

NSW Department of Planning, Housing and Infrastructure
c/o lowandmidrisehousing@planning.nsw.gov.au

4 March 2024

Dear Sir/Madam,

SUBMISSION TO EXPLANATION OF INTENDED EFFECT: CHANGES TO CREATE LOW AND MID-RISE HOUSING

Thank you for the opportunity to provide feedback on the *Explanation of Intended Effect (EIE): Changes to Create Low and Mid-Rise Housing* (December 2023). I acknowledge the intention of the EIE is to enable more diverse, well-designed, low-rise and mid-rise housing near established town centres and in areas where there is good public transport.

We support a planning system that encourages housing options in the right places. However, Council cannot support the reforms for Wollondilly as currently proposed for a number of reasons as identified in this submission including:

- We have two state led growth areas which together will triple our population.
- We have limited or no public transport options servicing the Shire, with the existing rail line not electrified or well serviced.
- There is limited water and wastewater services available to our community, with some towns and villages on septic systems or reliant on trucks to remove wastewater, limiting growth.
- The towns and villages are heavily impacted by bushfire with limited roads to support safe evacuation in event of risk to life.

Wollondilly is delivering housing in excess of that identified in the Wollondilly Local Housing Strategy. However, it has not been supported by appropriate and timely infrastructure which has led to the current *Infrastructure Crisis* and associated *Affordable Living Challenges*.

The notion that unplanned growth will be supported by current contributions plans or the Housing Productivity Contribution is poor policy and is a misuse of planned funds and will cause further distrust in the planning system. State Agencies are struggling to plan for, let alone deliver, infrastructure in Wollondilly.

Vast areas of land within Wollondilly currently suffer from a crippling lack of infrastructure. In fact, existing appropriately zoned land has not experienced the expected uptake due to the lack of infrastructure including basic utilities.

Intensifying development in areas with a lack of necessary social, healthcare, employment, and telecommunications infrastructure will exacerbate social disadvantage.

Wollondilly sits on the fringe of Greater Sydney and is not a metropolitan area. Approximately 63% of the Shire is protected natural area, 34% of the Shire is Metropolitan Rural Area (MRA) under the Greater Sydney Regional Plan and Western City District Plan. Both Plans seek to retain the unique values of those areas which includes agricultural production. The proposed changes will enable residential accommodation in rural areas, impacting on the existing lawful uses of that land. Dense housing adjacent to rural activities will result in increased exposure to potentially “offensive” activities such as noise and odour and loss of amenity.

It is recommended that Wollondilly to be excluded from the proposed reforms.

This matter was considered by our elected Council at their meeting on 27 February 2024 and Council has endorsed the staff prepared submission. This updated submission should replace the draft submission dated 22 February 2024.

If you require any further information or clarification in response to this submission please contact Council's Director Shire Futures, Mr Martin Cooper on 02 4677 1100 or martin.cooper@wollondilly.nsw.gov.au.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'M. Cooper', with a long horizontal flourish extending to the right.

Martin Cooper
Director Shire Futures
Shire Futures

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Our Position

The Wollondilly Local Government Area must be excluded from the proposed reforms.

The Shire is highly constrained by natural hazards, contains drinking water catchment land, koala sensitive habitat, little to no public transport and a constrained road network. The exclusion should be considered on the basis that:

- The proposed changes are clearly intended for more urbanised areas in Greater Sydney than Wollondilly's rural towns and villages.
- The proposed changes fail to consider and uphold the values of the Metropolitan Rural Area.
- Wollondilly has limited public transport, with non-electrified, privately owned rail that prioritised freight over passenger.
- There are towns in Wollondilly that do not have basic services such as wastewater to support additional growth.
- Picton Water Recycling Plan (WRP) is currently at capacity, significantly limiting new developments in Picton, Thirlmere, Tahmoor and Bargo.
- State led growth areas of Wilton and Greater Macarthur will deliver approximately 36,000 new homes in Wollondilly.
- Wilton and Greater Macarthur growth areas require significant infrastructure investment by State Government and service providers. These areas are master planned, with dwelling numbers are capped in *State Environmental Planning Policy (Precincts – Western Parkland City) 2021* to ensure housing is supported by infrastructure.
- The Department of Planning, Housing and Infrastructure and Transport for NSW have flagged concerns that any housing increases in this area will impact the significant state road network improvements required to support Wilton.
- The proposed changes undermine all the forward planning and consultation that has informed local strategic planning frameworks.
- The proposed changes will have significant impact on Council's population forecasting and service delivery and will exacerbate the current infrastructure crisis.
- The proposed changes may enable inappropriate density directly adjoining or near rural land activities resulting in land use conflict and unnecessary impacts to the agricultural sector.
- The road network in Wollondilly is limited, and the need for safe evacuation routes for towns and villages in the event of natural disasters has not been considered.
- A single Public High School services the whole Shire.

Our Recommendations

Recommendation 1:

That the NSW Government identify locations rather than a broad application where the proposed reforms will apply ensuring it excludes Wollondilly.

Recommendation 2:

That the NSW Government commit to close and ongoing consultation with Wollondilly to understand the challenges in applying such reforms.

Recommendation 3:

That the Government provide grant opportunities to Council to support the development of further place plans for key towns and villages which will identify appropriate opportunities for development, commensurate for the local character and identity.

Response to proposed amendments

1. Infrastructure contributions

It is claimed that any growth associated with any infill development as results from the proposed SEPP will be accommodated in existing Contributions Plans.

The growth associated with the proposed SEPP provisions is unanticipated growth that is inconsistent with Wollondilly Contributions Plan 2020. Contributions framework does not allow for forecasting for out-of-sequence development. As such, there will be a deficit for community assets and facilities such as libraries, schools, open spaces etc.

While we do acknowledge the current issues of housing accessibility and affordability within NSW and support the delivery of a wider housing choice, we are very concerned that the planning package presents an oversimplification of the local infrastructure contributions systems.

Local infrastructure and amenities currently in the vicinity of the Shire's railway stations is only caters for its village and low-density character. Any immediate turn to intensify development within proximity to our railway stations and townships will have greater negative impacts for Wollondilly Shire than positive.

Local infrastructure currently does not support the type of infrastructure needed for medium density within Wollondilly Shire. To support additional development and to receive any additional monetary contributions from it, Councils would first have to first be approved by IPART, requiring detailed and costly technical studies, and resulting in time delays before development occurring.

Further, State infrastructure would not support an influx of medium density dwellings as the Shire. Public transport system is limited. Train services are limited (hourly) and generally unreliable. Capacity of the water and sewer service unsuitable. Additionally, lack of carparking facilities, which cannot form part of a contributions plan, would result in significant impacts in Wollondilly.

Council is working with the Western Sydney Planning Partnership and recently produced a draft Affordable Housing Contributions Plan. It is anticipated this Plan will be exhibited in March 2024. Dedication of affordable housing via that plan is required to occur in perpetuity. It is understood that the mid-rise housing resulting from the proposed changes may also access Height and Floor Space Ratio bonuses for providing a component of the development as 'affordable housing' for a period of 15 years. This is inconsistent with the draft Affordable Housing Contributions Plan that requires dedication of the 'affordable housing' component in perpetuity.

It is recommended that the proposed reforms require dedication of any affordable housing component in perpetuity.

2. Infrastructure

As the Department is aware, existing zoned urban land within Wollondilly is not adequately serviced. There is an Infrastructure Crisis that is far more crippling to development than Housing Supply. There are no hospitals, insufficient schools and limited public transport.

Roads throughout the Shire have not kept pace with demand. There are no Classified State roads yet the heart of the Hume Highway and the proposed Sydney Orbital pass through Wollondilly Shire. Our southern and northern neighbours enjoy the benefit of having that road Classified as a State road within their boundaries. Why not Wollondilly?

There are significant deficiencies in existing infrastructure such as water and waste water throughout the Shire to service currently planned growth.

Picton and areas to the south are serviced by the Picton Wastewater Scheme which is at capacity. As communities in the Picton area (including Tahmoor, Thirlmere and Bargo) grow, wastewater flows to the Picton Water Resource Recovery Facility have increased exceeding the capacity of the facility. This has impacted Sydney Water's ability to allow new wastewater connections to the Picton Wastewater Scheme for housing and growth. Sydney Water have prepared wastewater connection criteria requirements to determine which new connections can be approved. With planning reforms of this scale in mind, the ability to service new development is constrained. A copy of Sydney Water's requirements for new connections (dated May 2023) is provided at Attachment 2.

It is recommended that Sydney Water are consulted on the proposed reforms.

