumes of this plan If there is an inconsistency between the volumes of this plan then the earlier volume shall prevail over the later volume. For example, if there is an inconsistency between Volumes 2 and 5, Volume 2 would prevail because it is found earlier in this plan.	
Part 2 - General considerations for all development		
2.1 Objectives		
1	To ensure that developments are undertaken with due regard to human safety.	The proposal is considered to meet the objectives for all development.
2	To ensure that developments do not unreasonably impact on their surrounds.	
3	To ensure that developments achieve a satisfactory level of social equity.	
2.2 Controls		
1	The consent authority shall consider the following safety and human health risks in assessing a development application under this volume:	
a)	Road and traffic hazards;	No road or traffic hazards have been identified in relation to this proposal.
b)	Bushfire threat;	This site is not bushfire prone.
c)	Flood risk;	This site is not flood prone.
d)	Noise, vibration, pollution, odour, radiation or waste from surrounding land uses;	This site has a rear boundary adjoining the Main Southern Railway Line. Acoustic Reports have been requested from the applicant, and conditions of consent will cover all listed requirements noted in this report.
e)	Exposure to electricity transmission systems;	Not applicable
f)	Exposure to radiation from telecommunications infrastructure;	Not applicable
g)	Potential exposure to children of material (including signage) from any nearby restricted premises and/or sex services premises;	Not applicable
h)	Hazards from vehicles within car parking areas; and	Not applicable.
i)	Hazard from potential contamination of the land.	No contamination issues have been identified on this site.
Part 4 – Community Engagement		
The purpose of this part is to ensure that members of the public potentially affected by a proposed development have input into the assessment process before a final decision is made on a development application. It outlines Council's notification and advertising procedure for development		

applications.		
4.1 Development applications to be notified		
		The proposal was notified in accordance with the DCP.
4.2 Requirements for notification		
		The proposal was notified in accordance with the DCP.
Part 9 – Environmental protection		
9.1 Objectives		
1.	To improve and maintain environmental outcomes for the areas mapped as natural resources biodiversity and natural resources water under Wollondilly Local Environmental Plan, 2011.	
2.	To improve and maintain environmental outcomes for unmapped areas of biodiversity and/or riparian value.	
3.	To maintain links between identified environmentally sensitive land and provide habitat and riparian corridors and appropriate buffer zones to these areas.	
9.2 Interpretation (refer to DCP for further details)		
		Noted
Part 11 – Landscaping		
11.1 Objectives		
1.	To encourage the planting of endemic species in landscaping.	Landscaping plan submitted as part of this proposal meets these objectives.
2.	To reduce the impact of landscaping on the environment, infrastructure and human safety.	
3.	To create a landscape character that is defined by native vegetation and not introduced species.	
11.2 Recommended Species (refer to DCP for further details of controls)		

Control		Objectives (refer to Clause 1.2)	
Building Design			
1	The total portion of the site covered by buildings shall not exceed 40% of the site area.	1.2, 1.4, 3.1, 6.1 & 6.2.	Satisfactory – 40% of site is 1402m ² – proposed coverage to be 219m ² .
2	Filling of land shall not increase the natural ground level by more than 1.0m.	1.2, 1.3, 5.1 & 6.2	Satisfactory – minimal fill to be no more than 1m.
3	Cut shall be limited to 2.0 metres below natural ground level.	1.2, 1.3, 4.1, 6.2 & 9.1	Satisfactory – cut to be less than 2m.
4	The overall bulk, scale, height and proportion of the dwelling shall be consistent with the existing streetscape character of the area.	1.2, 1.3	Satisfactory – dwelling design will be consistent with

			surrounding area.
5	The roof form of dwellings shall be modulated or articulated to provide visual interest and shall not use bright reflective materials.	1.2, 1.3	Satisfactory – roof form proposed shows sufficient modulation and articulation. No bright reflective materials to be used.
6	The front façade must feature a personal access door.	1.2, 1.3	Satisfactory – proposal shows front door in front façade.
7	The front façade of any dwelling must address the street. In this regard the front facade shall include a combination of at least two (2) of the following: <ul style="list-style-type: none"> • an entry feature or portico; • bay windows; • the use of a balcony, deck, pergola, terrace or verandah along the frontage; • Roof overhangs; • Awnings over windows which blend with the design of the dwelling; • A combination of other architectural features suitable to Council which enhance the front façade of the dwelling. 	1.2, 1.3 & 4.2	Satisfactory – proposed dwelling shows portico, balcony and roof overhang to show compliance with this clause.
8	On corner allotments, the building façade on the secondary street frontage shall address the street in accordance with control (7) above.	1.2, 1.3, 1.4, 4.2	Not applicable – not a corner allotment.
9	On corner lots, where the primary front façade is addressed by way of a building feature such as a balcony, deck, pergola, terrace or veranda, roof overhang, awning and the like, the feature shall “wrap around” the dwelling and continue along the secondary front façade for a minimum length of 3.0m.	1.2, 1.3, 1.4, 4.2	Not applicable – not a corner allotment.
10	Any fencing along the primary frontage (or secondary street frontage on a corner lot) must be of a height that would not visually obstruct the building features provided in accordance with control (7) to (9) above when viewed from the street.	1.2, 1.3, 1.4, 4.2	Not applicable – no front fencing proposed.
11	Any front façade (and secondary front façade on corner lots) must have no stretch of blank wall greater than 5.0m in length.	1.2, 1.3, 1.4, 4.2	Satisfactory – no stretch of blank wall greater than 5m in length.
12	A side or rear façade (and secondary front façade on corner lots) must have no stretch of blank wall greater than 12.0 metres.	1.2, 1.3, 1.4	Satisfactory - no stretch of blank wall greater than 12m in length.
13	No more than 50% of the front façade shall be garage doors.	1.2, 1.3	Satisfactory – Front façade 14.44m, garage only 5.77m.
14	The number of garage doors visible to the street	1.2, 1.3	Satisfactory – only

	shall be limited to 3. In this control a double garage door shall be counted as 2 doors.		double garage door proposed.
15	The front façade shall be provided with at least one habitable room with a window looking out onto the public road.	1.2, 1.3, 4.2	Satisfactory – Lounge room proposed for ground floor and bed 1 and bed 2 proposed for first floor.
16	Dwellings must appear no greater than two (2) storeys in height.	1.2, 1.3	Satisfactory – dwelling proposed is only two storey.
Setbacks			
17	Where there is a dwelling on each adjoining lot, the setback for the dwelling from any primary road shall be within plus or minus 10% of the average setback of the adjoining dwellings. Such a setback shall be no less than 10m.	1.1, 1.2, 1.3, 2.1, 2.2, 2.3	Not Applicable
18	Where there is a dwelling on one adjoining lot the front setback for the dwelling shall be within plus or minus 10% of the setback of the adjoining dwelling. Such a setback shall be no less than 10m.	1.1, 1.2, 1.3, 2.1, 2.2, 2.3	Satisfactory – setback of this dwelling is proposed at 18m in line with that of adjoining dwelling which is setback at 18m.
19	Where there is no dwelling on an adjoining lot the front setback shall be 10m.	1.2, 1.3, 2.1, 2.2, 2.3	Not Applicable.
20	The minimum side setback shall be 1.5m.	1.2, 1.3, 5.2	Satisfactory – side setbacks are 10m and 25.6m.
21	The minimum rear setback shall be 8.0m.	1.2, 1.3, 5.1, 5.2	Satisfactory – rear setback of 25.558m proposed.
22	For corner or irregular allotments with multiple road frontages the setback from any secondary road shall be 5m.	1.2, 1.3, 1.4	Not Applicable.
23	The methods for determining primary and secondary roads and setbacks prescribed by State Environmental Planning Policy (Exempt and Complying Development Codes), 2008, are adopted by this volume.	14.1	Not Applicable.
24	Any garage attached to a dwelling shall be setback a minimum of 1 metre behind the front building line of the dwelling or 5.5 metres from the front street boundary, whichever is greater.	1.2, 1.3, 2.1, 2.2, 2.3	Satisfactory – garage setback 1.01m.
25	Awnings and other building features that do not form a wall of a room may be located within the building setback to a primary and/or secondary road but shall not extend more than 1.5m into that building setback.	1.2, 1.3	Satisfactory – no awnings or building features extend into primary setback.
Private Open Space			
26	A minimum principal area of private open space	3.1, 6.1	Satisfactory – 2021m ² of private open space

	<p>must be provided with the following characteristics:</p> <ul style="list-style-type: none"> a. Gradient no steeper than 1:20 (Rise:Run) b. Width no less than 3 metres in any direction c. Must be directly accessible from, and adjacent to, a habitable room, other than a bedroom (i.e. a living area) d. Have an area no less than 24 square-metres. e. Must not be located in the front building setback nor the setback from a secondary frontage. f. not be used for clothes drying, effluent disposal or garbage storage 		provided
Solar Access			
27	Sunlight is to be available to at least 50% of the dedicated private open space area for each dwelling for at least 3 hours between 9:00 am and 3:00 pm on June 21.	1.3, 3.4	Satisfactory – can be achieved.
28	New development shall not result in less than 3 hours of sunlight to the habitable rooms of an adjoining dwelling and 50% of the private open space area of any adjoining property between 9:00 am and 3:00 pm on June 21.	1.3, 3.5	Satisfactory – shadow diagrams show that no impact on habitable rooms of the adjoining dwelling will occur due to the building of this proposed dwelling.
Parking, Access and Vehicular Safety			
29	<p>A minimum of two (2) car parking spaces which are directly accessible for vehicles must be provided on the site behind the building line in the form of a carport, garage or hard stand space or any combination of these.</p> <p>Stacked car parking spaces may be considered forward of the building line in addition to the two car parking spaces required above.</p>	2.1, 2.3, 2.4	Satisfactory – double garage provided on site.
30	An open hard stand car parking space must measure a minimum of 2.6m wide by 5.4m long.	2.1, 2.2	Satisfactory – hard stand spaces in front of garage comply.
31	Garages shall have sufficient area to accommodate a parking space of 2.6m x 5.4 metres per allocated parking space.	2.1, 2.2, 2.4	Satisfactory – compliance achieved.
32	Garage doors shall have a minimum width of 2.4m.	2.1, 2.2	Satisfactory – double garage proposed.
Privacy			
33	Wherever possible, a dwelling shall be designed to avoid overlooking the main living areas, private open space areas and windows of habitable rooms of adjoining dwellings.	5.1, 5.2	Satisfactory – no overlooking of adjoining dwelling as a result of the proposed development. Approximately 50m

			between proposed dwelling and existing dwelling on neighbouring lot.
34	The outlook from second storey windows, balconies, stairs, landings, terraces or decks is to be screened where a direct view is available into the private open space areas of an existing adjoining dwelling to prevent overlooking.	5.1	Satisfactory – limited view to neighbours private open space from proposed dwelling.
35	A window that has a sill height of 1.7m or more above the floor level within the room shall be taken to have no potential for overlooking.	5.1, 5.2	Satisfactory – no potential for overlooking of adjoining neighbour due to distances between dwellings.
Waste Management			
36	Dwellings shall be provided with bin storage areas in a location clear of private open space.	1.2, 1.3, 3.1, 8.1	Satisfactory – bin storage will not affect private open space.

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

No planning agreement has been entered into in relation to this proposal.

1.4 Impact of the Development

Head of Consideration	Comment
Natural Environment	The proposal is considered to have minimal impact to the natural environment.
Built Environment	The proposal is considered to have minimal impact to the built environment.
Social Impacts	The proposal is considered to have no social impact.
Economic Impacts	The proposal is considered to have no economic impact.

1.5 Suitability of the Site

The site is not subject to any constraint that would render it unsuitable for this development.

1.6 Submissions

Form of Exhibition Notified

Submissions Received Nil

Section 7.11 and 7.12 Assessment

No Section 7.11 or 7.12 contributions are payable for this development.

1.7 The Public Interest

Proposal is considered to be satisfactory with regard to the public interest.

Financial Implications

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

ATTACHMENTS

1. **Clause 4.6 Variation for A Proposed Two Storey Dwelling House - 1 Stargard Cres, Picton** 
2. **Plans - Locality Plan - 1 Stargard Crescent Picton** 
3. **Plans - Elevations & Section - 1 Stargard Crescent Picton** 

RECOMMENDATION

That the Panel note:

1. The variation to Clause 4.2A in regards to dwelling entitlement be supported. This variation will have no impact on the streetscape or character of the area. It satisfies the objectives of Clause 4.6 in providing a degree of flexibility re development standards and particular circumstances as well as helping to achieve better outcomes for development in the area.
2. The draft conditions of consent attached to this report be included as the applied conditions of consent to the Development Consent.

1. COMPLIANCE

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

- (1) Development Consent is granted for Dwelling at Lot: 27 DP: 1173845, **1 Stargard Crescent PICTON**
- (2) The applicant is informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 010.2018.00000392.001 received on TBA except where varied by the following conditions of consent.
- (3) Unless permitted by another condition of this consent, there shall be no tree clearing unless the vegetation is:
 - (a) Within the footprint of an approved building, access driveway or other structure; or
 - (b) Within three (3) metres of the footprint of an approved building; or
 - (c) preventing the achievement of the minimum asset protection zone requirements under the relevant planning for bushfire protection guidelines.
- (4) Where any work associated with this consent has the potential to disturb neighbours through the generation of noise, dust, odour, vibration or through deliveries to the site the person with control over the works shall advise the occupants of all adjoining and potentially affected properties of the timing and duration of such works. The land owner has the ultimate responsibility for ensuring that anybody undertaking works under this development consent on their behalf is aware of this requirement and completes the task required by this condition.
- (5) Due to the proximity of the proposed development to The Great Southern Railway, the proposed dwelling shall demonstrate compliance with the State Environmental Planning Policy (Infrastructure) 2007 to reduce potential rail noise or vibration within the site of the development arising from the adjacent railway corridor. The dwelling shall demonstrate

compliance with Category 2 acoustic treatment measures as identified within the "Development Near Rail Corridors and Busy Roads – Interim Guideline". Alternatively an Acoustic Report demonstrating that the development will comply with the noise criteria outlined in Clause 102 of State Environmental Planning Policy (Infrastructure) 2007 shall be provided.

- (6) Certification of compliance with the requirements of Condition 2(5) of this consent shall be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate for the proposed dwelling.

2. BUILDING DESIGN

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

- (1) The dwelling house shall incorporate earthy colours. Pale or patterned brickwork or multi-coloured or bright reflective roofs shall not be used.
- (2) Highly contrasting coloured brickwork shall only be used on sills, window heads, string courses etc.
- (3) Any above ground water storage tanks shall be coloured or painted in earthy colours to blend with the natural environment or building immediately adjoining the water tank to reduce their visual impact.

3. CONSTRUCTION GENERAL

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

- (1) Construction shall not commence on the site, including the placement of temporary buildings, site sheds, earthworks, site excavation, filling or other site preparation works (with the exception of site survey work), prior to the issue of a Construction Certificate by Council or a nominated Accredited Certifier.
- (2) All construction and building work shall be restricted to between 7:00am and 6:00pm Mondays to Fridays (inclusive), 8:00am and 1:00pm Saturdays and prohibited on Sundays and Public Holidays unless written approval to vary the hours of work is granted by Council.
- (3) Excavated area/s adjacent to the building shall be retained and drained to prevent the subsidence of the excavation and/or entry of surface water to the building. Where the retaining wall exceeds 600mm in height, plans and specifications of the retaining wall shall be submitted to Council or a nominated Accredited Certifier and approved before the issue of the Construction Certificate. Where the height exceeds 1m in height, a certificate prepared by a suitably qualified Structural Engineer shall be submitted with the plans and specifications.
- (4) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out.

4. PUBLIC ROADS

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

- (1) Any footpath or road that is required to be opened to provide any services to this development shall not be opened or disturbed until a Road Opening Approval has been granted by Council. Any damage to the footpath, kerb and guttering or roadway shall be repaired at the full cost of the developer.
- (2) Provision of Vehicular Access to the site through the construction of ramped gutter crossings in accordance with Council's Design & Construction Specifications.

Note: Any adjustment to services shall be at the expense of the applicant and is additional to the contributions required by Council. Prior to the construction of the crossing, approval shall be obtained from Council's Traffic and Design Section.

5. EROSION AND SEDIMENT CONTROL

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

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

6. STORMWATER / SEPTIC

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

- (1) Stormwater runoff from and through the property is to be appropriately managed so as to control nuisance, damage and hazard during storm events.
- (2) The stormwater shall be discharged to the street and where applicable shall be in accordance with Australian Standard AS/NZS 3500.3.2 – Stormwater Drainage. existing system.
- (3) All drainage works shall be carried out in accordance with the Plumbing and Drainage Act 2011 and Australian Standard AS/NZS 3500 except where otherwise provided in the Local Government Act 1993, or the Local Government (General) Regulation, 2005.
- (4) Prior to the commencement of any plumbing and/or sanitary drainage work where Wollondilly

Shire Council is the appropriate regulatory authority, separate approval must be obtained under Section 68 of the Local Government Act 1993.

7. BUILDING INSPECTIONS

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

- (1) Building works shall be inspected by the Principal Certifying Authority at critical stages of construction to ensure they comply with the Building Code of Australia and associated approvals. If the Principal Certifying Authority notifies the site manager or other contractor that a work or works are unsatisfactory for any reason all works on the site shall cease until the matter is resolved to the satisfaction of the PCA.

8. OCCUPATION & USE

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

- (1) The disturbed areas surrounding the building work shall be reinstated to the satisfaction of the Principal Certifying Authority upon completion of the work.
- (2) In accordance with clause 97A(2) of the Environmental Planning and Assessment Regulation, 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. 933803S are fulfilled.

In this condition:

- a) relevant BASIX Certificate means
 - i) a BASIX Certificate that was applicable to the development when this consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development consent when this consent is modified); or
 - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX certificate; and
 - b) BASIX Certificate has the meaning given to the term in the Environmental Planning and Assessment Regulation, 2000.
- (3) The dwelling house shall not be occupied or used until an Occupation Certificate is issued by the Principal Certifying Authority.

9. PRESCRIBED CONDITIONS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979.

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

- (1) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA AND INSURANCE

REQUIREMENTS UNDER THE HOME BUILDING ACT 1989

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

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

(2) ERECTION OF SIGNS

- (a) For the purposes of section 80A (11) of the Act, the requirements of subclauses (b) and (c) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (b) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours,

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

- (c) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (e) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.
- (f) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

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

(3) NOTIFICATION OF HOME BUILDING ACT 1989 REQUIRMENTS

- (a) For the purposes of Section 80A (11) of the Act, the requirements of this condition are prescribed as conditions of a Development Consent for development that involves any residential building work within the meaning of the *Home Building Act 1989*.
- (b) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - (aa) the name and licence number of the principal contractor; and
 - (ab) the name of the insurer by which the work is insured under Part 6 of that Act.
 - (ii) in the case of work to be done by an owner-builder:
 - (aa) the name of the owner-builder; and
 - (ab) if the owner-builder is required to hold an owner-builder permit under the Act, the number of the owner-builder permit.
- (c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under sub-condition (b) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

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

ADVICE

- (1) During the course of construction, care must be taken to prevent damage to any public utility or other service and the applicant will be held responsible for any damage caused by him or his agents, either directly or indirectly. Any mains, services, poles, surface fittings etc., which require alterations shall be altered at the applicants expense and to the satisfaction of Council and the authority concerned.
- (2) The following service providers should be contacted before commencement of construction to establish their requirements:
- Dial before you dig (various services) 1100
 - Telstra (telephone) 1 800 810 443
 - Endeavour Energy (electricity) 131 081
 - AGL (gas) 131 245
 - Sydney Water (water & sewer) 132 092

Should you require further information regarding the above matter, please contact Ms E McMahon, Assistant Building Surveyor on phone (02) 4677 1100 or email council@wollondilly.nsw.gov.au. Please quote File No. 010.2018.00000392.001

7.2 DEVELOPMENT APPLICATION NO. DD010.2018.00000145.001 - TWO LOT SUBDIVISION - GREENBRIDGE DRIVE, WILTON**File Number: 10621#15**

Reason for LPP Referral: A Voluntary Planning Agreement is applicable for the Bingara Gorge precinct, including the subject site therefore referral to the LPP is required

DA No: DD010.2018.00000145.001

Lot & DP – Subject Site: Lot 5 DP 270536, Greenbridge Drive Wilton

Proposal: Two-lot subdivision

Zoning: R2 Low Density Residential

Permissibility: Permissible with consent

Cost of Development: \$0 (no physical works proposed)

Applicant: Lendlease Communities

Owner: Bradcorp Wilton Park Pty Ltd

Notification: Notified and advertised for a period of for 31 days commencing 10 May 2018

Submissions: 0

Variations: 0

Recommendation: Approval subject to conditions

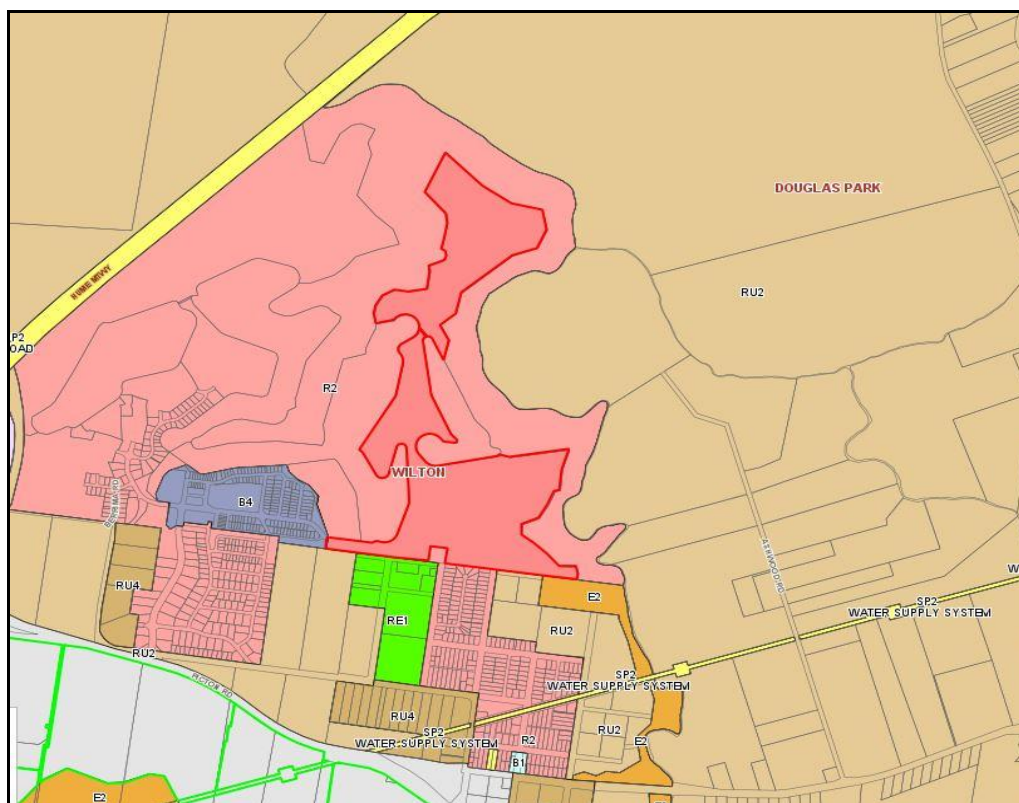


Figure 1: The subject site in the local context

EXECUTIVE SUMMARY

- Consent is sought for a two-lot subdivision in Bingara Gorge. Assessment of the proposal against the relevant provisions of the *Environmental Planning and Assessment Act 1979* (NSW) has concluded that it is consistent with the aims and objectives of the relevant EPIs, the minimum lot size requirement of the Wollondilly Local Environmental Plan 2011 and the relevant provisions of the Wollondilly Development Control Plan 2016.
- The DA is referred to the Local Planning Panel as it is a sensitive development as identified in Schedule 1 of the Ministerial direction dated 23 February 2018. Wollondilly Shire Council, DLL Wilton Pty Ltd and Lendlease Corporation Ltd entered into a Planning Agreement on 3 November 2007 for a staged development of 1165 residential lots and the use of the land for associated open space, recreation and community purposes, a mixed use village centre, a sewage treatment plant, landscaping and utility services. The Agreement provides for monetary and works contributions for open space, sporting and recreation facilities, library, information and community facilities and transport and traffic management.
- Under Section 10.4 Disclosure of political donations and gifts of the *Environmental Planning & Assessment Act 1979*, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extends to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- This report recommends that this application be approved subject to conditions.

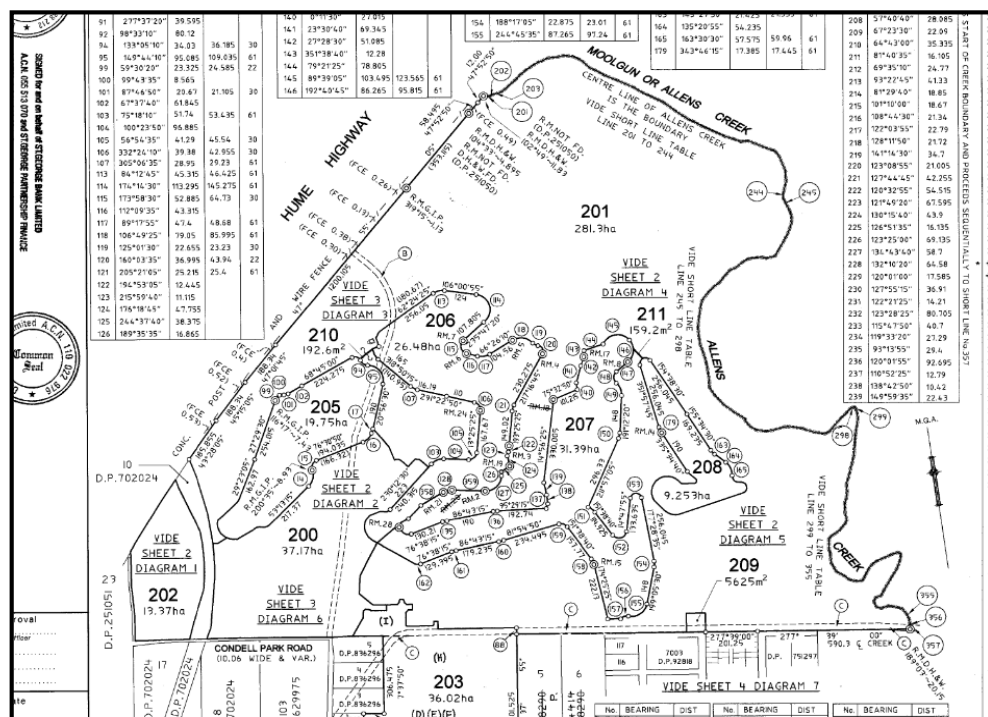
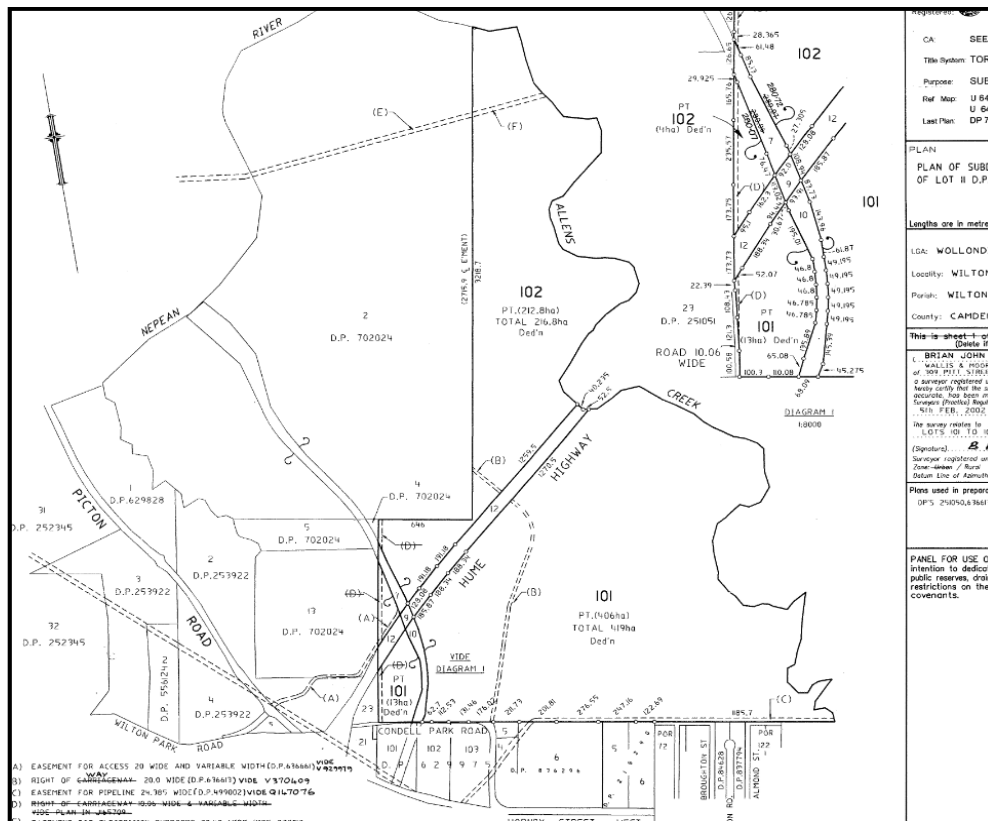
REPORT

Background

The subject site, Lot 5 DP 270536, is part of a wider site which has undergone a number of subdivision since 2002. Figure 2 to Figure 4 show the sequence of the subdivisions.