Of particular concern is the density of development that may result from the proposed reforms and the impact that reduced lot size/width/frontage may have on accessing services. For example, increased density will require more waste services however, reduced lot/width/frontages combined with reduced parking requirements will see more cars and bins located on the street, in close proximity to town centres where parking and manoeuvrability is already tight.

3. Planning approval pathway

It is not clear from the EIE how the proposed reforms will be implemented and, in particular, what planning approval pathway will apply (i.e. will low and mid-rise housing be determined as complying development or require a development application).

It is recommended that a development application is required to ensure that merit-based assessment can be undertaken by the relevant consent authority.

4. Plan making process

Given the potential impact that may result from the proposed reforms, it is concerning that the NSW Government is not subject to the same plan making processes as Councils.

A Council would be required to prepare a planning proposal to set out the justification and supporting information to allow a change to the planning system. This would include an assessment against the strategic planning framework including consideration of consistency with the relevant state environmental planning policies and Local Planning Directions.

A more comprehensive evidence based would be required if Wollondilly was to pursue these sorts of changes to the local planning framework. For example, consideration of:

- A technical study to consider the visual impact
- Planning for bushfire protection and the need for a Strategic Bush Fire Study
- Local strategic planning frameworks and the relevant SEPPs for the growth area, local housing strategies (which have been approved by the NSW Government), place plans,
- Resilience and hazards (for Wollondilly this includes flooding, bushfire protection, remediation of contaminated land, and mine subsidence and unstable land).
- Aboriginal cultural heritage; The proposed Low to Mid-Rise Housing SEPP does not demonstrate Connection to Country. There are significant known areas throughout the shire that are recognised however, there are many more that are not known.

A 'blanket approach' such as that proposed via a complying development pathway is inconsistent with current State and Local Planning protections.

It is not considered that the EIE contains adequate information to explain the proposed changes and explain the likely impacts.

It is recommended that the proposed reforms are not implemented in the absence of a robust assessment.

5. Applying the proposed reforms

The detail on the proposed reforms provided in the EIE is ambiguous. For example:

- We have assumed that development proposals arising from the proposed changes will require a development application and be subject to a merit-based assessment by a consent authority (usually Council). However, this is not explicitly mentioned.

This lack of clarity also makes it difficult to understand the relationship between existing biodiversity/environmental planning protections at the Federal, State and Local level and the proposed reforms.

- It is not clear how well-located areas referred to as 'station and town centre precincts' are to be defined.
- More guidance is required to determine what is meant by '*contains a wide range of frequently needed goods and services such as full line supermarkets, shops and restaurants*'.

- A consistent endorsed approach is required to identify the relevant 400m and 800m walkable catchments and how they are to be measured. For example, is it measured from the entrance to a rail station and does a footpath need to be present?

This issue is further muddled by the introduction of non-refusal standards that then introduce differing heights and FSRs for areas within that 800m distance that are 400m from the (unknown) measure point.

- The reference to ‘heavy rail’ suggests that the proposed reforms will apply to heavy rail stations in Wollondilly. Transport options throughout the Shire are significantly limited.
- It is considered misleading to refer to residential flat buildings and shop top housing with a height limit up to 21 metres as mid-rise housing. This is ‘high density’.
- How will the reforms be applied to inclusionary zones such as the Urban Development zone for growth areas under the *Wollondilly Local Environmental Plan 2011 (Wollondilly LEP 2011)* and *State Environmental Planning Policy (Precincts – Western Parkland City) 2021 (Western Parkland Precincts SEPP)*.

Rather than a broad-brush application of the proposed reforms across the Six Cities Region, it is recommended that the NSW Government identify specific locations and precincts that can accommodate the proposed changes. An evidence-based approach utilising data analysis, expert advice and feasibility analysis should be applied similar to the Transport Oriented Development (TOD) Program.

It is also recommended that the NSW Government provide Wollondilly with a copy of the reforms once drafted by the Parliamentary Counsel to review and provide further feedback.

6. Well located areas

The principle of increasing the number of homes in well located areas that have great transport options, convenient town centres, and local amenities such as parks and beaches is supported. Wollondilly also welcomes the shift away from relying on greenfield areas on the fringes of Sydney to provide much of the new housing and the recognition that urban sprawl is expensive and unsustainable.

Given our location on the periphery of Sydney, supporting growth in our rural towns and villages faces similar challenges to greenfield development such as higher infrastructure costs.

The EIE makes a number of references to the Productivity Commission’s *Building more homes where people want to live* (May 2023). The Productivity Commission’s paper is more specific about where new homes should be built and focusses on areas closer to Sydney’s centre.

It is not clear then, why Wollondilly has been included in the proposed reforms for mid-rise housing?

When compared to the Greater Sydney Region, Wollondilly Shire residents travel the furthest and spend the greatest amount of time on their daily commuting.

Their public transport options are extremely limited so they rely heavily on private vehicles to travel significant distances to jobs, schooling and services. This transport isolation has numerous costs:

- Social exclusion and time-poor lifestyles
- Environmental impacts
- Economic inefficiency
- Reduced public health

The Wollondilly Local Housing Strategy also highlights the need to consider 'affordable living'. While affordable housing refers to the cost of a dwelling, affordable living considers other factors associated with the cost to live such as travel and energy costs.

While dwelling options in Wollondilly may be less expensive, significantly more is spent on commuting and fuel consumption to access services, amenities and employment.

7. Building height

Building height controls should reflect the existing or desired future character of an area. Most of Wollondilly's rural towns and villages have a maximum building height of 9 metres. This reflects the land use vision in Wollondilly 2040, our local strategic planning statement, for *an enviable lifestyle of historic villages, modern living, rural lands and bush*.

The proposed blanket maximum building heights for mid-rise housing of up to 21 metres is not appropriate for Wollondilly's historic rural towns and villages. This height of development will be significantly out of proportion and scale for our streets and public spaces and detrimental to local character.

The principle of a significant height increase has been considered for one of our larger town centres and was not supported by a panel of independent experts.

In 2019, Council considered a developer initiated draft planning proposal to increase the maximum building height for a town centre precinct in Tahmoor from 11 metres to 30 metres to enable an extension to an existing shopping centre with shop top housing.

The planning proposal was considered to substantially alter the local area, the existing streetscapes and the local skyline. In particular, it was considered to be inconsistent with the values of the Metropolitan Rural Area and the rural landscape and character of Tahmoor which is typified by low rise, low density development which presents a rural outlook.

The Wollondilly Shire Local Planning Panel advised that the proposal did not have strategic merit for the following reasons:

- *It is not considered appropriate for the surrounding context in terms of density, height and scale*
- *There are outstanding mine subsidence and coexistence issues*
- *There are sewer and road infrastructure constraints*
- *This development is unnecessary to meet local growth considering the level of development that has occurred in surrounding areas as part of the Picton Tahmoor Thirlmere rezoning and also in Wilton*
- *The height and density is incompatible with the concept of a rural village*
- *The proposal is beyond what could be considered to be local growth and is not consistent with the Western City District Plan and the direction for the Metropolitan Rural Area*

The draft planning proposal was not supported by Council and did not proceed. It is recommended that proposed increases to building heights are not permitted beyond the current maximum building heights in the Wollondilly LEP 2011 and the Western Parkland Precincts SEPP.

8. Applicable Areas in Wollondilly

There appears to be a disconnect between the context provided in the EIE and where the changes will apply. It is clear that the proposed reforms for mid-rise housing are intended to focus on inner or at least more metropolitan areas well located along heavy rail and light rail corridors.

However, the criteria suggests otherwise. Under the current criteria, the proposed reforms for mid-rise housing would potentially apply to areas within the following rural towns and villages of Wollondilly, located within in the Metropolitan Rural Area (MRA):

- Appin
- Bargo
- Douglas Park
- Menangle
- Picton
- Tahmoor
- The Oaks
- Thirlmere
- Silverdale
- Warragamba
- Wilton (old village)

Greater clarity is required to determine which well-located areas are intended for the increased density. Wollondilly's rural towns and villages do not benefit from

the level of public transport accessibility, range of urban services and assets of more urban areas.

Analysis of the potential spatial application of the proposed reforms on Wollondilly's towns and villages is provided at Attachment 1.

The analysis has been made on the basis of the following:

- 400m and 800m direct distance from a heavy rail entrance
- 400m and 800m direct distance from the relevant employment and mixed use zones.

The analysis demonstrates that, for nearly every potentially affected centre, a 400m distance takes in rural zoned land. The analysis also highlights the various constraints for low and mid-rise housing on a centre by centre basis.