In May 2006, Council determined Development Application No. ID993-05 and granted approval for a concept plan for the staged subdivision and use of land for various purposes and stage 1 of the development for a subdivision creating 215 residential lots for Lots 200 to 211 in DP 1104390. Approval was granted for the staged. The staged subdivision in turn created a number of lots including Lot 5 DP 270536, the subject site (Figure 4).

Due to the implementation of standardised Local Environment Plan's across the State, Wollondilly Local Environment Plan 2011 was gazetted on 23rd February 2011. The zoning of Lot 5 DP 270536 was changed from 2(e) 'Residential "E" Comprehensive Development' to R2 Low Density Residential, in accordance with the standardised zoning implemented with the standardised instrument. It has remained R2 Low Density Residential since that time.



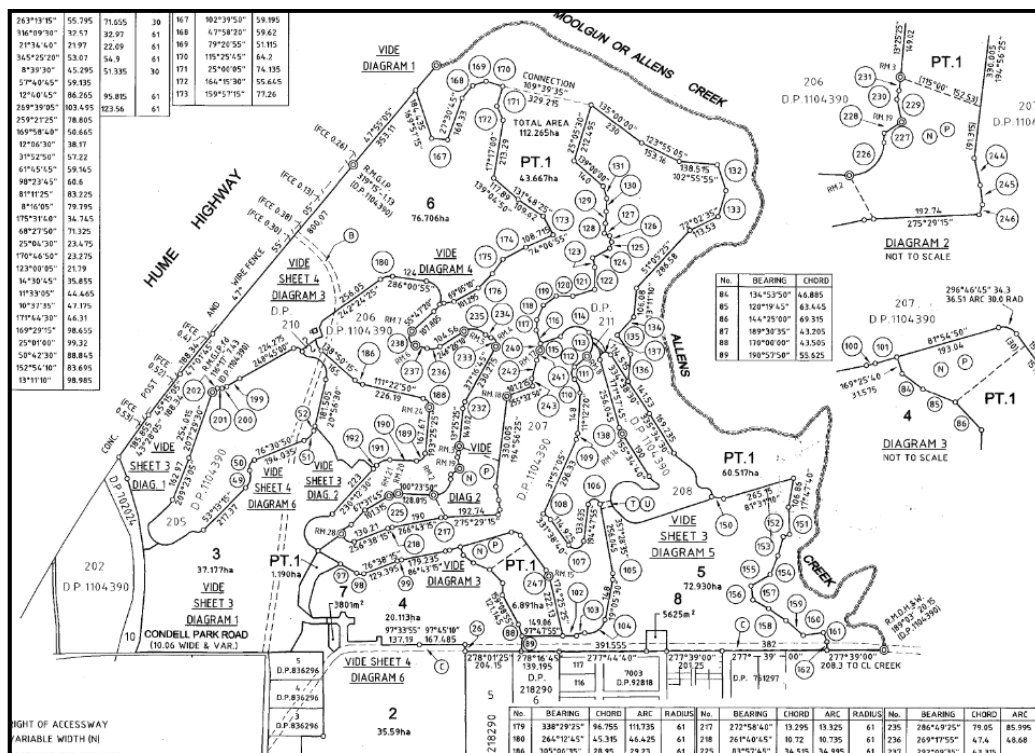


Figure 4: Subdivision of Lots 200, 201, 203 & 209 DP 1104390 creating 8 lots including Lot 5 DP 270536

Masterplan staged development consent

Council granted development consent to Development Application No. ID993-05 on 15 May 2006 for a new residential community of Bingara Gorge with 1165 residential lots. The approval included staged subdivision and use of land for housing, recreation (a golf course), open space, community facilities, infrastructure, retail and education. The approval also included stage 1 subdivision to create 215 residential lots.

Existing development consent

Development consent 010.2015.00000283.001 as approved by the NSW Land and Environment Court provides for:

- The removal of vegetation within the development precincts 1 Rural, 2 Fairways West, 3 Fairways East, 7 Bushland and 8 Golf Town;
- The construction of pedestrian paths, cycle ways and fire trails within the EP & R lands and the associated removal of a maximum 1.2 hectares of vegetation; and
- Concept approval for up to 827 residential allotments within the development precincts 1 Rural, 2 Fairways West, 3 Fairways East, 7 Bushland and 8 Golf Town, Wilton, resulting in a maximum 1800 residential allotments.

The conservation lands lot is identified as Lot 1 DP 270536 and has a total site area of approximately 43 hectares. The extent of this protected land and riparian zone was agreed between the applicant and the then Department of Water and Energy and incorporated into the Vegetation Management for Bingara Gorge. It is owned by the Community Association of Bingara Gorge and is under the care and management of the Environmental Trust, set up as part of the Bingara Gorge development.

This development consent includes conditions requiring the transfer of Additional Conservation Lands and in particular, Condition 1(6) states the following:

'1(6) Protection and Management of Additional Conservation Lands

A mechanism(s) to be established providing for the ongoing management and maintenance of the Additional Conservation Lands in perpetuity

Documentary evidence of the mechanism(s) and management obligations, including funding arrangements, is also to be provided with any development application affecting the ACL.'

Consultation

The subject development application for a 2-lot subdivision, was notified and advertised for a period of 31 days commencing 10th May 2018. The application received no submissions.

The application was referred internally to Council's development engineer and environment officer, whose comments are outlined below:

Referral	Referral comments	Planning comments
Development engineer	No civil works proposed, therefore no comments and no conditions	Noted and agreed
Environment officer	Acceptable subject to conditions provided.	Noted, conditions of consent recommended have been included.

The application was referred externally to the following authorities and their comments are outlined below:

External Authorities	Referral comments
Natural Resources Access Regulator	A controlled activity approval is not required, and no further assessment is necessary.
Rural Fire Service	General terms of approval issued without specific conditions.

1.1 Description of Site and Surrounding Area

The site is located in Wilton, approximately 80km south-west of Sydney CBD. The site is located immediately west of the Wilton Urban Release area under the Wollondilly Local Environment Plan 2011 (WLEP).

The site is legally described as Lot 5 DP 207536. It has a total site area of approximately 66.9 hectares (ha) and is irregular in shape. The site is zoned R2 Low Density Residential under WLEP. The site is covered by scattered groups of trees with groundcover and grasses. It is not identified as a heritage item however is surrounded by Pt. Lot 1 DP 270563, which according to WLEP, contains an item of Aboriginal archaeological significance with Aboriginal shelter sites throughout.

1.2 Description of Development

The Bingara Gorge development area is subject to a Community Title subdivision scheme. This DA seeks approval for the subdivision of Lot 5 DP 270536, to create 2 new lots (proposed Lot 34 and Lot 35), in the Bingara Gorge Community Title Scheme (Figure 5).

Proposed Lot 34 will be a residue lot. Proposed Lot 35 (the Additional Conservation Lands (ACL)) will be amalgamated with Lot 1 DP 270563 (the conservation land) and become an Association Property. Proposed Lot 35 will consist of 4 parts (Figure 6) which reflect the agreed areas of

ecologically significant flora communities and buffer areas determined by the Land and Environment Court.

The amalgamated proposed Lot 35 and Lot 1 DP270563 will be managed by Bingara Gorge Environmental. Bingara Gorge Environmental is a fully funded entity with responsibility for the long-term management and conservation of the Environment Protection and Recreation Lands that are part of the Bingara Gorge community. The subdivision of the ACL (Lot 35) and subsequent amalgamation with Lot 1 DP 270536 will satisfy Condition 1(6) of the consent order for .

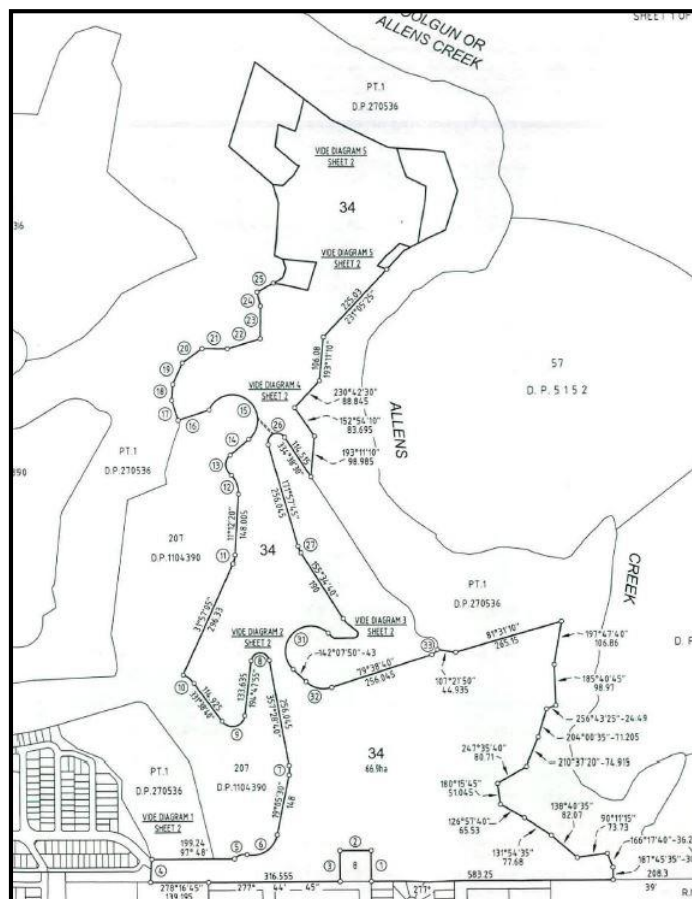


Figure 5: Subdivision of Lot 5 DP 270536 to create proposed Lot 34 and Lot 35

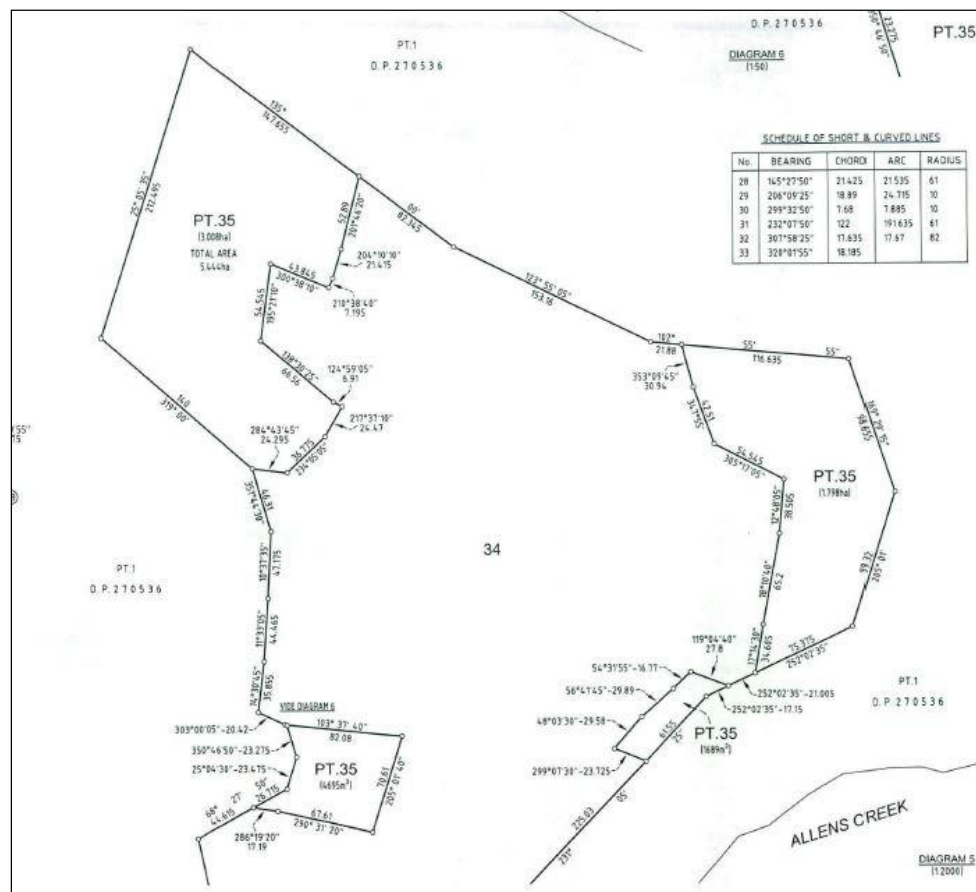


Figure 6: Proposed Lot 35 consisting of 4 parts

1.3 Section 4.15 Evaluation

The subdivision is compliant with the relevant Environmental Planning Instruments (as discussed below) and the Court issued consent of DD010.2015.00000283.001 ([2016] NSW LEC 111).

1.3.1 Provisions of Relevant Environmental Planning Instruments

State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Clause 7A(c) of the above SEPP states that the provisions of the *Wollondilly Local Environment Plan 2011* apply to the Bingara Gorge Precinct within the Wilton Growth Area.

Wollondilly Local Environment Plan 2011

Clause 1.2 Aims of Plan	
Objective	Comment
(a) to provide for the management of natural resources and the protection of the natural landscape character,	(a) The proposed subdivision will create proposed Lot 35 which contains ecologically significant flora communities and buffer areas. Proposed Lot 35 will then be amalgamated with Lot 1 DP 270536 to facilitate ongoing management and maintenance of the Additional Conservation Lands which is consistent with the objective of management of natural resources as well as Condition 1(6) of the consent order issued by the NSW Land and Environment Court.
(b) to protect, conserve and	(b) The subject site is surrounded by Pt. Lot 1 DP

enhance the built, landscape and Aboriginal cultural heritage	270563, which contains as an item of Aboriginal archaeological significance. No works are proposed for the subdivision and subsequent amalgamation of proposed Lot 35 with Lot 1 DP 270562. Therefore the proposal will not have any adverse impact on the Aboriginal archaeological significance of the site and will not be inconsistent with the aim the Plan.
(c) to protect water quality in land that is situated within water supply catchments,	(c) The subject site is not located within the Sydney drinking water catchment. The proposed subdivision, with no works involved, will not have any impact on the water quality.
(d) to encourage development that provides for an integrated transport and infrastructure system and adequate facilities and service provision for future growth,	(d) The proposed 2-lot subdivision for the management and maintenance of the Additional Conservation Lands will not impede future growth or the provision of integrated transport and infrastructure system in the locality.
(e) to recognise, manage and protect rural resource lands for sustainable agriculture and extractive industry practices,	(e) The development will not impact upon rural resource lands.
(f) to maintain the separation between towns and villages to retain their unique character and rural and natural settings.	(f) The development will not fragment the rural setting and the separation between urban and rural areas is maintained.

Characterisation: Subdivision of Land
 Zone of land: R2 Low Density Residential
 Permissibility: Permitted with consent

Wollondilly Local Environmental Plan 2011 zone objectives

Objective	Comment
R2 Low Density Residential	
<ul style="list-style-type: none"> To provide for the housing needs of the community within a low density residential environment. 	The proposed development forms part of a wider site is identified for residential development and therefore consistent with this objective.
<ul style="list-style-type: none"> To enable other land uses that provide facilities or services to meet the day to day needs of residents. 	Other land uses supporting the residential developments of the wider site were approved by Council during consideration of the concept plan. The proposed subdivision will not impede these land uses to be provided to meet the day to day needs of residents.