9. State led growth areas

Wilton and Greater Macarthur growth areas require significant infrastructure investment by State Government and service providers. These areas are master planned to ensure housing is supported by infrastructure and the dwellings are capped in the Western Parkland Precincts SEPP to ensure the infrastructure outcomes.

The Department of Planning, Housing and Infrastructure, and Transport for NSW have flagged concerns that any housing increases in this area will impact the significant state road network improvements required to support Wilton

State led growth areas in Wilton and Greater Macarthur already have plans in place to deliver significant housing to meet Greater Sydney's housing needs and should be excluded from the changes.

10. Place planning

Increasing residential densities and maximum building heights in a blanket application across all town centres, villages and hamlets has the potential to undermine the unique characters of each of Wollondilly's special places. Increased residential densities should only come as a result of discrete place planning that explores the relationship of each "place" to its context within the Centre's hierarchical framework.

For example, Council has recently adopted a Place Plan for Picton which identifies a number of key sites in around Picton to be investigated for increasing the height limit that would facilitate 3 storey building heights (with the third storey integrated into the roof), providing there is no conflict or detracting from the visual prominence of the clock tower on the old post office building and the height of the Commonwealth Bank building (both of which are heritage items). This is intended to enable flexible housing typologies.

However, the background study notes that development of the key sites may not be practical until a proposed future bypass of Picton town centre is complete, as the town may not be able to support additional traffic at this stage.

The Picton Place Plan also identifies the potential to reduce minimum lot sizes in particular areas unaffected by flood and within walking distance to the town centre or Picton Rail Station. Even this opportunity is constrained by the need to balance a reduction of lot size with the risk an increased number of retaining walls due to the areas undulating topography. An excess of retaining walls is a poor visual and physical outcome.

Limited resources has meant that further investigations to progress the recommendations has not yet been possible.

The Wollondilly Delivery Program identifies developing place plans for the Shire's towns and villages. Similar to the Picton Place Plan these may identify opportunities to facilitate more housing diversity. However, this priority action is unfunded.

It is recommended that funding be made available to Councils to undertake place-based studies to identify localised opportunities to encourage greater housing diversity. We see this as an excellent opportunity to get planning right.

11. Local planning framework

The proposed changes undermine all of the forward planning and consultation that has informed local strategic planning frameworks.

From mid-2018 until mid-2021, Wollondilly along with other Councils within the Greater Sydney Region were funded to comprehensively review local environmental plans.

Wollondilly was one of 13 priority Councils that were selected on the basis of their opportunity to bring forward housing supply and housing diversity. As a priority Council, Wollondilly was provided \$2.5 million funding by the NSW Government to support the review.

A number of key documents were prepared during the review which now inform land use planning decisions and the future direction for the Shire;

- Wollondilly 2040, Local strategic planning statement; adopted by Council in February 2020 and assured by the Greater Sydney Commission in March 2020.
- Local housing strategy; adopted by Council on March 2021 and endorsed by the NSW Government in September 2021.
- Employment Land Strategy; adopted by Council in May 2021 and supported by the NSW Government in August 2022.
- Rural lands strategy; adopted by Council in September 2021 and supported by the NSW Government in November 2022.
- Centres Strategy; adopted by Council in June 2021
- Urban tree canopy plan and Landscape Strategy; adopted by Council in March 2021
- Draft Scenic Lands Strategy
- First stage of the shire wide heritage study

The completion of this work is hugely significant as it has been informed by consultation with the community and key stakeholders and provides a comprehensive basis for updating the local strategic planning framework now and into the future.

However, the proposed reforms risk undermining key aspects of the adopted framework.

In particular, the requirement for councils to prepare and make local strategic planning statements was introduced by the NSW Government in 2018 through amendments to the *Environmental Planning and Assessment Act 1979*.

Local strategic planning statements have statutory weight and are intended to provide a clear line-of-sight between the key strategic priorities identified at regional or district spatial scales and local planning.

They are intended to set out the special characteristics which contribute to local identity, identify values that are to be maintained and enhanced and set out where change will occur.

The growth and change that will result from the proposed reforms, and in particular, the significant increase in heights proposed, is the sort of change that should be anticipated and managed by local planning and not imposed.

It is recommended that if planning reforms of the scale proposed are to be considered, there needs to be greater consultation with local communities who will be affected. Especially, when these changes undermine and were not foreseen by endorsed local strategic planning statements.

12. Metropolitan Rural Area (MRA)

Wollondilly is not a metropolitan area. 97% of the Wollondilly Local Government Area sit within either a protected area (63%) or the Metropolitan Rural Area (34%). The remaining 3% is urban area taking in the two state led growth areas marked for significant housing to meet Greater Sydney's housing needs.

Enhancing and protecting the values of the MRA is a key objective of both the Greater Sydney Region Plan, the Western City District Plan and Wollondilly 2040 local strategic planning statement.

The Region Plan is strong on the need to restrict urban development within the MRA and that urban development is not consistent with the MRA values.

The following rural towns and villages, that are potentially affected by the proposed reforms, are located within the MRA; Bargo, Douglas Park, Menangle, Picton, Silverdale, Thirlmere, The Oaks, and Warragamba.

The MRA has been mapped in the Wollondilly LEP 2011 and recognises the following environmental, social and economic values that are particularly relevant to Wollondilly:

- Natural habitat and biodiversity
- Drinking water catchments

- Mineral and energy resources and extractive industries
- Agriculture
- The distinctive character of rural towns and villages
- Areas of cultural, heritage and scenic value
- Managing the risk of hazards including bush fire or flooding

The proposed changes fail to consider and uphold the values of the Metropolitan Rural Area recognised in the Greater Sydney Regional Plan and Western City District Plan.

The NSW Government previously recognised these very same values when it removed the ability for developers to apply for compatibility certificates for seniors living in the MRA.

This is a key opportunity to uphold the values of the Metropolitan Rural Area and it is recommended that areas within the MRA are excluded from the proposed reforms.

13. Misalignment with strategic planning framework

The proposed planning reforms do not align with NSW's strategic planning framework.

In particular there are inconsistencies with:

- The Greater Sydney Region Plan and the Western City District Plan
- Wollondilly 2040 (local strategic planning statement)
- Wollondilly Local Housing Strategy
- Principles of the Metropolitan Rural Area
- Local planning directions
- Greater Macarthur 2040: An Interim Plan for the Greater Macarthur Growth Area, Greater Macarthur 2040 Update (2021) and/or any update to the plan at time of lodgement.
- Draft Wollondilly Hazard and Emergency Management Study (HAEMS) 2023.

Our Council would be expected to comply, uphold and address these important criteria, and this process must be held to the same standards to ensure public faith in the planning system is upheld.

14. Wollondilly Local Housing Strategy

Located in the Metropolitan Rural Area, Wollondilly has unique rural scenic and environmental values that need to be protected. The natural environment, the Shire's location on the urban fringe of Sydney, and pattern of dispersed settlements also creates challenges around managing bushfire risk and ensuring critical infrastructure services and community facilities are provided. It is

important that housing is provided in the right location and is adequately serviced by infrastructure.

A key finding of the Local Housing Strategy (LHS) is that Wollondilly has adequate land capacity to supply additional housing in line with demand over the next 20 years (to 2041). There is capacity for further housing development through local growth in current residential zoned land. The Wilton Growth Area provides an opportunity to significantly contribute to housing supply at a District level with 90% of forecasted housing growth in the LGA to be located in the Growth Area. Planning for the Greater Macarthur Growth Area is also expected to create additional capacity for housing supply in the LGA beyond 2041.

This LHS establishes Council's long-term housing vision for the local area. It recognises and responds to evidence about what types of housing will be needed for future populations and where it is best located, considering environmental constraints, avoiding natural hazards, and protecting important environmental and agricultural land and scenic values, and provides an approach to planning for managing and coordinating growth with State Government and other Councils – understanding where Wollondilly fits in within broader Western City District Planning.

Through the Wollondilly 2040 (LSPS) community engagement process conducted in February 2020, key themes to emerge were:

- Transport infrastructure including active modes of transport and the need for improved public transport network to facilitate better connections between communities and the wider Sydney region;
- Services and social infrastructure with concerns raised about planning for new communities without provision for adequate services and social infrastructure (including waste and water management and security, health facilities, secondary education, community spaces and multi-purpose facilities);
- Housing diversity and affordability with shared living, student accommodation and homes for older people largely underrepresented in the Wollondilly market and a requirement to better understand local housing needs and housing stress to provide suitable housing for all groups in the community; and
- Affordable living, a correlation of accessible services, social and transport infrastructure and housing diversity to promote more affordable lifestyles temporally and economically for all residents, for all stages of life.