LEP Clauses

Clause		Comment
Part 2 Permitted or prohibited development		
2.6	Subdivision—consent requirements	Complies – consent sought.
Part 4 Principal development standards		
4.1	Minimum subdivision lot size	Complies – all lots are greater than the mapped minimum lot size, 1500m ²

1.3.2 Provisions of Relevant Draft Environmental Planning Instruments

None applicable

1.3.3 Provisions of Relevant Development Control Plans

Volumes 1 General and 3 Subdivision of Land Wollondilly Development Control Plan 2016 (DCP) apply to the proposal. A detailed assessment of the proposal against Volumes 1 and 3 of the DCP can be found in Attachment 2. The proposal is compliant.

1.3.4 Planning Agreements Entered into

There is an existing executed Planning Agreement (VPA) applicable to the entire Bingara Gorge site. The VPA includes monetary contributions and works contributions for three main categories including open space, sporting and recreation, library, information and community and transport and traffic management and there are provisions for other monetary contributions. The timing for monetary contributions and works are triggered by the issue of subdivision certificate for residential allotments. The subject application seeking approval for the subdivision and consolidation of the additional conservation land does not trigger the terms of the VPA, given the subdivision will not generate additional residential allotments.

1.4 Impact of the Development

It is not considered that the development will have significant impact on the locality, nor any notable social or economic impacts.

Item	Comment
Context and setting	<p>The development proposal is located on land that was previously used for rural related purposes. The land was rezoned to permit low density residential developments.</p> <p>The proposal will facilitate the ongoing management and maintenance of the Additional Conservation Lands without impeding other land uses compatible with residential land uses.</p> <p>Therefore, it can be concluded that the proposal is commensurate with the emerging context and setting of the site.</p>
Social and economic impacts	The proposal will contribute to the ongoing management and maintenance of the Additional Conservation Lands which in turn is a major social benefit to the wider community.

1.5 Suitability of the Site

The proposal is permissible in the zone and is consistent with the relevant planning provisions, and will have no material impact to the physical site. The site, containing ecologically significant flora communities, is considered suitable for the proposed subdivision and amalgamation for the purposes of ongoing management and maintenance of the Additional Conservation Lands.

1.6 Submissions

No submissions were received.

1.7 The Public Interest

This application is considered to be in the public interest as it will permit transfer of ecologically important land into Additional Conservation Land, allowing for its management and conservation in perpetuity.

Financial Implications

This matter has no financial implication as Annexure B of the VPA states that the monetary contributions and works contributions are triggered by the issue of subdivision certificates for residential allotments. The subject application will not generate additional residential allotments.

ATTACHMENTS

1. Plan of subdivision - Greenbridge Drive Wilton 
2. Wollondilly Development Control Plan 2016 compliance table 

RECOMMENDATION

That the development be approved subject to conditions below:

1. COMPLIANCE

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

- (1) Development Consent is granted for a two lot Torrens Title subdivision at Lot: 5 DP: 270536, Greenbridge Drive WILTON.
- (2) Development shall take place in accordance with the plans listed below and submitted to Council in respect of Development Application No. 010.2018.00000145.001:

Plan Name	Drawn By	Sheet no	Reference No
Plan of subdivision of Lot 5 in DP 270536	Lee Michael Schmalfeldt	Sheet 25	0367SW_S79a
Plan of subdivision of Lot 5 in DP 270536	Lee Michael Schmalfeldt	Sheet 26	D367SW_S79a

Except where varied by the following conditions:

- (3) Unless permitted by another condition of this consent, there shall be no tree clearing unless the vegetation is:
 - (a) Within the footprint of an approved building, access driveway or other structure; or
 - (b) Within three (3) metres of the footprint of an approved building; or
 - (c) preventing the achievement of the minimum asset protection zone requirements under the relevant planning for bushfire protection guidelines.

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

2. INTEGRATED DEVELOPMENT

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

- (1) The attached General Terms of Approval issued by the NSW Rural Fire Service, dated 31 May 2018 are included as conditions of this consent. The general terms of approval was issued without any specific conditions.

3. ENVIRONMENTAL MANAGEMENT

- (1) The existing mechanism for the management of the Environment Protection and Riparian Lands, (including the Additional Conservation Lands), must remain in force until any alternate arrangement either associated with the Wilton Priority Growth Area or other context has been prepared, approved and commenced.

Commonwealth approval for the Bingara Gorge Development

- (2) Correspondence be provided to Council within four (4) weeks of the issuing of any approval issued by the Department of Environment and Energy that details the intended response of the proponent to any identified implications to the existing mechanism for the on-going management and maintenance of the Environment Protection and Riparian Lands.
 - (i) Documentary evidence of the mechanism(s) and management obligations, including funding arrangements, is also to be provided with any development application affecting the ACL

4. STREET ADDRESSING

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

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

5. SUBDIVISION PLANS

These conditions have been imposed:

- (a) To ensure the submission of Subdivision Plans to the specifications of Land and Property Information for registration.**
- (b) To submit the required documentation for the creation of property restrictions and easements as specified.**

The following are to be submitted to Council prior to the release of the subdivision certificate:

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

6. PRESCRIBED CONDITIONS

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

(1) ERECTION OF SIGNS

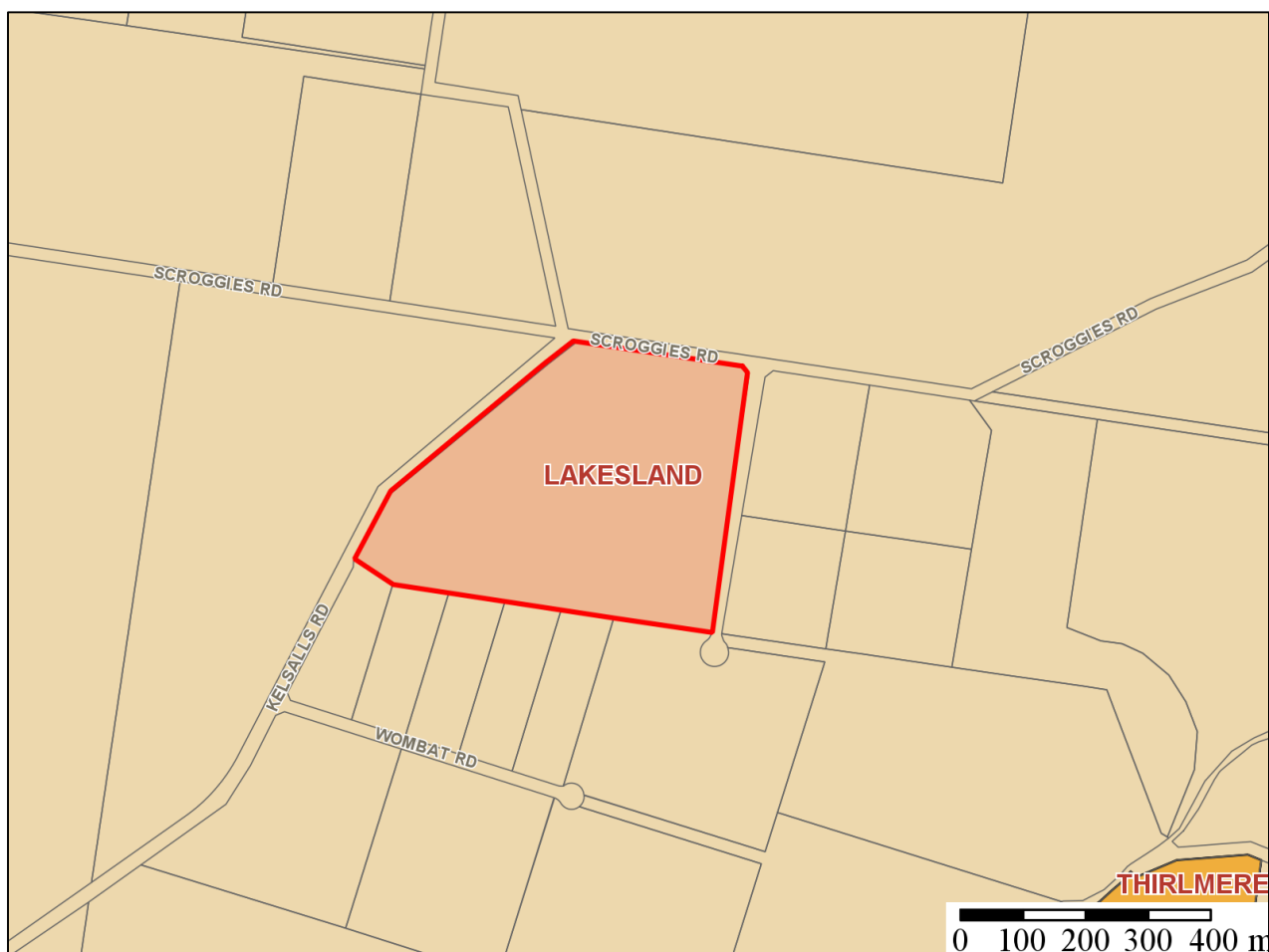
- (a) For the purposes of section 4.17 (11) of the Act, the requirements of subclauses (b) and (c) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (b) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
- (c) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (e) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.

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

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

7. ADVICES

- (1) During the course of construction, care must be taken to prevent damage to any public utility or other service and the applicant will be held responsible for any damage caused by him or his agents, either directly or indirectly. Any mains, services, poles, surface fittings etc., which require alterations shall be altered at the applicants expense and to the satisfaction of Council and the authority concerned.
- (1) The following service providers should be contacted before commencement of construction to establish their requirements:
- Dial before you dig (various services) 1100
 - Telstra (telephone) 1800 810 443
 - Endeavour Energy (electricity) 131081
 - AGL (gas) 131 245
 - Sydney Water (water & sewer) 132 092

7.3 SECTION 4.55 ASSESSMENT - 325 SCROGGIES ROAD LAKESLAND**File Number: 10621#24****Reason for LPP Referral:** Previous submissions are not reaffirmed by modification**DA No:** 010.2015.00000292.002**Lot & DP – Subject Site:** Lot 201 DP 809884 -325 Scroggies Road, Lakesland**Proposal:** Modify Condition 5(3), Delete Condition 5(6) and grant operational consent**Zoning:** RU1 Primary Production**Permissibility:** Permissible with Council Consent**Cost of Development:** Not relevant**Applicant:** Precise Planning**Owner:** Mrs M Buttigieg & Mr FC Buttigieg**Notification:** 20 April 2018 to 8 May 2018**Submissions:** 3 submissions**Variations:** None**Site Inspection:** September 2017**Recommendation:** The operational consent be granted.

EXECUTIVE SUMMARY

- The purpose of this report is to consider a modification of the approval involving alternate truck routes and traffic assessment to and from the subject site.
- Under Section 10.4 Disclosure of political donations and gifts of the Environmental Planning & Assessment Act 1979 (EP&A Act), 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 modification application be approved and operational consent be granted.

REPORT

The applicant has submitted the following comments;

"In considering a number of conditions imposed on the consent, there appears to be some ambiguity surrounding the wording of the approved transport route. In addition, it is noted that deferred commencement condition (ii) acknowledges the possibility of an alternate/interim transport route for truck movements in peak times being put forward to Council for approval."

Background

Council at its meeting on the 26 February 2018 gave consideration for the continued use of extensions to existing Poultry Sheds No. 5 & 6; Construction of Poultry Sheds No. 7 – 12; and filling of land in three stages.

Council resolved to grant deferred commencement consent. The deferred commencement requirements are reproduced below;

"This consent will become valid and may be acted upon subject to meeting the following requirements:

(i) The planned upgrade of Ruddocks Road, Lakesland being completed to a satisfactory standard determined by Council.

(ii) Any alternate / interim transport route for truck movements in peak traffic times being approved by Council."

Consultation

The modification application was notified from 20 April 2018 and concluded 8 May 2018. Three (3) submissions were lodged with Council.

1.1 Description of Site and Surrounding Area

The site is an irregularly shaped block located at the western end of Scroggies Road, Lakesland. It is bound by Kelsalls Road to the west, Scroggies Road to the north and Treelea Grove to the east and has an area of approximately 19.773ha.

Existing development on the land includes a brick residence, six (6) poultry sheds, two (2) earth dams and various ancillary structures and outbuildings. The perimeter of the property is screened with advanced trees. Generally the site is largely clear of vegetation with the exception of a small cluster of remnant vegetation adjacent to the southern boundary of the site.

The locality is characterised by a combination of large rural properties supporting various agricultural activities and smaller rural residential development. Immediately to the south and east of the subject site are rural residential lots, some of which house existing dwellings.



An aerial of the subject site and surrounds.

1.2 Description of Development

To modify operational condition 5(3), delete 5(6) & the deferred commencement.

Condition 5(3). The wording of the condition is reproduced below;

5. PUBLIC ROADS

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

Stages 2 & 3

(3) In accordance with the Traffic Impact Assessment prepared by Parking and Traffic Consultants dated 27 July 2017, all truck movements for bird pick-up, shed clean-out and grain delivery shall be restricted to the defined transport routes (see Figure 2, 3 and 4 of the Traffic Impact Assessment). For bird pick-ups, vehicles travelling from Tahmoor to the subject site shall utilise Route B via Remembrance Drive and Barkers Lodge Road.

The proponent may engage a suitably qualified persons to prepare a Road Safety Audit for any other transport route option. The Audit shall recommend proposed upgrade works required to address road safety for Council’s consideration and approval.”

The applicant submits, the above condition makes reference to figures 2, 3 and 4 of the Traffic Impact Assessment prepared by Parking and Traffic Consultants dated 27 July 2017. Whilst the Traffic Impact Assessment dated 27 July 2017 is most up-to-date version of the report, its Figures 2, 3 and 4 do not deal with truck movements and transport routes. Rather Figures 2, 3 and 4 are referring in a supplementary letter provided by Parking and Traffic Consultants dated 12 November 2015.

Council Comment – The Engineers section submits that ... *“Condition 5(3), it appears the applicant is correct that the wrong figures have been nominated & should be from the November’s 15 traffic report.”*

The applicant has suggested replacement wording for the first paragraph of condition 5(3) as detailed below in red.

The approved transport route for trucks travelling to the site from the Tahmoor Processing Plant is as follows:

- *Rockford Road to*
- *Remembrance Driveway, to*
- *Argyle Street, to*
- *Barkers Lodge Road, to*
- *Fergusson Road, to*
- *Ruddocks Road, to*
- *Kelsalls Road, to*
- *The site*

The approved transport route for trucks travelling from the site to the Tahmoor Processing Plant as follows:

- *Kelsalls road, to*
- *Ruddocks Road, to*
- *Fergusson Road, to*
- *Bakers Lodge Road, to*
- *Argyle Street, to*
- *Remembrance Driveway, to*
- *Rockford Road, to*
- *Tahmoor Processing Plant*

The approved transport route associated with grain delivery and shed clear out is as follows:

To the site

- *Origin, to*
- *Barkers Lodge Road, to*
- *Fergusson Road, to*
- *Ruddocks Road, to*
- *Kelsalls Road, to*
- *The Site*

From the site

- *Kelsalls Road, to*
- *Ruddocks Road, to Fergusson Road, to*
- *Barkers Lodge Road, to*
- *Destination*

It is proposed that the second paragraph of the existing condition 5(3) be retained in its current form, so that in the event at some future time if an alternative route becomes available, the proponent has the flexibility, if he/she so chooses, to undertake a Road Safety Audit and seeks Council's approval to an alternate route without having to modify the development consent.

Council Comment – Council is of the view that the second paragraph reiterated below, should be amended as detailed below in red to address resident concerns received during the notification period.

*“Alternatively the proponent may engage a suitably qualified persons to prepare a Road Safety Audit for any other transport route option. The Audit shall recommend proposed upgrade works required to address road safety for **Council’s Local Planning Panel for consideration and approval.**”*

Proposed additional condition

In order to assist with the safety of the intersection of Bakers Lodge Road and Argyle Street during times where heavier traffic flows are more likely, the following additional condition is proposed:

“Between the hours of 6am and 7pm, any truck movement associated with bird pickups, shed clean outs grain deliveries, intending travel south, turn left onto Argyle Street and make a U turn at the round-about at the intersection of Argyle Street and Regreme Road, then proceed south along Argyle Street.

NOTE: in the event of an upgrade at the intersection of Bakers Lodge Road and Argyle Street, this route variation will no longer be required.”

Council Comment - This above condition is considered appropriate to ensure the safety of traffic and potential dangerous impact on the intersection with Bakers Lodge Road and Argyle Street. This condition will be included as a replacement condition 5(6).

Furthermore, Council emailed the RMS as a matter of courtesy to ascertain whether the above condition was acceptable and was referred to the RMS to obtain if they have any concerns. The RMS raised no concerns.

Condition 5(6). The wording of condition 5(6) and 5(7) of the Deferred Commencement consent is reproduced below.

5(6) *“For the use of Lakesland Road, the following upgrading work is required for improved road safety.*

The existing curves in Lakesland Road located in front of No. 140 Lakesland Road (Lot: 21 DP: 979241), 120 Lakesland Road at Skarrats Lane (Lot: 332 DP: 751270) and 60 Lakesland Road (Lot: 3 DP: 602549) shall be upgraded with the following:

- widened to provide an 8.0 metre wide bitumen sealed pavement with 0.5 metre wide shoulders,*
- the length of widening shall be from tangent point to tangent point plus tapers,*
- including double barrier centre lines,*
- advisory speed signs,*
- a bitumen reseal for the complete road width for the length of the widening.*

The above works shall be completed at the Applicant’s expense prior to the issue of any Occupation Certificate for use of the poultry sheds.”

Council Comment - Advice back from Council’s Engineering department indicated that the road works to Lakesland Road have now been completed and are satisfactory to meet compliance with deferred commencement condition (i). Therefore, deferred commencement condition (i) has been resolved.

Applicant comments:

“Given condition 5(7) of the existing consent prohibits the use of Lakesland Road and Scroggies Road (east of the intersection with Ruddock Road), it would seem that condition 5(6) should be deleted altogether.”

Condition 5(7) is reproduced below.

“Neither Lakesland Road or Scroggies Road (East of the intersection with Ruddocks Road) shall be used for truck movements in association with bird pick-up, shed clean out or grain delivery.”

Council Comment - Condition 5(6) can be deleted and be replaced with the proposed condition below.

“Between the hours of 6am and 7pm, any truck movement associated with bird pickups, shed clean outs grain deliveries, intending travel south, turn left onto Argyle Street and make a U turn at the round-about at the intersection of Argyle Street and Regreme Road, then proceed south along Argyle Street.

NOTE: in the event of an upgrade at the intersection of Bakers Lodge Road and Argyle Street, this route variation will no longer be required.”

“Deferred Commencement condition (ii)

In the event that Council modifies condition 5(3) in accordance with the applicant’s submission, this would satisfy deferred commencement condition (ii). Consequently, deferred commencement condition (ii) should be deleted from the consent.”

Council Comment - Deferred Commencement condition (ii) can be deleted.

1.3 Reasons for Modification sought

Ambiguity surrounding the wording of the approved transport route thus, to avoid any confusion modifications are proposed.

1.3.1 ASSESSMENT

Section 4.55 (1A) Modification

The application seeks to modify the development consent as described above.

1.3.2 Provisions of Relevant Draft Environmental Planning Instruments

None

1.3.3 Provisions of Relevant Development Control Plans

The modification is assessed under DCP 2016 – Volumes 1 and 8 with the current approval and modification generally compliant.

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

Not applicable.

1.4 Impact of the Development

When considering the original development application and potential impact on residents, Council gave serious consideration to the impact on residents with regards to traffic and the associated operations for the continued use for extensions to existing Poultry Sheds No. 5 & 6; construction of poultry sheds No. 7 – 12; and filling of land in three stages.

The deferred commencement consent resolved by Council triggered the following measures to be acted upon by the proponent prior to the consent to be acted upon:

“(i) The planned upgrade of Ruddocks Road, Lakesland being completed to a satisfactory standard determined by Council.

(ii) Any alternate / interim transport route for truck movements in peak traffic times being approved by Council.”

1.5 Suitability of the Site

The previous approvals granted by Council considered that the permissible land use for a poultry farm is suitable. The modification does not alter the approved land use, but only the operations in terms of truck movements to and from the site.

1.6 Internal Referrals

Concern	Comment
Council Development Engineer	<p>The following comments have been provided:</p> <p><i>“Condition 5(3), it appears the applicant is correct that the wrong figures have been nominated & should be from the November 15 traffic report.</i></p> <p><i>It is agreed to the suggested change in this condition which nominates the various truck route roads & excludes Lakesland Road.</i></p> <p><i>The applicant has also proposed restricting right turns at Bakers Lodge Road for the trucks between the hours of 6am & 9pm to assist with traffic safety at this intersection. This is agreed except that it may be adequate to have the restriction between 7am & 7pm (Note: this approach was endorsed by the Manager Infrastructure Strategy & Planning).</i></p> <p><i>Agreed that condition 5(6) to be deleted & deferred commencement (ii) requirement be deleted.</i></p>

1.6 Public Submissions – 3 submissions were received.

Concern	Comment
<p><i>Agree that the first paragraph of 5(3) is in error and are happy with the detailed routes being specified as per Precise Planning letter dated 10 April 2018.</i></p> <p><i>We also agree with condition 5(6) being deleted.</i></p> <p><i>We do not agree with, is the second paragraph of 5(3).</i></p>	<p>The recommendation is for this condition 5(3) to be amended as per Precise Planning’s letter dated 10 April 2018.</p> <p>The recommendation is for this condition 5(6) to be deleted and replaced with an alternative requirement.</p> <p>The second paragraph is to remain as amended.</p>
<p><i>I agree with the detailed truck routes – 5(3) first paragraph.</i></p> <p><i>5(3) second paragraph, I disagree with this paragraph and ask that it be deleted.</i></p> <p><i>I ask that condition 5(6) be also deleted</i></p>	<p>The recommendation is for this condition 5(3) to be amended as per Precise Planning’s letter dated 10 April 2018.</p> <p>This will be reflected in the rewording of condition 5(3), which does not give the applicant the ability to approve alternate transport routes based on a separate Audit report without having to modify the consent. Any change will be considered by the LPP.</p> <p>The recommendation is for this condition 5(6) to be deleted.</p>

Concern	Comment
<i>For over 10 years Lakesland residents have asked for Ruddocks Road to be fixed to allow for safer travel for residents and the Turkey farms.</i>	The planned upgrade on Ruddocks Road has been complete.
<i>The increase in turkeys will increase the number of trucks on Ruddock Road.</i>	The improved Ruddocks Road will assist in the increase of traffic.

1.7 The Public Interest

The proposed amendments to the approval in terms of truck movements will improve the operations of the poultry farm and improve amenity for local residents.

Financial Implications

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

SUMMARY

ATTACHMENTS

Nil

RECOMMENDATION

That the recommendation for modification to the development consent involving the deferred commencement, conditions 5(3), 5(6) and 5 (7) be amended as outlined below;

That the deferred commencement requirements (i) and (ii) be removed as they have been complied with.

Therefore development consent be granted as amended below;

1. That condition 5(3) be amended as follows;

The approved transport route for trucks travelling to the site from the Tahmoor Processing Plant is as follows:

To the site

- *Rockford Road to*
- *Remembrance Driveway, to*
- *Argyle Street, to*
- *Barkers Lodge Road, to*
- *Fergusson Road, to*
- *Ruddocks Road, to*
- *Kelsalls Road, to*
- *The site*

The approved transport route for trucks travelling from the site to the Tahmoor Processing Plant as follows:

From the site

- *Kelsalls road, to*

- *Ruddocks Road, to*
- *Fergusson Road, to*
- *Bakers Lodge Road, to*
- *Argyle Street, to*
- *Remembrance Driveway, to*
- *Rockford Road, to*
- *Tahmoor Processing Plant*

The approved transport route associated with grain delivery and shed clear out is as follows:

To the site

- *Origin, to*
- *Barkers Lodge Road, to*
- *Fergusson Road, to*
- *Ruddocks Road, to*
- *Kelsalls Road, to*
- *The Site*

From the site

- *Kelsalls Road, to*
- *Ruddocks Road, to Fergusson Road, to*
 - *Barkers Lodge Road, to Destination*
 - *“Alternatively the proponent may engage a suitably qualified person/s to prepare a Road Safety Audit for any other transport route option. The Audit shall recommend proposed upgrade works required to address road safety for consideration by Council’s Local Planning Panel for consideration.”*

2. That condition 5(6) be deleted as originally worded and be replaced with the following substitute wording;

5(6) “Between the hours of 6am and 7pm, any truck movement associated with bird pickups, shed clean outs grain deliveries, intending travel south, turn left onto Argyle Street and make a U turn at the round-about at the intersection of Argyle Street and Regreme Road, then proceed south along Argyle Street.

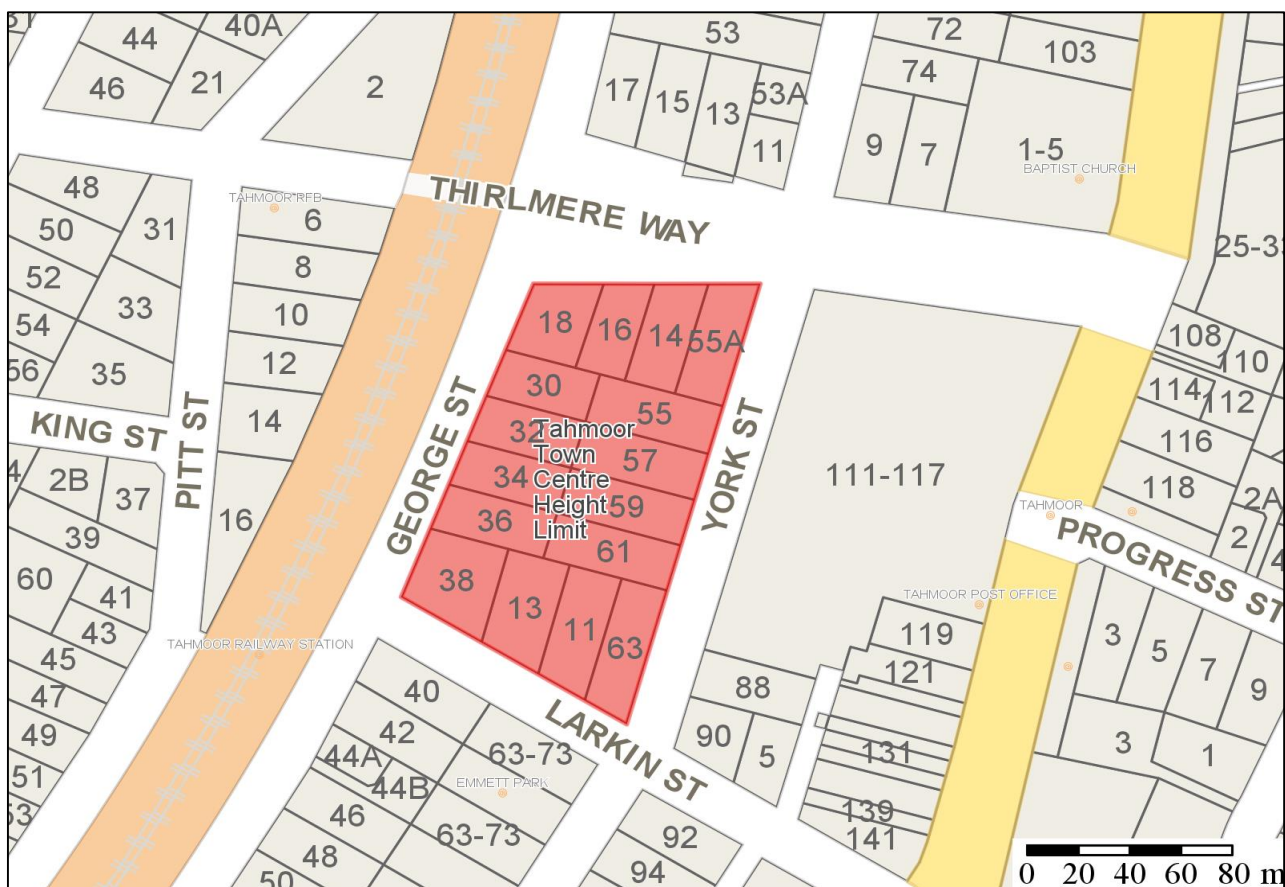
NOTE: in the event of an upgrade at the intersection of Bakers Lodge Road and Argyle Street, this route variation will no longer be required.”

- 1(a) All remaining conditions of development approval 010.2015.00000292.001 still remain in force.