It is acknowledged that capacity exists for new housing to be delivered within the R3 Medium Density Residential zones through the redevelopment of current low-density housing stock. While significant areas of land currently zoned R3 Medium Density Residential were upzoned from R2 Low Density Residential in 2011, this is yet to be taken up by the market in 2020 indicating there are significant barriers to the feasibility of this type of development in Wollondilly.

It is recommended that funding be provided to Councils to review local housing strategies with a focus on identifying local opportunities to increase housing diversity in keeping with local character.

15. Land use conflict with rural lands

The proposal would enable encroachment of urban or residential lands into rural areas outside of identified growth areas or existing village footprints and is not clearly identified for these uses in the Local Housing Strategy.

All land surrounding such zones throughout the Shire are located immediately adjacent to non-urban zones. These proposed provisions will enable residential development immediately adjacent to non-urban land thereby exposing future residents to unacceptable impacts from adjoining land uses.

The proposed changes will introduce conflict between zone boundaries and permissible uses as new 'residential accommodation' will be permissible in non-urban zones:

- *Within 800m walking distance of Station and Town Centre Precincts:*
- *Within 800m walking distance of a heavy rail, metro or light rail station; or*
- *800m walking distance of land zoned E2 Commercial Centre or SP5 Metropolitan Centre; or*
- *800m walking distance of land zoned E1 Local Centre or MU1 Mixed Use but only if the zone contains a wide range of frequently needed goods and services such as full line supermarkets, shops and restaurants*

The proposed reforms will result in unplanned zone boundary conflicts as often town centres in Wollondilly Shire are surrounded by rural zones. The proposal to allow, enable and encourage more housing close to rural zones will result in predictable and significant conflicts due to exposure to rural activities that result in visual, amenity, noise and odour impacts. Mid-rise housing adjoining agricultural activities may result in weed/pest incursion, biosecurity issues, amenity, and challenge the ongoing sustainability of agriculture.

Noting that lawful rural activities can include the following:

- Use of agricultural machinery
- Use of bird-scare devices
- Intensive livestock production
- Soil cultivation
- Crop & fodder production
- Crop harvesting
- Use of firearms
- Use of pesticides & herbicides & fertilizer
- Grazing livestock
- Rural industries – packing sheds, abattoirs, stock & sale yards, sawmills
- Spreading of manure and compost and treated effluent
- Vegetation clearing, slashing & mowing

The proposed reforms are inconsistent with the values of the Metropolitan Rural Area and Council's Rural Land Study. Food production throughout the Shire contributes significantly to the agricultural economy.

The proposal to enable denser housing immediately adjacent rural activities is not appropriate. It is considered the existing Standard Instrument zone framework is appropriate to provide for low-medium-high residential densities. The Department should work closely with each LGA to determine where higher densities are appropriate. This could easily be an extension to the Transport Oriented Development (TOD) Program.

It is recommended that the proposed reforms are not permissible on urban zoned lots adjoining rural zoned land.

16. Proposed design guidelines

Council cannot comment on the proposed design guidelines as they do not exist. It is considered premature to announce the proposed LMRH SEPP without the inclusion of the proposed supporting guides. Council reserves its right to comment further upon release of the proposed guides and associated pattern books.

Council further notes it is proposed to apply a licence fee to access the proposed pattern book. This is not in the spirit of encouraging good design and housing outcomes. Any such guide should be available free of charge on all relevant government websites.

17. Affordable housing bonus

It is concerning that there remains the potential, that on top of the proposed reforms, a developer would be able to unlock additional height bonus if they provide a component of affordable housing.

This incentive was also recently introduced by the NSW Government in 2023 as part of the Social Affordable Housing reforms. Noting that the affordable housing component, under the reforms, only has to be provided for at least 15 years. However, the additional height leveraged from this mechanism would remain in perpetuity.

We are concerned that the existing In-fill Affordable Housing bonus provisions will continue to apply, meaning a proposed development for an apartment that meets the criteria could have an additional 30% Height Limit increase on top of the new Height Limit of 21m or 16m and a new FSR of 3:1 and 2:1 respectively.

As Council has previously advised the Department, these provisions are available to Registered Housing Providers that "rent" a component of that building for 15 years. That system is fundamentally flawed. Those "incentives" do not vanish upon expiration of the 15-year period.

Council has been working with the Western City Planning Partnership to develop an Affordable Housing Contribution Plan. The draft Plan, as reported to Wollondilly Council on 12 December 2023, requires the component of 'Affordable Housing' to remain in perpetuity thereby capturing the intent of the incentive permanently.

Secondary dwellings already cause an issue with uncaptured infrastructure contributions and infrastructure deficit. It is not proposed to capture these types of development in the draft Affordable Housing Contribution Plan. This unanticipated, unlevied growth will place further burden on unfunded infrastructure upgrades.

18. Urban Development Zone

It is proposed to allow residential flat buildings in the E2 Commercial Centre, SP5 Metropolitan Centre, E1 Local Centre and MU1 Mixed Use zones. The EIE is silent on the UD zone within the existing identified growth areas at Greater Macarthur or Wilton and Appin however, it is assumed current permissions will apply.

Should low – mid-rise housing be permissible in the UD Zone, particularly as complying development, how will the dwelling caps in the Western Parkland Precincts SEPP be managed? This has the potential to result in significant implications for the orderly and economic development of the land.

19. Car parking

The proposed reduced car parking rates fail to consider the existing private car ownership reliance throughout the Shire. Car parking demand will increase due to increased population. There are inadequate public transport options available to support an increased population.

20. Dual occupancy

It is proposed to permit dual occupancies in all R2 zones. This proposal will not have any impact as dual occupancies are a type of residential accommodation that is permissible in the R2 Low Density Residential zone under the provisions of the Wollondilly LEP 2011. However, the proposed controls are incongruent with the controls in the Wollondilly LEP 2011 and the Wollondilly Development Control Plan 2016 Volume 4 Residential Development.

For example, it is proposed to decrease the minimum lot size from 975sqm to 450sqm and the minimum width from 24m to 12m. Whilst it is recognised that these reductions may be appropriate for infill development such as dual occupancies in city locations with access to suitable infrastructure, they are not suitable within the Metropolitan Rural Area.

The proposal to limit car parking to one space per occupancy fails to consider the heavily car reliant nature of commuters within Wollondilly Shire due to the lack of public transport options.

21. Hazard Management

Further, the Hazards and Emergency Management Study identifies significant hazards that may occur throughout the Shire. Issues such as Bushfire have been identified as a significant threat due to inability to evacuate many of our growth areas within a timely manner. Increased residential density will add to those delays placing residents at serious risk.

Flood

Many areas within Wollondilly Shire are subject to flooding. Council is currently preparing a shire wide flood study to identify the flood risks throughout the Shire. It is considered premature to allow increased residential densities without first understanding the impact this may have on flood waters and their behaviour.

Council welcomes the opportunity to explore appropriate flood based exclusions in the Hawkesbury Nepean Valley however, Council currently does not have the necessary finalised flood studies. In the absence of that information, Council request Wollondilly Shire is excluded from the application of the proposed SEPP.

Bushfire Prone Land

Wollondilly has an extensive bush fire hazard interface, with Nattai National Park and Blue Mountains National Park covering the western part of the Shire and Dharawal National Park and the Sydney Drinking water catchment Area located in the south-east.

These large tracts of vegetation mean that more than 88% of the Shire is identified as being prone to bush fires. Outside of these areas, many towns and villages are vulnerable to being isolated where the only evacuation routes are through bush-fire prone land in major fires.

The draft Wollondilly Hazards Analysis and Emergency Management Study (HAEMS) identifies bushfire as a high-risk natural hazard in Wollondilly Shire, *with major to catastrophic consequences and likely occurrence*. The HAEMS identifies an increased development footprint in close proximity to heavily vegetated areas as the most important future change that, combined with increased vegetation from the Cumberland Plain Conservation Plan, will result in a larger population at the bushland/urban interface.

It is difficult to see how the proposed reforms is supported by a Strategic Bushfire Study in accordance with the NSW Rural Fire Services Planning for Bushfire Protection 2019.

Wollondilly was recently delayed by the NSW Government in progressing innovative and supportive land uses to complement agriculture and the rural industry in the MRA with the visitor economy. These land uses are arguably far more complementary and balanced with natural hazards and risk than the current proposal.

The proposed increase in residential accommodation across bushfire prone land has the potential to impact existing bushfire mitigation measures. 'Sensitive' uses such as those prescribed by *Planning for Bushfire Protection 2019* should be undertaken via the existing development application process.

The need to ensure safe evacuation routes for towns and villages in the event of natural disasters. Recent experience from the "Black Summer" event in 2020 saw thousands of people from the Shire's southern villages try to evacuate at once. The proposed changes will place more people in areas that are prone to natural hazards.

Mine subsidence and unstable land

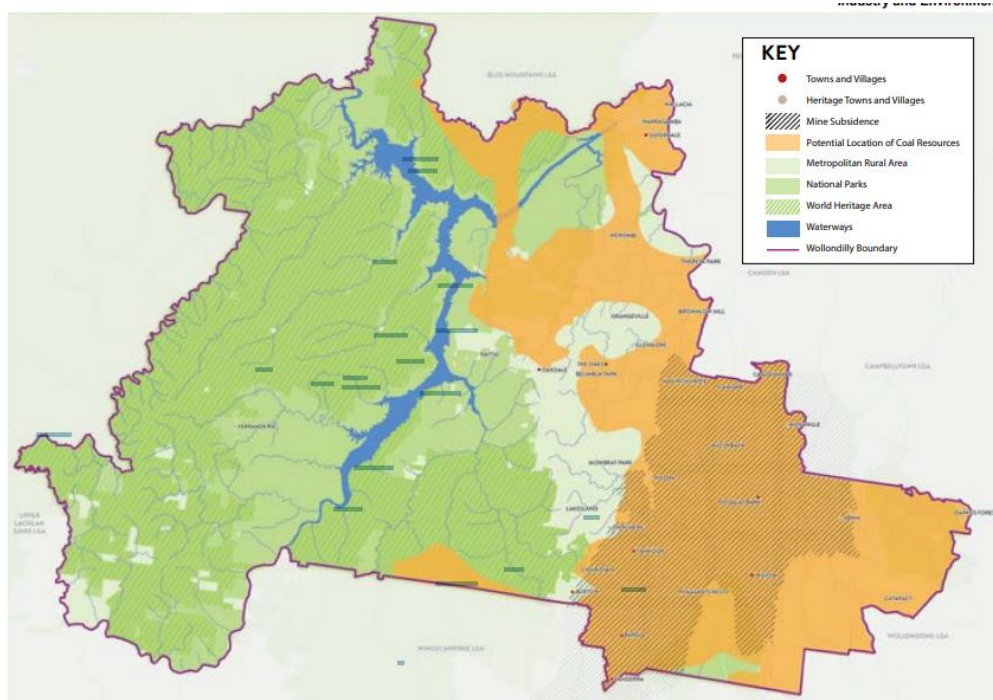
Wollondilly holds state significant mineral resources that limit housing growth and further intensification until mining activity is complete.

Areas within Appin, Bargo, Douglas Park, Menangle, Picton, Tahmoor, Thirlmere and Wilton are located within mine subsidence districts and sit above both existing mine workings and unextracted coal resources.

In 2019, Council considered a developer initiated draft planning proposal to increase the maximum building height for a town centre precinct in Tahmoor from 11 metres to 30 metres to enable an extension to an existing shopping centre with shop top housing (referred to earlier in this submission).

At that time Glencore (Tahmoor Colliery) expressed concerns and recommended that the draft planning proposal did not proceed on the basis that it would be extremely difficult to maintain the safety and serviceability of a six-storey building during extraction of potential future longwalls.

The following image, from Wollondilly 2040, our local strategic planning statement, shows the location of mineral resources (coal) in Wollondilly.



It is recommended that mine subsidence districts are excluded from the proposed reforms to protect new homeowners from the effects of subsidence and protect a longstanding industry that provides local jobs.

Contaminated Land

Land within Wollondilly Shire is identified as Contaminated Land. As such, there are certain prescribed investigations such as a Preliminary Site Investigation etc. How will this requirement be accommodated within the proposed SEPP?

22. Planning for Healthy Places

Council has a Social and Health Impact Assessment (SaHIA) Policy in place, and the associated Guidelines specify that a proposal of this scale will require a **Comprehensive Social and Health Impact Report (CSHIR)**.

The Policy and Guidelines can be found at on Council's [Health in Planning webpage](#) and provide instructions on how to prepare the Comprehensive Report. It is unclear how these requirements will operate with the proposed SEPP?

23. Administration

Administratively, the proposed changes will create complexities that the current planning portal cannot resolve. Section 10.7 Certificates will need to include new layers however, the data will be difficult to reliably capture. Council will rely on the Department to update the electronic LEP maps and other data capture/wording for 10.7 certificates.

Contributions from Complying Development Certificates will need to be captured. In the past, not all contributions have been appropriately captured by Private Certifiers. With the introduction of multiple contributions requirements, how will the Department ensure they are appropriately levied and collected?

24. Transparency

Frustratingly, it would appear that Council receives more detailed information from press releases from the Urban Development Institute of Australia (UDIA) than from direct consultation with Council. This undermines the faith the people of NSW have in our planning system and genuine consultation and corrodes the relationship Local Government shares with the Department.

Wollondilly Council work closely with the community when undertaking strategic planning in order to understand the nuances throughout the Shire. It is not appropriate to apply 'blanket' rules for mid-rise housing over the top of local planning controls that identify, explore and respect the opportunities and constraints of our rural communities.

25. Non-indigenous heritage

Council notes and supports the change to include heritage items and areas in the complying development pathways exclusions. Council agree it is imperative appropriate merit assessment of heritage considerations is undertaken through the existing development application process.

26. Sensitive Land

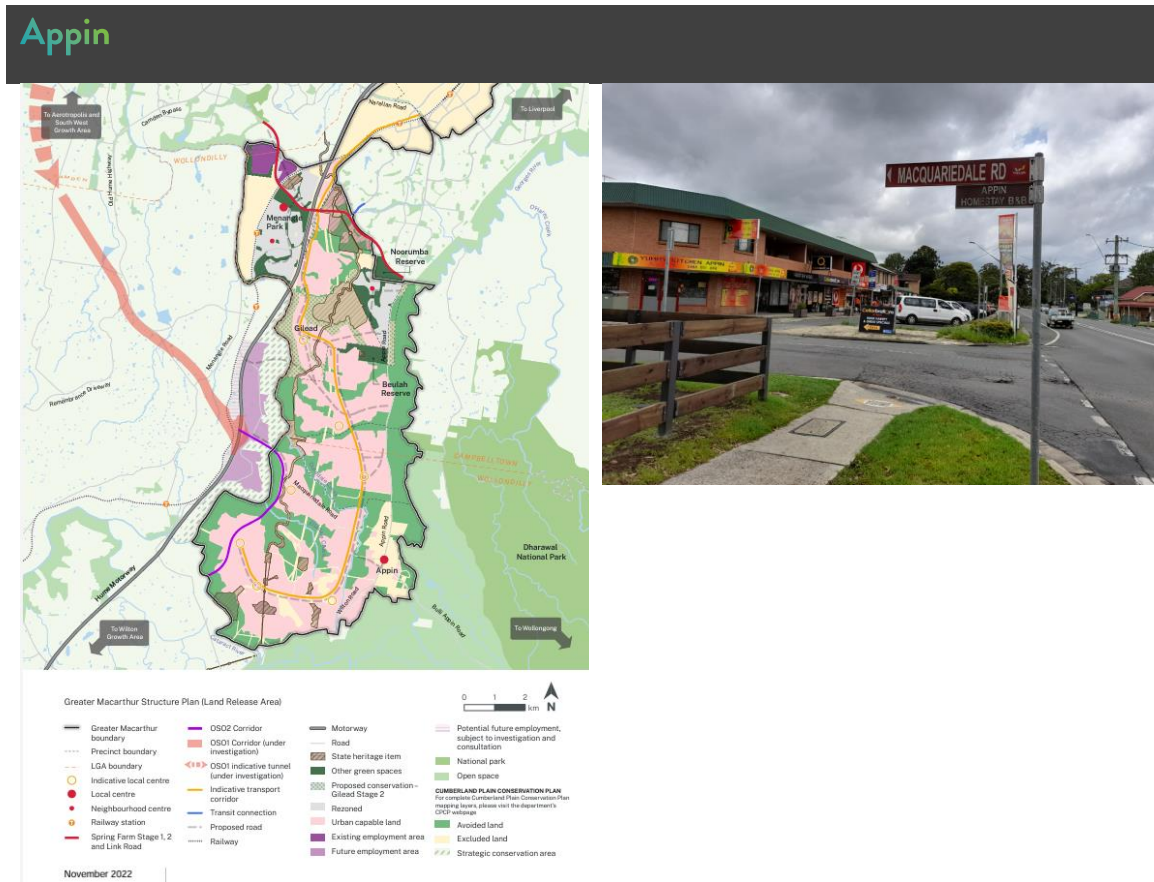
Confirmation that the proposed changes won't apply to heritage places, flood prone land and environmentally or ecologically sensitive land is needed.