7.4 DRAFT PLANNING PROPOSAL IN THE METROPOLITAN RURAL AREA - TAHMOOR TOWN CENTRE

File Number: 10619#128

Reason for LPP	The Local Planning Panel Direction – Planning Proposals, issued on 27 September 2018, requires all planning proposals to be referred to the LPP for advice before Council considers whether or not to forward it to the Minister or GSC under s3.34.
Lot & DP – Subject Site:	Land bound by Thirlmere Way, York Street, Larkin Street and George Street in Tahmoor
Proposal:	Draft Planning Proposal to amend the Wollondilly Local Environment Plan 2011 Maximum Height Limit map as it applies to the site from 11 to 30 metres
Applicant:	Rein & Warry Co
Owner:	Baldek Pty Ltd
Notification:	28 February 2018 to 28 March 2018
Submissions:	84
Recommendation:	Referred for advice



LOCATION MAP N ↑

EXECUTIVE SUMMARY

- This report seeks the Panel's advice on the Tahmoor Town Centre draft planning proposal received for land located at central Tahmoor.
- This matter has been referred to the Panel for advice in accordance with Section 2.19 of the Environmental Planning & Assessment Act 1979.
- The application proposes to change the *Wollondilly Local Environmental Plan, 2011* (WLEP 2011) to amend the Height of Buildings Map for the site to increase the maximum building height from 11 metres to 30 metres to enable the construction of shop top apartments (consisting of the approved extension to Tahmoor Town Centre Shopping complex, and 432 units (estimated) within six storeys).
- The application has been subject to initial notification and there were 84 submissions in response. 71 were in objection, 11 were in support and two (2) were neutral.
- Under Section 10.4 Disclosure of political donations and gifts of the *Environmental Planning & Assessment Act 1979*, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extends to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended that the Panel:
 1. Note the Assessment Report.
 2. Note the recommendation that the proposal not proceed.
 3. Provide advice in accordance with the Local Planning Panel Direction – Planning Proposals, issued on 27 September 2018 which will be attached to a future report to Council.

REPORT

Background

1.1 Introduction to Pre-gateway determination planning proposals in the Metropolitan Rural Area

This report seeks advice on the Tahmoor Town Centre draft planning proposal but is part of a broader initiative to establish an interim response to proposals for housing growth in the Metropolitan Rural Area (MRA)

On 16 July, 2018 a report was considered by Council seeking broad direction on the assessment of draft planning proposals in the Metropolitan Rural Area that have not yet received a Gateway determination.

A secondary objective of that report was to seek support to apply the suggested approach in light to 6 draft planning proposals in the Metropolitan rural Area (MRA).

These six proposals are consultant initiated planning proposals at the initial stage of the Gateway process and Council has not made a decision to date on whether they have strategic planning merit and whether there is support for them to proceed.

At the July 2018 meeting Council resolved not to consider the matter until a decision could be informed by the outcome of Greater Sydney Commission's Metropolitan Rural Area Technical Working Group which was held on 20 July 2018. Council also resolved that when the matter was reported back to Council this was to be achieved through individual reports for each proposal.

1.2 Background to Draft Planning Proposal

This draft planning proposal known as Tahmoor Town Centre was submitted to Council in January 2018.

The proposal promotes an amendment to the Height of Buildings Map for approximately 1.55ha of B2 Local Centre zoned land to increase the maximum allowable building height from 11 metres to 30 metres. A copy of the current Height of Buildings map as submitted by the proponent is provided at Attachment 2.

The proposed amendment to the Height of Buildings map as part of this planning proposal has been put forward in order to enable the construction of residential development in the form of shop top housing. This development is proposed to be located above the existing shopping centre extension which has already been approved by Council.

The site is located adjacent to the Council owned Emmett Park recreational land to the south, the existing Tahmoor Town Centre commercial development to the east, the Main Southern railway line and Tahmoor railway station to the west and residential zoned land to the north.

1.3 Site Description

The land to which this planning proposal relates consists of the following sixteen lots located in Tahmoor:

- Lots 73 DP 8982 (63 York Street)
- Lots 74 DP 8982 (61 York Street)
- Lots 75 DP 8982 (59 York Street)
- Lots 76 DP 8982 (57 York Street)
- Lots 77 DP 8982 (55 York Street)
- Lots 81 DP 8982 (18 Thirlmere Way)
- Lots 82 DP 8982 (30 George Street)
- Lots 83 DP 8982 (32 George Street)
- Lots 84 DP 8982 (34 George Street)
- Lots 85 DP 8982 (36 George Street)
- Lots 86 DP 8982 (38 George Street)
- Lots 87 DP 8982 (13 Larkin Street)
- Lots 88 DP 8982 (11 Larkin Street)
- Lot 80 DP 659107 (16 Thirlmere Way)
- Lot 79 DP 654925 (14 Thirlmere Way)
- Lot 78 DP 654924 (55A York Street)

The site contains approximately 1.55ha of B2 Local Centre zoned land with no minimum lot size and a building height restriction of 11 metres. The site slopes gently downwards from east to west.

The site is the location of development application (DA) 010.2009.00000765.001 which was approved by Council in October 2011. This DA involved the construction of an extension of Tahmoor Town Centre onto the subject site, allowing an additional 13,718.58 square metres of retail space and includes the part closure of York Street, underground parking provisions and changes to the configuration of surrounding roads and intersections.

The proponent has obtained approval from Council as part of the DA to demolish all existing structures and trees from the site. This includes all of the existing dwellings and a heritage item. Physical commencement of the development was confirmed by Council in October 2016, due to the demolition of a building at 55 York Street, and completion of a site survey.

The heritage item (Item 228 - House) was located on Lot 87 DP 8982. This building has recently been demolished, with consent from Council. The property is still included within the WLEP2011 Schedule 5 heritage list. A draft planning proposal 'Heritage Housekeeping amendments to Schedule 5' is to be considered by Council at an Ordinary Meeting and, if supported, will progress the process for correcting this error in Schedule 5 of the LEP.

1.4 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.

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

1.5 Wollondilly Growth Management Strategy 2011

Council's Growth Management Strategy 2011 (GMS) was adopted by Council in 2011. The 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.

1.6 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 on how to prioritise Planning Priorities against each other, a dominant focus for Wollondilly throughout the plan is the Metropolitan Rural Area (MRA).

Metropolitan Rural Area (MRA)

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*.

A Plan for Growing Sydney was relatively silent on the issue of housing growth and the Metropolitan Rural Area. 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.

The MRA is 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
<p><i>"Urban development is not consistent with the values of the metropolitan rural area."</i></p> <p><i>"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."</i></p> <p><i>"Restricting urban development in the Metropolitan rural area will help manage its environmental, social and economic benefits."</i></p> <p><i>"Maintaining the distinctive character of each rural and bushland town and village is a high priority."</i></p>	<p><i>"Urban development in the Metropolitan Rural Area will only be considered in the urban investigation areas."</i></p> <p><i>"Rural residential development is not an economic value of rural areas and further rural residential development is generally not supported."</i></p> <p><i>"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"</i></p> <p><i>"Ongoing planning and management of rural towns and villages will need to respond to local demand for growth".</i></p> <p><i>"Rural and bushland towns and villages will not play a role in meeting regional or district scale demand for residential growth".</i></p>

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 (2) 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 LEP 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.

Relevance of Tahmoor Town Centre Draft Planning Proposal to the Regional and District Plan and MRA provisions

This planning proposal is not consistent with the intention of the District Plan in relation to the MRA. The Region Plan has identified sufficient land within the current Urban Areas of the Greater Sydney region to deliver housing needs without the need to increase population densities in the MRA.

The level of development proposed would substantially alter the local area and would not be considered local growth under the plan based on the guidance provided from the Rural Lands Technical Working Group. The proposal would also significantly alter the character of the area, the existing streetscapes and the local skyline. As such, this development would not be permissible under the MRA guidelines outlined in the Region and District Plans. The rural landscape and character of Tahmoor is typified by low rise, low density development which presents a rural outlook for existing and future houses located in Tahmoor.

The intention of the MRA is to restrict urban development to enable the timely delivery of local infrastructure needed to support future local growth needs, this will ensure that positive social, economic and environmental outcomes will result.

This proposal is not located within an urban investigation area and is seeking to provide residential development opportunities. This form of development is not supported in the District Plan although limited growth can be considered when no adverse local amenity impacts of the area occurs.

Further to the above, the Wollondilly GMS2011 dwelling targets for Tahmoor have already been exceeded by surrounding developments. The targets outlined in the GMS2011 are considered to represent the level of appropriate 'local growth' required in the shire and development outside of these targets are considered to be inconsistent with the MRA provisions and the Region and District Plan.

Consultation**2.1 Formal Consultation with Council Staff that Provide Specialist Comments**

An initial consultation with Council staff has been conducted although no formal consultation has been conducted at this time. The comments received by staff were raised as matters for general consideration including:

- Issues with subsidence and mining in the area;
- The development's effect on the visual amenities of the surrounding area;
- Lack of transition from low rise development to high rise development
- Drainage issues on the site and surrounding the site

2.2 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 merit. However, the following agencies were consulted in the preliminary exhibition stage:

Sydney Water

There is an existing watermain located on Thirlmere way that is able to service the proposal. Currently there is no capacity to manage additional treated effluent at the Picton Sewerage Treatment Plant Effluent Management System. Connection of the proposed development to the sewerage network will only be available after approval has been obtained by Sydney Water from the Environmental Protection Authority NSW to commence the required amplification works. The Treatment plant is projected to be upgraded after 2023.

Subsidence Advisory NSW

The site is located within the Bargo mine subsidence district. The site sits above both existing mine workings in the Bulli Seam and unextracted coal resources in the Tongara and Wongawilli Seams. The Bulli Seam was mined by Tahmoor Coal prior to 2006 and thus the risk of subsidence damage to surface infrastructure is deemed to be negligible. The unextracted resources in the Tongara and Wongawilli Seam are within the current Tahmoor Coal development consent, and future extraction would lead to subsidence impacts. Consultation with Tahmoor Coal and Division of Resources and Geoscience is recommended.

Tahmoor Colliery

Correspondence dated 27 March 2018 recommends that the rezoning as proposed not proceed. It is noted that future mine plans located in the Wongawilli and Tongara Seams would cause subsidence impacts to built infrastructure and that it would be extremely difficult to maintain the safety and serviceability of the proposed building during the extraction process.

Endeavour Energy

The proposal would result in a significant electrical load and require developers to extend and augment the high voltage network to facilitate connection as per the relevant processes. The location of the proposed substation will require detailed assessment and consideration of access, safety clearances, fire ratings, and impact on surrounding land uses. Endeavour Energy had no objection to the planning proposal subject to the consideration of the summarised advices:

- Network capacity / connection
- Safety clearances
- Earthing
- Prudent avoidance
- Vegetation management
- Dial before you dig / excavation
- Demolition
- Public safety
- Emergency contact

2.3 Community Consultation

In accordance with Council's notification policy, initial community consultation has been undertaken. 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 84 submissions were received and of these submissions: **71** objected, **11** supported and **2** submissions were neutral.

The issues raised in submissions that are relevant to the assessment of this draft planning proposal are provided in Attachment 5.

Form of Planning Proposal to be considered by the Local Planning Panel.

The proposed amendments to WLEP 2011 are described below:

- Amend the Height of Buildings map for various sites in Tahmoor to allow a maximum building height of 30m

A conceptual map as submitted by the proponent is contained at Attachment 1.

Conclusion

This planning proposal was initially submitted to Council in January 2018. This draft planning proposal seeks to enable the construction of shop top apartments above an already approved extension to Tahmoor Town Centre. This would be achieved through an amendment to the Height of Building map, as contained within the Wollondilly Local Environmental Plan 2011, to allow an increase in maximum height limit from 11 metres to 30 metres.






The proposed 30m height limit is located within the existing B4 Mixed Use town centre of Tahmoor and will enable shop top housing including six (6) storeys of residential apartments. The proposal is not considered to have strategic merit for the following reasons:

1. not considered appropriate for the surrounding context in terms of density, bulk and scale,
2. there are outstanding mine subsidence and coexistence issues,
3. There are sewer and road infrastructure constraints,
4. This development is unnecessary considering the level of development that has occurred in surrounding areas as part of the PTT rezoning and also in Wilton.
5. The proposal is not considered to be local growth and is not consistent with Metropolitan Rural Area values.

Financial Implications

Not relevant to the Local Planning Panel's consideration of the proposal.

ATTACHMENTS

1. **Concept Plan - Tahmoor Town Centre Height Limit** 
2. **Height of Buildings Map - as submitted by the proponent** 
3. **Assessment against the Community Strategic Plan** 
4. **Assessment against the Growth Management Strategy** 
5. **Submissions Matrix - Tahmoor Town Centre** 

RECOMMENDATION

That the Panel:

1. Note the Assessment Report.
2. Note the recommendation that the proposal not proceed.
3. Provide advice in accordance with the Local Planning Panel Direction – Planning Proposals, issued on 27 September 2018 which will be attached to a future report to Council.

7.5 DRAFT PLANNING PROPOSAL IN THE METROPOLITAN RURAL AREA - WEST THIRLMERE

File Number: 10621#14

Reason for LPP The Local Planning Panel Direction – Planning Proposals, issued on 27 September 2018, requires all planning proposals to be referred to the LPP for advice before Council considers whether or not to forward it to the Minister or GSC under s3.34.

Lot & DP – Subject Site: Various sites in West Thirlmere

Proposal: Draft Planning Proposal to amend the Wollondilly Local Environmental Plan 2011 Lot Size and Land Zoning map as it applies to the site in a manner which is yet to be determined

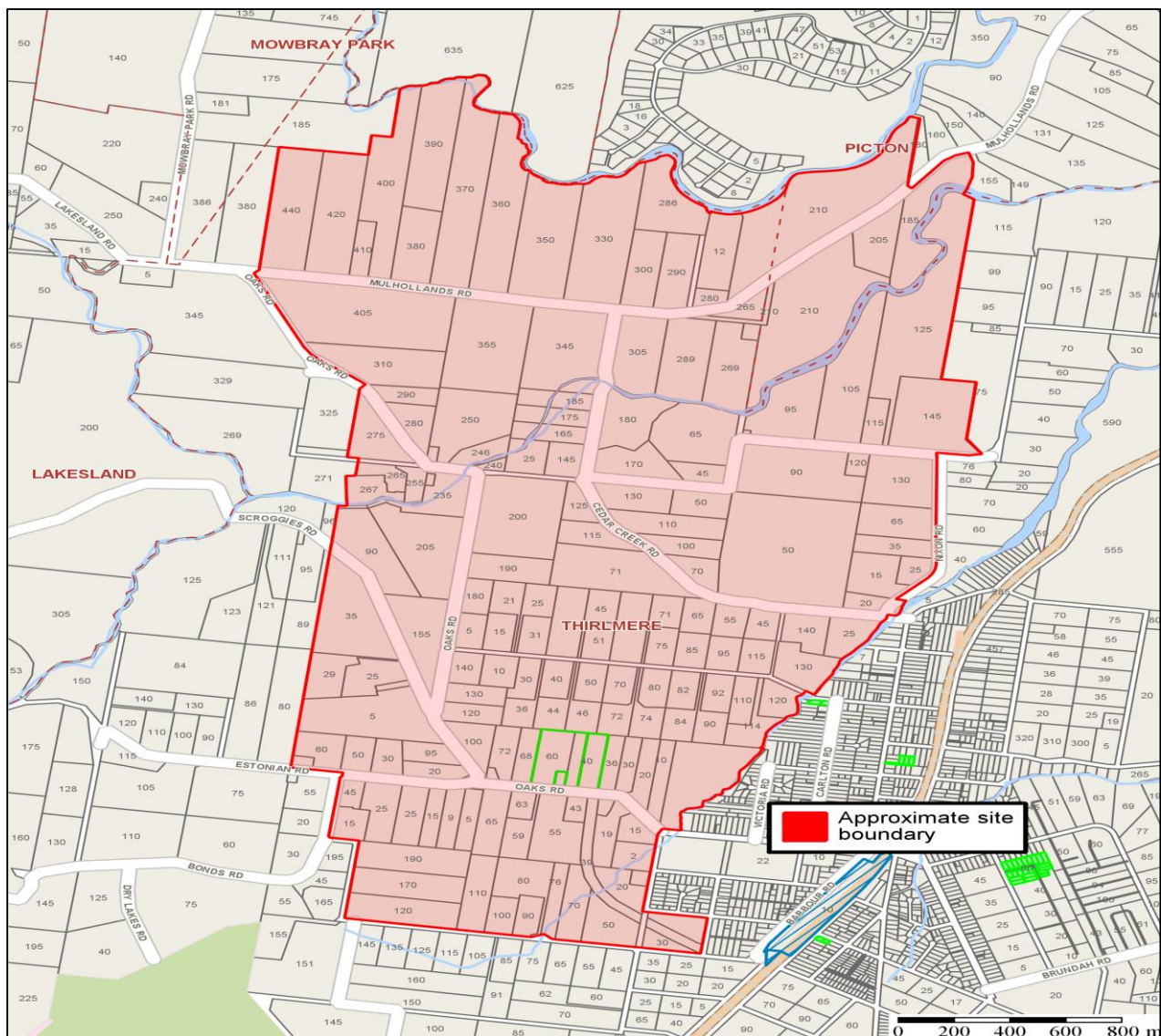
Applicant: Rein & Warry Co

Owner: Various

Notification Preliminary consultation not yet carried out.

Submissions NA

Recommendation Referred for advice



Map Showing Planning Proposal Site

EXECUTIVE SUMMARY

- This report seeks the Panel's advice on a draft planning proposal for land at West Thirlmere.
- This matter has been referred to the Panel for advice in accordance with Section 2.19 of the Environmental Planning & Assessment Act 1979.
- The draft planning proposal seeks to amend *Wollondilly Local Environmental Plan 2011* (WLEP 2011) to increase the density of development on the site by reducing the minimum lot size in various forms and by rezoning the site to allow for a mix of residential, rural residential and commercial development.
- The draft planning proposal has not been subject to initial notification however, 12 informal submissions were received in support of the proposal following notification that it would be reported on at a Council Meeting.
- Under Section 10.4 Disclosure of political donations and gifts of the *Environmental Planning & Assessment Act 1979*, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extends to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended that the Panel:
 1. Note the Assessment Report.
 2. Note the recommendation that the proposal not proceed.
 3. Provide advice in accordance with the Local Planning Panel Direction – Planning Proposals, issued on 27 September 2018 which will be attached to a future report to Council.

REPORT

Background

Introduction to Pre-gateway determination Planning Proposals in the Metropolitan Rural Area

This report seeks advice on the West Thirlmere draft planning proposal but is part of a broader initiative to establish an interim response to proposals for housing growth in the Metropolitan Rural Area (MRA)

On 16 July 2018 a report was considered by Council seeking broad direction on the assessment of draft planning proposals in the Metropolitan Rural Area that have not yet received a Gateway determination.

A secondary objective of that report was to seek support to apply the suggested approach in light to 6 draft planning proposals in the Metropolitan rural Area (MRA).

These six proposals are consultant initiated planning proposals at the initial stage of the Gateway process and Council has not made a decision to date on whether they have strategic planning merit and whether there is support for them to proceed.

At the July 2018 meeting Council resolved not to consider the matter until a decision could be informed by the outcome of Greater Sydney Commission's Metropolitan Rural Area Technical Working Group which was held on 20 July 2018. Council also resolved that when the matter was reported back to Council this was to be achieved through individual reports for each proposal.

1.2 Background to Draft Planning Proposal

This Draft planning proposal for land located at West Thirlmere was originally received by council in June 2007 and related to a Council Resolution made at the 13 July 1998 Council meeting which stated that:

"The area west of Thirlmere between Matthews Creek and Cedar Creek be included in the Picton/Tahmoor/Thirlmere Strategy as Rural Urban Fringe provided that it does not take precedence over any other area."

Most of the proposed area was investigated as part of the Picton/Tahmoor/Thirlmere (PTT) Planning proposal however, the land was ultimately excluded from the proposal. This decision prompted the submission of this Draft Planning Proposal in light of the above Council resolution.

Following the submission of this Draft Planning Proposal, Council was of the opinion that the Proposal could not be assessed until a Growth Management Strategy (GMS) had been completed.

Once completed, the GMS 2011 outlined that:

"Land west of Thirlmere has been excluded from this stage of the Strategy area, but is to be considered for inclusion in the second stage review of the Strategy, to be undertaken once endorsement of stage 1 is given by the Department of Urban Affairs and Planning."

This Draft Planning Proposal was subsequently submitted to the 18 April 2011 Ordinary Council meeting which resolved the following:

"That each of the outstanding rezoning applicants...be notified and given the option of either:

- a) Pursuing their application by resubmitting it in the current required planning proposal format, or*
- b) Withdrawing their application in which case they would receive a refund of their initial fee paid."*

The proponent did not resubmit the Proposal in the current required format or withdraw their application and as such, the proposal was placed on hold for several years.

A meeting of land owners in March 2014 resulted in the West Thirlmere Progress Association (the applicant) agreeing to: "take this matter back to Council for further review and study..."

In May 2017, a report was submitted to Council in order to re-establish' the historic planning proposal. Council received a report describing the background and reasoning behind the proposal but did not receive a document in the current Planning Proposal format as required by Council's previous resolution.

A map showing the extent of the current planning proposal for the site is provided at Attachment 1.

This Planning Proposal was initially submitted to Council in June 2007 and has since not been submitted to Council in the current required report format.

The proposed amendments to the Land Zoning Map and Lot Size map in the WLEP 2011 have yet to be adequately defined other than through conceptual plans.

This has made reviewing the proposal difficult as Council cannot determine the exact parameters and details of the proposed development.

1.3 Site Description

This Draft Planning Proposal (PP), known as West Thirlmere, relates to land bound by Matthews Creek to the East, Scroggies Gully and Cedar Creek to the West, Stonequarry Creek to the North and Lake Street, Thirlmere to the South.

The Proposal seeks to amend the WLEP 2011 Minimum Lot Size map and Land Zoning Map for approximately 400ha of R2 low density residential, RU1 Primary Production, RU4 Primary Production Small Lots and RE1 Recreational Land. The exact location and types of zoning proposed have not yet been fully established, however a conceptual map showing possible Lot Sizes and Zonings as submitted by the proponent is provided in Attachment 2 of this report.

The area currently has minimum lot sizes of 700m², 2ha and 20ha under WLEP 2011. Proposed amendments to the WLEP 2011 Minimum Lot Size map are yet to be determined by the proponent and at this stage range from 700m² to 4ha according to conceptual maps.

1.4 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
<p>1. Rural Protection</p> <p>Council is committed to managing growth so as to:</p> <ul style="list-style-type: none"> • 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. 	<p>This proposal would enable smaller lots on vast amounts of rural land in West Thirlmere.</p> <p>However, this proposal would enable the fragmentation of rural lands and is considered inconsistent with this principle.</p>
<p>2. Growth in and around our existing centres</p> <p>Council will only support appropriately scaled growth within and around its existing towns and villages that:</p> <ul style="list-style-type: none"> • Respects the character, setting and heritage of those towns and villages; 	<p>This development would significantly alter the rural outlook of Thirlmere towards the Blue Mountains National Park.</p> <p>Due to the large number of proposed residential lots, this development would be likely to support the economic sustainability of Thirlmere and surrounding areas.</p>

<ul style="list-style-type: none"> • Supports the economic and social sustainability of those towns and villages; • 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. 	<p>This development will impact the amount of green space available surrounding Thirlmere.</p> <p>This proposal is considered to be overall inconsistent with this direction.</p>
<p>3. Wilton New Town</p> <p>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.</p>	<p>The Proposal is not necessary for the area due to surrounding developments and growth areas in Wollondilly satisfying the housing targets outlined in the Wollondilly Growth Management Strategy 2011.</p>
<p>4. No other major growth areas</p> <p>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.</p>	<p>This proposal would result in large scale urban development and drastically increase the population of Thirlmere. It is considered inconsistent with this policy direction.</p>

Council's Position on Growth

Outcome/Strategy; What do we want?	Assessment
<p>Strategy GR1 – Growth</p> <ul style="list-style-type: none"> • Manage growth to ensure it is consistent with Council's Position on Growth and 	<p>Wollondilly's Growth Management Strategy 2011 (GMS 2011) outlines how growth should occur throughout the shire's towns and villages. This proposal is mostly inconsistent</p>

achieves positive social, economic, and environmental outcome for Wollondilly's towns and villages.	with the key policy directions in the GMS.
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1.5 Wollondilly Growth Management Strategy 2011'

Council's Growth Management Strategy 2011 (GMS) was adopted by Council in 2011. The 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 provided in the table 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 proposal is considered to be inconsistent with key policy directions P2, P5, P6, P9, P18, P20 and P21.
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 proposal includes the provision of rural land on the northern part of the site which is consistent with this policy direction. Agricultural land is proposed to be reduced in size or rezoned to a residential zoning which will cause a reduction in suitable agricultural land in the area. This development will not cause the merging of separate towns and villages. The proposal is considered to be inconsistent with this direction.
P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.	12 informal submissions were received from the public and have been given the necessary consideration within this report.
P4 The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.	The financial circumstances of individual landowners have not been considered in the assessment of this 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 area outlined as part of this Proposal has not been included in any residential growth precinct or urban release area. The area is located far from public transport services and regional centres. The proposed growth is also considered to be inappropriate for the surrounding area and is thus inconsistent with this direction.
Housing Policies	
P6 Council will plan for adequate housing to accommodate the Shire's natural growth forecast.	Residential growth targets as outlined in the GMS 2011 have been satisfied for Thirlmere and it is considered more appropriate that any further growth occur in established growth areas such as Wilton. The proposal is inconsistent in this regard.

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.	There are a number of different proposed lot sizes which would lead to a diversity in housing types when compared to surrounding blocks which are 700m ² and 2ha. The proposal is considered consistent in this regard.
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 proposal includes conceptual provisions for a transition in lot sizes and zoning from south to north of the site however, there are no transitions between East and West of the site. The proposal is considered inconsistent in this regard.
P10 Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.	Most of the Planning Proposal is immediately adjacent to an existing residential precinct and is 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.	Not applicable.
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.	This proposal includes provisions for a B2 Commercial zone close to the Thirlmere town centre. The proposal is consistent in this regard.
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 proposal would provide employment lands in an area separate from the existing precinct in Thirlmere town centre.
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.	Should the Planning Proposal be supported, the relevant agencies who are responsible for the provision of services and infrastructure would be formally consulted to ensure that the service provision is adequate. Given the dwelling targets for the Picton/Tahmoor/Thirlmere area are being achieved through current proposals, and the infrastructure deficiencies that have been identified in the area, the West Thirlmere Planning Proposal would need to provide significant demonstration that suitable infrastructure can be provided to support the 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	The Planning Proposal relates to residential, commercial and rural land adjacent to the existing village boundaries of the township of Thirlmere. It is unclear whether the proposed development would hinder the efficient and viable provision of

housing in and around our existing population centres.	infrastructure in the area or support it due to the large amount of land involved. It is subsequently considered to be inconsistent with this policy direction.
P19 Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.	The Planning Proposal is adjacent to existing residential lands and complies with this direction.
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 Planning Proposal relates to a large amount of land that was not included in the Picton/Thirlmere/Tahmoor (PTT) area and is considered to be inconsistent with this policy direction.
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 proposal will reduce the amount of agricultural land available in the shire however, it will also seek to protect the creeks that bound the site through special environmental provisions. The proposal is considered both consistent and inconsistent in this regard.
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 seeks to reduce the minimum lot size for a large amount of rural land rather than small individual properties or groups of land and is thus considered consistent with this direction.

1.6 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 on how to prioritise Planning Priorities against each other, a dominant focus for Wollondilly throughout the plan is the Metropolitan Rural Area (MRA).

Metropolitan Rural Area (MRA)

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*.

A Plan for Growing Sydney was relatively silent on the issue of housing growth and the Metropolitan Rural Area. 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.

The MRA is 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
<p><i>"Urban development is not consistent with the values of the metropolitan rural area."</i></p> <p><i>"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."</i></p> <p><i>"Restricting urban development in the Metropolitan rural area will help manage its environmental, social and economic benefits."</i></p> <p><i>"Maintaining the distinctive character of each rural and bushland town and village is a high priority."</i></p>	<p><i>"Urban development in the Metropolitan Rural Area will only be considered in the urban investigation areas."</i></p> <p><i>"Rural residential development is not an economic value of rural areas and further rural residential development is generally not supported."</i></p> <p><i>"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"</i></p> <p><i>"Ongoing planning and management of rural towns and villages will need to respond to local demand for growth".</i></p> <p><i>"Rural and bushland towns and villages will not play a role in meeting regional or district scale demand for residential growth".</i></p>

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 (2) 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.

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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 LEP 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.

Relevance of West Thirlmere Draft Planning Proposal to the Regional and District Plan and MRA provisions

This planning proposal is not consistent with the intention of the District plan in relation to the MRA. The Region Plan has identified sufficient land within the current Urban Areas of the Greater Sydney region to deliver its housing needs without the need to expand into the MRA.

The level of development proposed would substantially alter the local area and would not be considered local growth under the plan based on the guidance provided from the Rural Lands Technical Working Group. As such, this development would not be permissible under the MRA guidelines outlined in the Region and District Plans.

The intentions of the MRA is to restrict urban development to enable the timely delivery of local infrastructure needed to support future local growth needs, this will ensure that positive social, economic and environmental outcomes will result.

This proposal is not located within an urban investigation area and is seeking to provide residential development opportunities. This form of development is not supported in the District Plan although limited growth can be considered where no adverse local amenity impacts of the area occurs.

The scenic landscape and character of land located along the fringe of Thirlmere village and westward towards the Blue Mountains National Park presents a rural outlook for existing and future houses located in the surrounding area and is worth retaining for its conservation, buffering and aesthetic value.

Further to the above, the Wollondilly GMS2011 dwelling targets for Thirlmere have already been met by surrounding developments. The targets outlined in the GMS2011 are considered to represent the level of appropriate 'local growth' required in the shire and development outside of these targets are considered to be inconsistent with the MRA provisions within the Region and District Plan.

Importantly, the proposal is considered to be inconsistent with the statement in the District Plan which states that 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. The proposal would provide a significant extension to the Thirlmere area, and particularly when considered in the context of land recently rezoned for residential purposes (i.e. the PTT and PTTAG Precinct areas), would significantly alter the local area/village character of Thirlmere and not constitute local growth.

Consultation

2.1 Formal Consultation with Council Staff that Provide Specialist Comments

Formal consultation with Council staff has not yet occurred due to an inability to clarify the exact proposed changes to the site as part of this Draft Planning Proposal.

2.2 Consultation with Public Agencies

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

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

2.3 Community Consultation

A Preliminary Community consultation has not yet been undertaken for this Planning Proposal due to an inability to determine the exact location of the site and what is proposed.

A number of informal submissions have however been received from landowners and residents affected by the draft planning proposal. These occurred following notification being sent that the proposal would be reported on at a Council Meeting.

A total of 12 submissions were received. Of these: 0 objected, 12 supported and 0 were neutral.

The issues raised in submissions that are relevant to the assessment of this planning proposal are provided in Attachment 3.

Consultation

2.1 Formal Consultation with Council Staff that Provide Specialist Comments

Formal consultation with Council staff has not yet occurred due to an inability to clarify the exact proposed changes to the site as part of this draft planning proposal.

2.2 Consultation with Public Agencies

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

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

2.3 Community Consultation

A Preliminary Community consultation has not yet been undertaken for this planning proposal due to an inability to determine the exact location of the site and what is proposed.

A number of informal submissions have however been received from landowners and residents affected by the draft planning proposal. These occurred following notification being sent that the proposal would be reported on at a Council Meeting.

A total of 12 submissions were received. Of these: 0 objected, 12 supported and 0 were neutral.

The issues raised in submissions that are relevant to the assessment of this planning proposal are provided in Attachment 3.

Form of Planning Proposal to be considered by Council

The proposed amendments to WLEP 2011 are described below:

- Amend the Lot Size Map for various sites in West Thirlmere in a manner that is yet to be determined.
- Amend the Land Zoning Map for various sites in West Thirlmere in a manner that is yet to be determined.

A conceptual map submitted by the proponent is located at Attachment 2 and shows the possible land zoning proposed.

Conclusion

As previously indicated, this planning proposal was initially submitted to Council in June 2007 and has since not been submitted to Council in the current required report format, and the exact parameters and details of the proposed development have not been detailed.

The proposed area was initially investigated to be included in the Picton, Tahmoor and Thirlmere (PTT) rezoning planning proposal but was not included in the final proposal. This is because the land is not considered suitable for higher density development and has been made even less suitable following the 'Metropolitan Rural Area' directives as outlined in the GSRP and WCDP 2018. The MRA outlines that development in rural areas such as Wollondilly should be limited.

The proposed R2 Low Density Residential and B2 Local Centre development will be close to the Thirlmere town centre and will be located within an existing residential area. However, this development is unnecessary considering the level of development that has occurred in surrounding areas as part of the PTT rezoning and future growth in Wilton.

The reduction in the minimum lot sizes of rural lands in West Thirlmere as proposed in this Draft planning proposal will lead to a fragmentation of existing rural agricultural land and will affect the visual amenity rural village character of Thirlmere.

Financial Implications

Not relevant to the Local Planning Panel's consideration of the proposal.

ATTACHMENTS

1. **West Thirlmere Location Map** 
2. **West Thirlmere Concept Map as submitted by Rhodes Haskew** 
3. **Community submission matrix - West Thirlmere Planning Proposal** 

RECOMMENDATION

That the Panel:

1. Note the Assessment Report.
2. Note the recommendation that the proposal not proceed.
3. Provide advice in accordance with the Local Planning Panel Direction – Planning Proposals, issued on 27 September 2018 which will be attached to a future report to Council.

7.6 DRAFT PLANNING PROPOSAL IN THE METROPOLITAN RURAL AREA; 65-95 IRONBARK ROAD, BARGO DRAFT PLANNING PROPOSAL**File Number:** 10619#95

Reason for LPP: The Local Planning Panel Direction – Planning Proposals, issued on 27 September 2018, requires all planning proposals to be referred to the LPP for advice before Council considers whether or not to forward it to the Minister or GSC under s3.34.

Lot & DP – Subject Site: Lots 125, 126, 127 & 128 DP 10336 Ironbark Road, Bargo

Proposal: Draft Planning Proposal to amend the Wollondilly Local Environment Plan 2011

Applicant: Precise Planning

Owner: Mr R Singh, Mrs H Manouras, M & D Barnett, Mr M Basanovic

Notification: February 2018

Submissions: Two

Recommendation: Referred for advice

**LOCATION MAP****N ↑**

EXECUTIVE SUMMARY

- This report seeks the Panel's advice on a draft planning proposal for Lots 125, 126, 127 & 128 DP 10336 (No. 65-95) Ironbark Road, Bargo.
- This matter has been referred to the Panel for advice in accordance with Section 2.19 of the Environmental Planning & Assessment Act 1979.
- The draft proposal seeks to alter the Wollondilly Local Environmental Plan 2011 (WLEP) as follows;
 - Amend the Land Zoning map from RU4 Primary Production Small Lots to a mix of R2 Low Density Residential and R3 Medium Density Residential;
 - Amend the Minimum Lot Size map from 2 hectares to a mix of 700 and 975 square metres; and
 - Introduce a maximum building height of 9 metres.
- The draft planning proposal has been subject to initial notification receiving two submissions in response, zero in objection, zero in support and two neutral.
- Under Section 10.4 Disclosure of political donations and gifts of the *Environmental Planning & Assessment Act 1979*, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extends to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended that the Panel:
 1. Note the Assessment Report
 2. Note the recommendation that the proposal not proceed
 3. Provide advice in accordance with the Local Planning Panel Direction – Planning Proposals, issued on 27 September 2018 which will be attached to a future report to Council

REPORT

Background

This report seeks to establish an interim response to proposals for housing growth in the Metropolitan Rural Area (MRA).

On 16 July a report was considered by Council seeking broad direction on the assessment of draft planning proposals in the MRA that have not yet received a Gateway Determination.

A secondary objective of that report was to seek support to apply the suggested approach to 6 draft planning proposals in the MRA.

These 6 proposals are consultant initiated planning proposals at the initial stage of the Gateway process and Council has not made a decision to date on whether they have strategic planning merit and whether there is support for them to proceed.

At the July 2018 meeting Council resolved not to consider the matter until a decision could be informed by the outcome of Greater Sydney Commission's Metropolitan Rural Area Technical Working Group which was held on 20 July 2018. Council also resolved that when the matter was reported back to Council this was to be achieved through individual reports for each proposal

1.1 Site Description

The Planning Proposal site consists a total of four lots, located at Lots 125, 126, 127 & 128 DP 10336 (No. 65-95) Ironbark Road, Bargo, approximately one kilometre north-east of the Bargo B2 Local Centre zone. The site is rectangular consisting of approximately 8.79 Ha currently zoned as RU4 Primary Production Small Lots with a minimum lot size of two hectares and no maximum building height limit.

The site does not contain any mapped watercourse, however, there are two water bodies located towards the centre and north-western section of the site. The site contains numerous rural dwellings with associated structures (shed, swimming pool etc.).

The site is partially affected by the bushfire protection zone as both the eastern corners of the site are identified within the Bushfire Buffer zone in addition to the north-western corner being affected by the Bushfire Protection zone. The site is somewhat clear but contains an amount of Shale Sandstone Transition Forest vegetation. The site is not identified as a flood prone area.

The waste water is addressed through the implementation of a new Waste Water Treatment Plant proposed to be located at 25 Government Road, Bargo.

The site has a maximum slope of approximately 3% and consists of generally flat land. The site is bound by Government Road to the east, Ironbark road to the South, 95 Great Southern Road to the north and 55 Ironbark Road to the west.

This planning proposal adjoins two separate proposals located at 95 Great Southern Road to the north and 55 Government Road to the east (see Attachment 2).

1.2 Community Strategic Plan 2033

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 4.

1.3 Growth Management Strategy 2011

Council's Growth Management Strategy 2011 (GMS) was adopted by Council in 2011. The 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 5.

1.4 Greater Sydney Region Plan & Western City District Plan

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 on how to prioritise Planning Priorities against each other, a dominant focus for Wollondilly throughout the plan is the 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*.

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.

The MRA is 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
<i>"Urban development is not consistent with the values of the metropolitan rural area."</i>	<i>"Urban development in the Metropolitan Rural Area will only be considered in the urban investigation areas."</i>
<i>"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."</i>	<i>"Rural residential development is not an economic value of rural areas and further rural residential development is generally not supported."</i>
<i>"Restricting urban development in the Metropolitan rural area will help manage its environmental, social and economic benefits."</i>	<i>"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"</i>
<i>"Maintaining the distinctive character of each rural and bushland town and village is a high priority."</i>	<i>"Ongoing planning and management of rural towns and villages will need to respond to local demand for growth".</i>
	<i>"Rural and bushland towns and villages will not play a role in meeting regional or district scale demand for residential growth".</i>

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.

Relevance of Ironbark Road Draft Planning Proposal to Region and District MRA provisions

The Ironbark Road Draft Planning Proposal is not consistent with the intention of the District plan in relation to the MRA. The Region Plan has identified sufficient land within the current Urban Areas of the Greater Sydney region to deliver its housing needs without the need to expand into the MRA. It is acknowledged that Bargo has not yet met the dwelling targets identified within the GMS, however this is largely due to constraints regarding the lack of infrastructure to support such growth, and mid-term mining subsidence concerns. The intentions of the MRA is to restrict urban development to enable the timely delivery of local infrastructure needed to support future local growth needs, this will ensure that positive social, economic and environmental outcomes will result.

This proposal is not located within an urban investigation area and is seeking to provide rural residential development opportunities. This form of development is not supported in the District Plan although limited growth can be considered where no adverse local amenity impacts of the area occurs. This proposal is considered likely to create adverse impacts on the local amenity of the area by increasing the urban development potential within a predominantly rural area that will see the fragmentation of rural lands between the proposal site and the Bargo Township.

This proposal is not considered to be 'local growth' for Bargo under the MRA as the existing infrastructure and community considerations need to be properly considered and planned for. The type of development this proposal is seeking to achieve is pre-mature in nature as the site is not a uniform approach to growth from the existing township and does not currently have the infrastructure to support the proposed and future potential growth.

Consultation**2.1 Consultation with Council Staff**

An initial consultation with Council staff has been conducted although no formal consultation has been conducted at this time. The comments received by staff were raised as a general consideration matters including:

- Suitability of zoning, more suited to R5 or E3 rather than R2 & R3;
- Spot rezoning, if Council were to support, should include all land to the west to not create rural separation;
- Mining and associated subsidence concerns;
- Vegetation clearing possibly triggering bio-banking and further flora & fauna study;
- Drainage concerns from Ironbark Road and the properties to the west of the site that may present issues should the proposal site be extended west;
- Waste Recycling Facility proposed at 25 Government road is relied on for this proposal, unknown issues could result (i.e. odour impacts).

These concerns will be further addressed should the proposal progress.

2.2 Consultation with Public Agencies

Pre-consultation with two public agencies has been undertaken. Tahmoor Colliery and Subsidence Advisory NSW (SA NSW) were contacted to provide feedback on the proposal with regards to potential subsidence concerns. Both agencies raised the concern that the site is located within a mid-term mining area already under lease by Tahmoor Colliery.

Tahmoor Colliery recommended that urban development within affected future mining areas be postponed until after mining operations cease in 2035. This is to ensure that subsidence risks to future development is minimised.

Subsidence Advisory NSW has provided initial comments recommending consultation with Tahmoor Colliery. Since then, further comments and informal clarification has been received stating that they do not support this draft rezoning planning proposal and would be unlikely to approve any subsequent land subdivision.

Consultation with the Division of Resources and Geosciences will occur should this proposal progress to seek early feedback in light of Subsidence Advisory NSW and Tahmoor Colliery's advice.

2.3 Consultation with Community

In accordance with Council's notification policy, initial community consultation has been undertaken. 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 two submissions were received and of these submissions; zero objected, zero supported and two submissions were neutral.

The issues raised in submissions that are relevant to the assessment of the application are summarised in the following table.

Issue Raised	Assessment Comment
Currently a stand-alone Proposal creating fragmented rural land that is more appropriate to further extend towards the Bargo township as a more holistic approach.	It is acknowledged that the four lots affected by this proposal will create a separation in rural land towards the town centre. This is an undesirable result and will be considered further should the proposal progress.
The Waste Recycling Facility (currently being assessed by Council) requires more houses to service in order to be viable, this suggests further intent to rezone east of Bargo.	The future growth of housing within the Bargo area will be the result of careful and considerate strategic planning. The development of the proposed Waste Recycling Facility does not provide certainty that more houses will be developed.
Accumulative impacts of future development on Bargo should be considered as the public facilities of Bargo need to be upgraded.	It is acknowledged that the public facilities will require upgrading to accommodate the growing population. This will be a future consideration of this proposal.
A footpath should be constructed in conjunction with the Planning Proposal at 95 great Southern Road to compliment increased housing opportunities from the proposals in the area.	Should this Proposal progress, various studies and assessments will be required to determine the need of a footpath in addition to other public infrastructure requirements.

Conclusion

This draft planning proposal is seeking to rezone land from rural to residential with reduced lot sizes to allow a potential of up to (approximately) 60 lots. The current form of this proposal is seeking to introduce medium and low density lots within an area currently surrounded by rural lands (subject to existing proposals). The location of this site to the existing township of Bargo will create segregated rural land not creating a logical and uniform approach to future development.

With considerations to the Region & District Plans, CSP, GMS 2011 and consultation with Subsidence Advisory NSW and Tahmoor Colliery, this proposal is premature for the natural growth of the Bargo Township.

The planning proposal is seeking to amend the WLEP by;

- Amending the Land Zoning map from RU4 Primary Production Small Lots to a mix of R2 Low Density Residential and R3 Medium Density Residential;
- Amending the Minimum Lot Size map from 2 Ha to a mix of 700 square metres and 975 square metres;
- Introducing a maximum building height of 9 metres.







Justification in support of this proposal is derived from the now repealed Metropolitan Plan for Sydney 2036 which identifies the need for future growth in the housing supply within the Sydney Metro area (including Wollondilly). The also now repealed draft South West Subregional Strategy identifies the need to increase a variety of housing and job opportunities within the south-west region.

The site is located in the vicinity of growth areas identified in the Bargo Structure Plan within the GMS. The map demonstrates areas to the west and south of the proposed site that are identified as potential future growth areas. This provides an interpretation by the proponent that land between the identified potential growth areas should also be considered for potential future growth areas as to not encourage rural land fragmentation.

Financial Implications

Not relevant to the Local Planning Panel's consideration of the proposal.

ATTACHMENTS

1. **Proposed Zoning & Lot Size map** 
2. **Surrounding Planning Proposals map** 
3. **Location of Proposal with Current Zoning** 
4. **Assessment against CSP - Ironbark LPP Report** 
5. **Assessment against GMS - Ironbark LPP Report** 
6. **Proponent Submission against MRA** 

RECOMMENDATION

That the Panel:

1. Note the Assessment Report
2. Note the recommendation that the proposal not proceed
3. Provide advice in accordance with the Local Planning Panel Direction – Planning Proposals, issued on 27 September 2018 which will be attached to a future report to Council