27. Consultation with affected communities

Council is concerned that affected communities have not been informed of and afforded an honest opportunity to provide genuine feedback.

We are not aware of any targeted consultation with local communities who will be directly affected by the changing character of their local areas. Council has not been contacted by the NSW Government to provide advice on how to reach affected communities or been provided with social media templates or other material to connect communities with information on the proposed reforms.

Attachment 1



Available Infrastructure:

- Limited local bus services.
- Small local centre with a small IGA supermarket.
- Local Neighbourhood Shops
- Local primary school, at capacity.

Housing Projections:

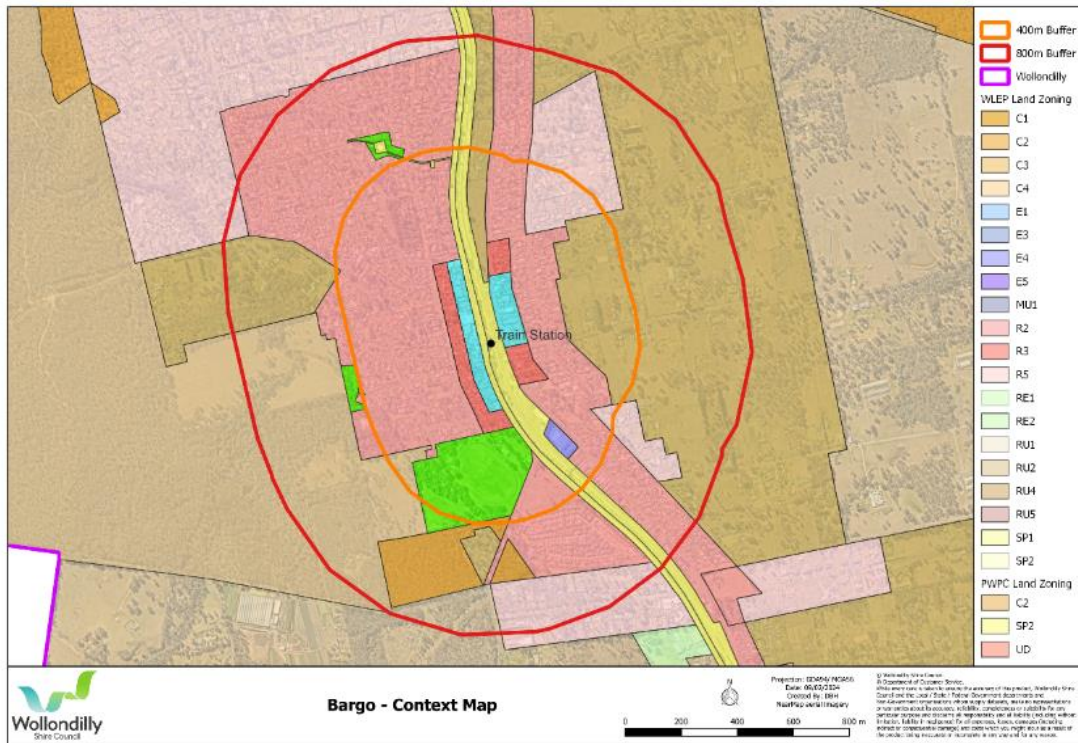
Dwellings cap is legislated in SEPP for each rezoning:

Dwelling cap per Precinct:

- 12,900 Appin Part 1
- 3,000 North Appin

Constraints for low and mid-rise housing:

- Village serviced by an at capacity Sewage line that is pumped to Glenfield.
- No train line servicing the area.
- Walking catchment extends into rural zoned land.
- Located in Mine Subsidence District
- Bushfire prone area with limited evacuation routes.
- Core Koala habitat



Available Infrastructure:

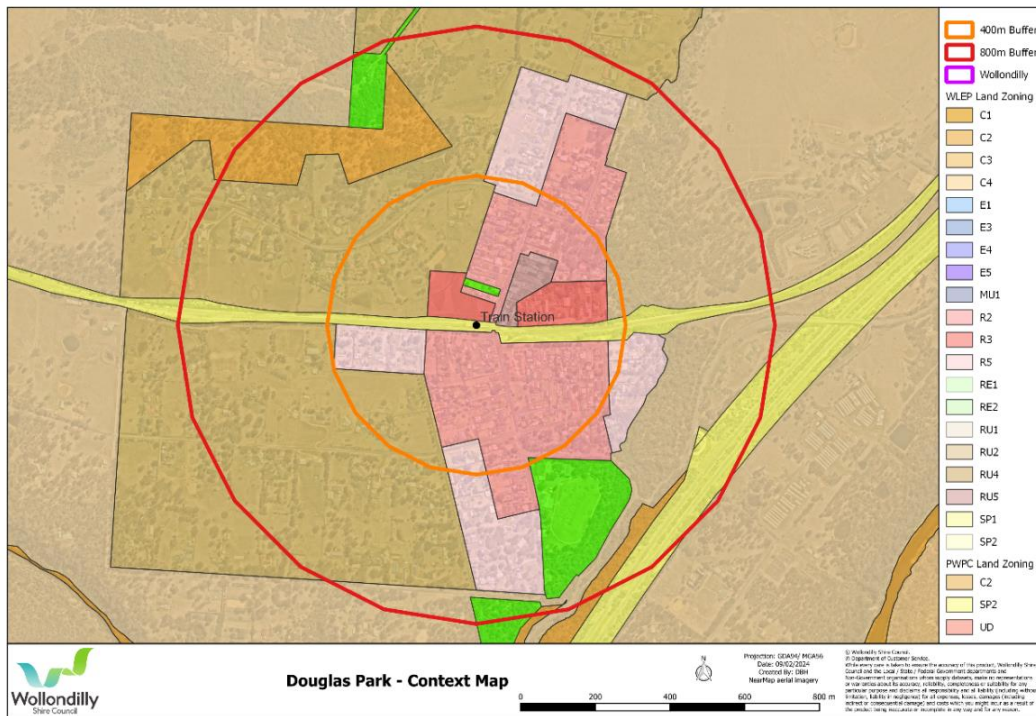
- Some small neighbourhood shops
- Small IGA
- Rail Station (non-electrified)



Constraints for low and mid-rise housing:

- Village serviced by pump-out wastewater system, and limited Sydney Water Service
- Water and wastewater servicing are at capacity and limits further rezoning of residential land in the short term.
- Non-electrified privately-owned rail line that prioritises rail over passenger
- Walking catchment extends into rural zoned land.
- Rural/urban land use conflict
- Single public high school services the whole shire
- Mine subsidence district; unsuitable for further intensification until mining activity is complete
- The need to protect state significant mineral resources

Douglas Park



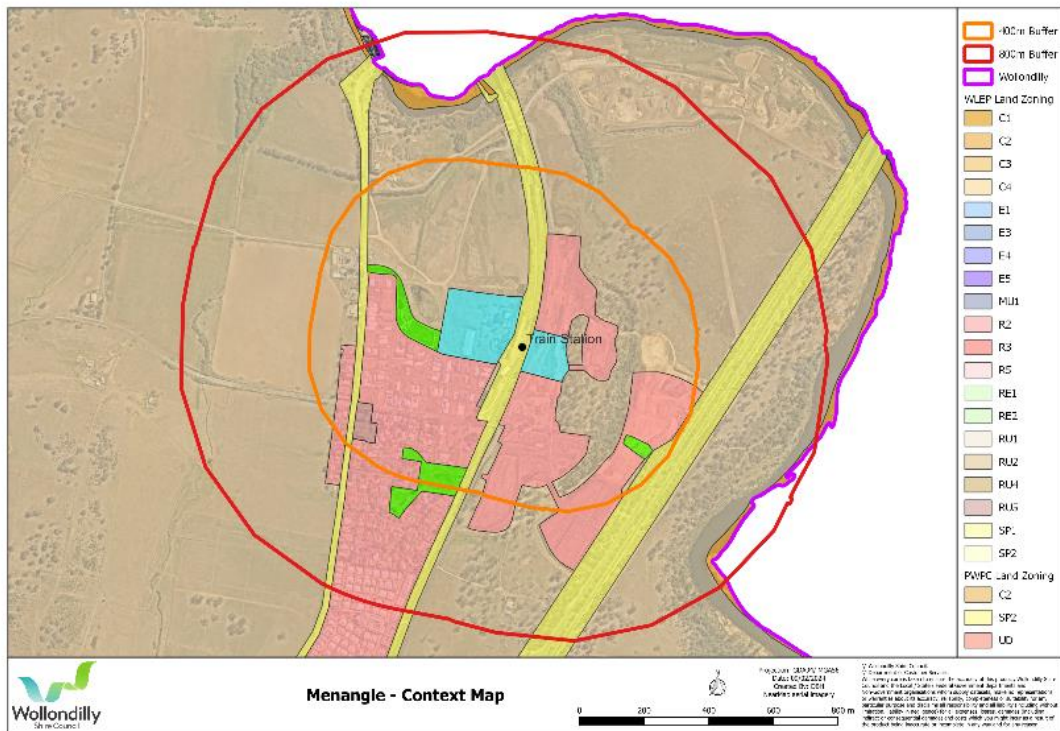
Available Infrastructure:

- Limited local shops with one takeaway, pharmacy and combined service station, bottle shop and post office.
- Local Primary school.
- Rail Station (non-electrified)



Constraints for low and mid-rise housing:

- Village serviced by pump-out wastewater system (No capacity for expansion).
- Non-electrified privately-owned rail line that prioritises rail over passenger
- Walking catchment extends into rural zoned land. Majority of streets have no kerb and gutting with footpaths.
- Rural/urban land use conflict
- Mine subsidence district
- Bushfire prone area with limited evacuation routes.
- Single public high school services the whole shire
- Identified as a smaller centre where the focus is around community centres with limited or no retail services



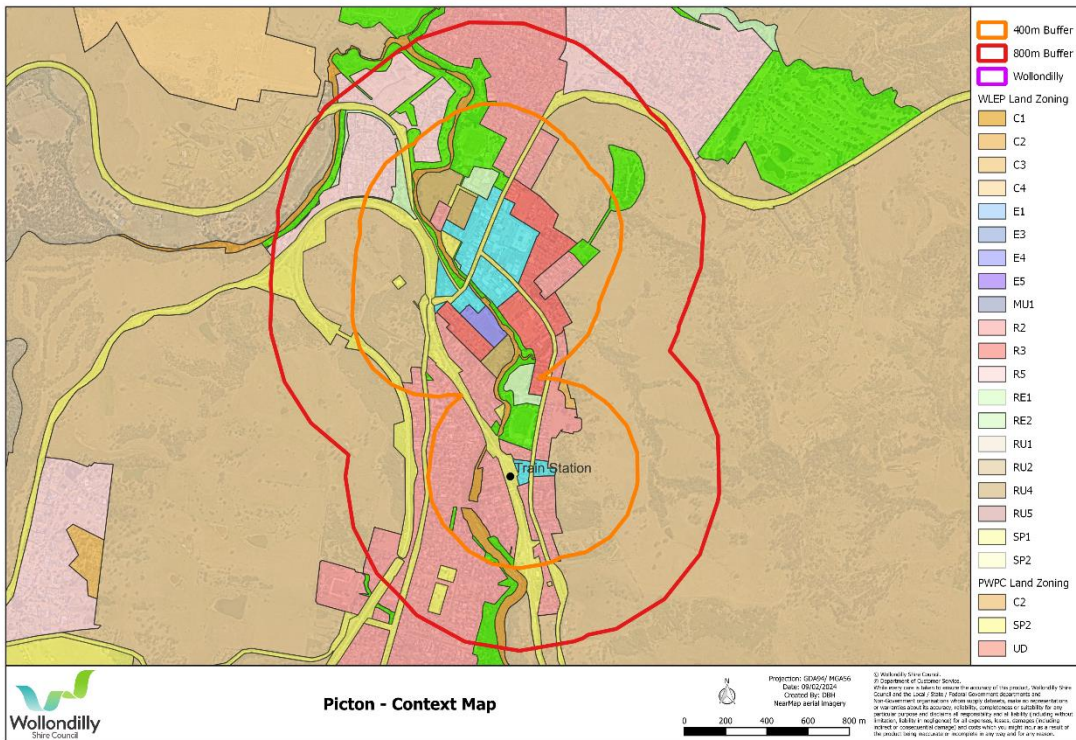
Available Infrastructure:

- A single neighbourhood shop (corner store)
- Rail Station (non-electrified)



Constraints for low and mid-rise housing:

- Non-electrified privately-owned rail line that prioritises rail over passenger
- Walking catchment extends into rural zoned land.
- Rural/urban land use conflict
- No local primary school
- Mine subsidence district
- Bushfire prone area with limited evacuation routes.
- Much of the catchment area around the train station is flood prone land.
- Heritage conservation area including significant cultural and rural landscapes
- Single public high school services the whole shire
- Existing village not serviced by Sewer.
- New estate serviced by privately owned sewerage pumping station (Mirvac owned).
- Identified as a smaller centre where the focus is around community centres with limited or no retail services



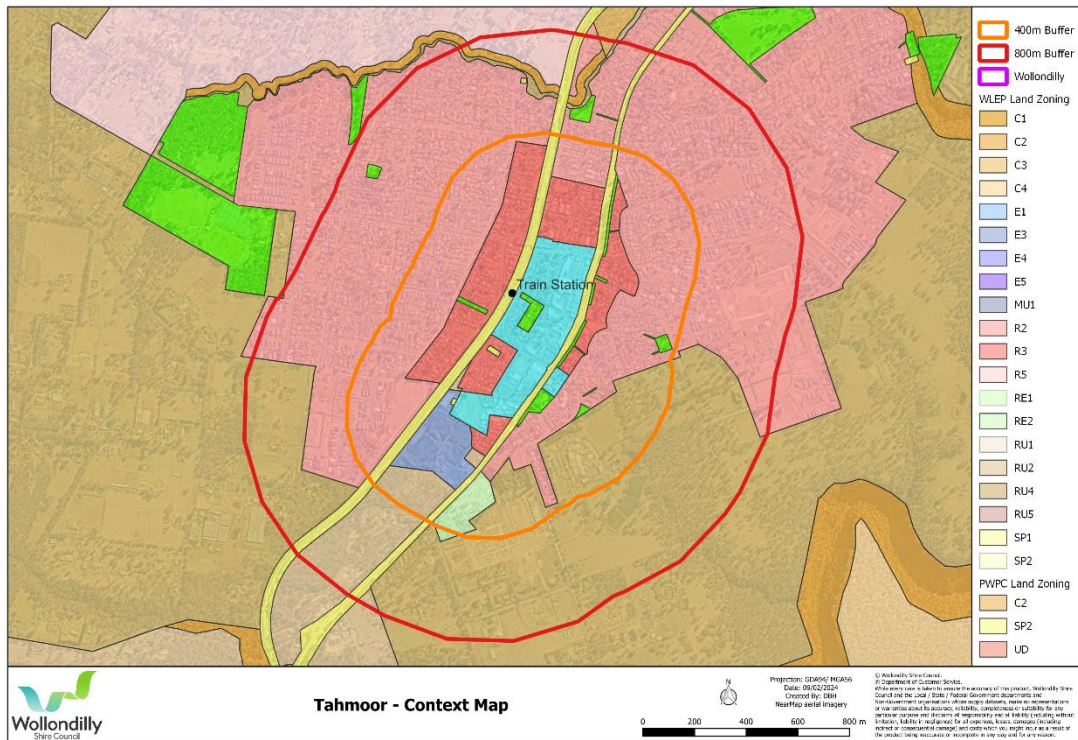
Available Infrastructure:

- Coles
- Super IGA
- Series of local shops and retail
- Rail Station (non-electrified)



Constraints for low and mid-rise housing:

- Non-electrified privately-owned rail line that prioritises rail over passenger
- Walking catchment extends into rural zoned land.
- Rural/urban land use conflict
- Single public high school services the whole shire
- Mine subsidence district
- Water and wastewater servicing are at capacity and limits further rezoning of residential land in the short term.
- Heritage Conservation Area



Available Infrastructure:

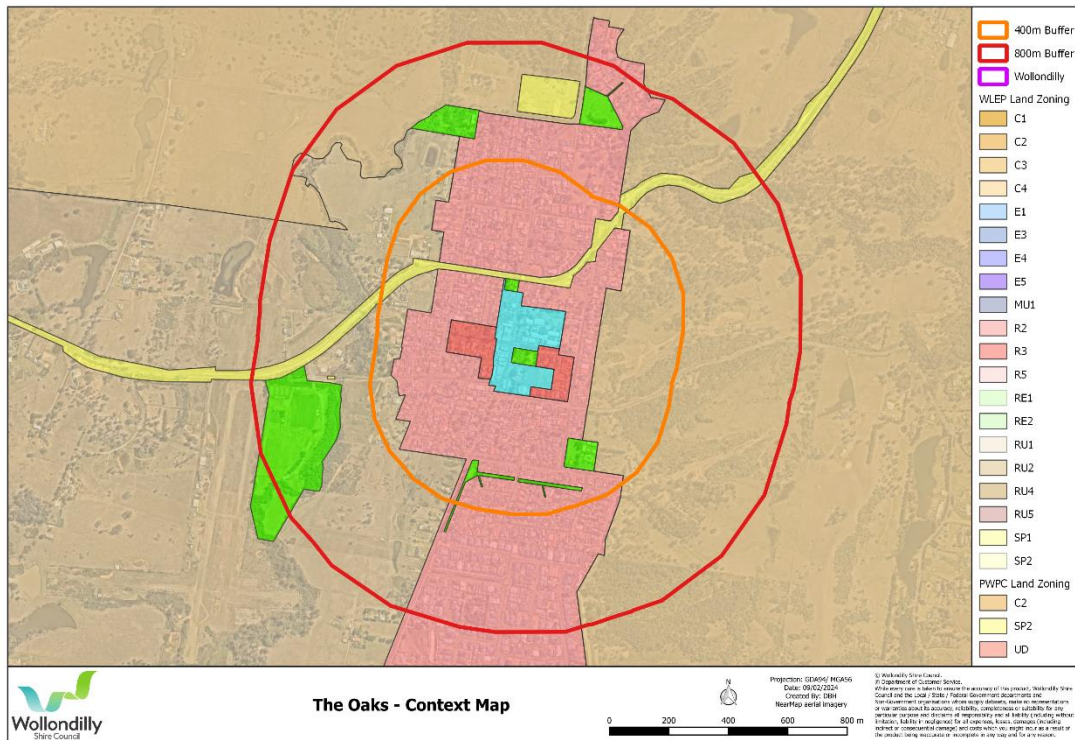
- Rail Station (non-electrified)
- Woolworths
- Series of local shops



Constraints for low and mid-rise housing:

- Non-electrified privately-owned rail line that prioritises rail over passenger
- Walking catchment extends into rural zoned land.
- Rural/urban land use conflict
- Single public high school services the whole shire
- Mine subsidence district
- Water and wastewater servicing are at capacity and limits further rezoning of residential land in the short term.

The Oaks

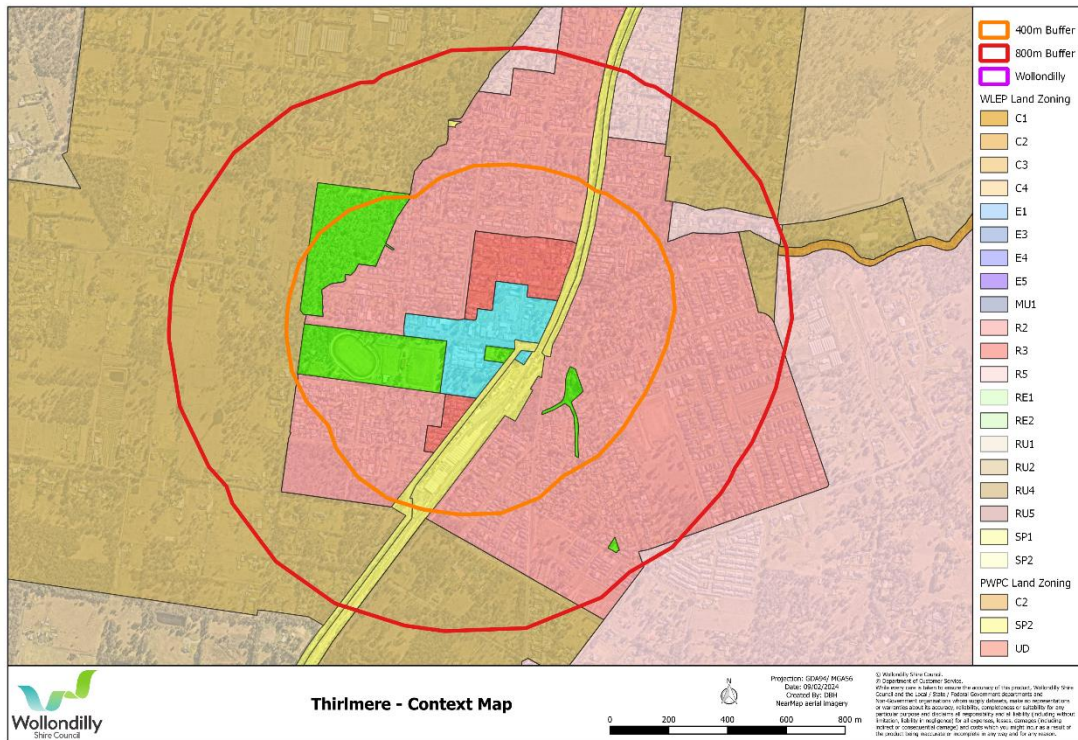


Available Infrastructure:



Constraints for low and mid-rise housing:

- Village wastewater system nearing capacity
- Walking catchment extends into rural zoned land.
- Rural/urban land use conflict
- Single public high school services the whole shire
- No train line servicing the area.



Available Infrastructure:

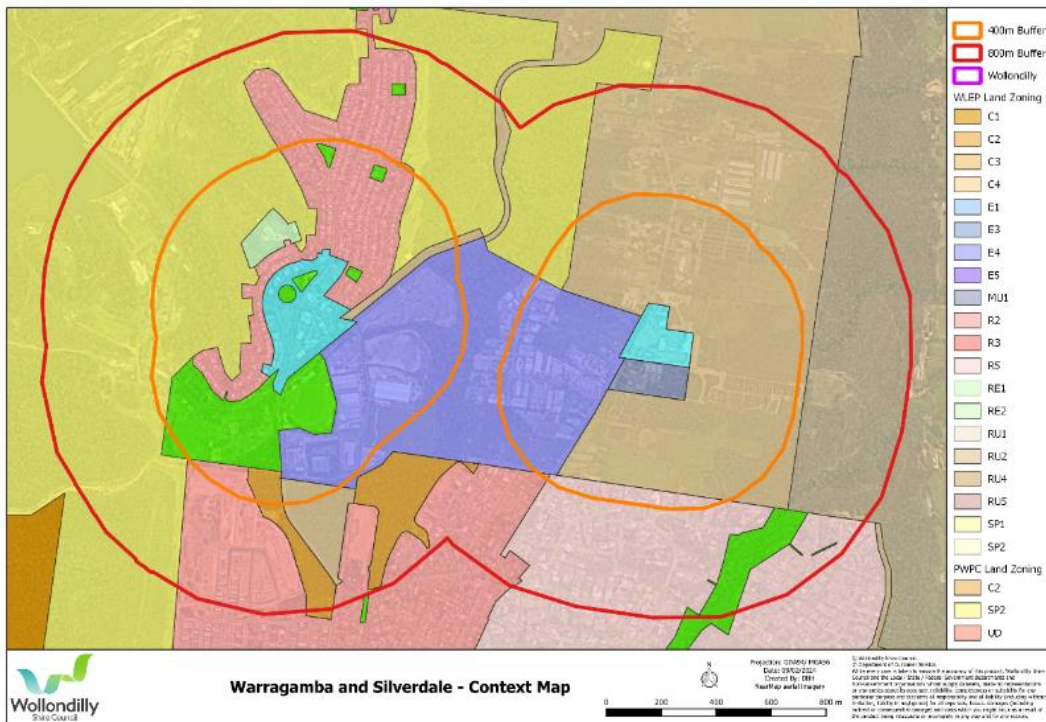
- Established retail and commercial centre with open space and community facilities
- IGA local grocer supermarket
- Tourist rail line



Constraints for low and mid-rise housing:

- 400m and 800m walking catchments likely to extend into rural zoned land.
- Rural/urban land use conflict
- Heritage village covered by Heritage Conservation Area
- Water and wastewater servicing are at capacity and limits further rezoning of residential land in the short term.
- Single public high school services the whole shire
- Mine subsidence district
- No train line servicing the area.

Warragamba & Silverdale



Available Infrastructure:

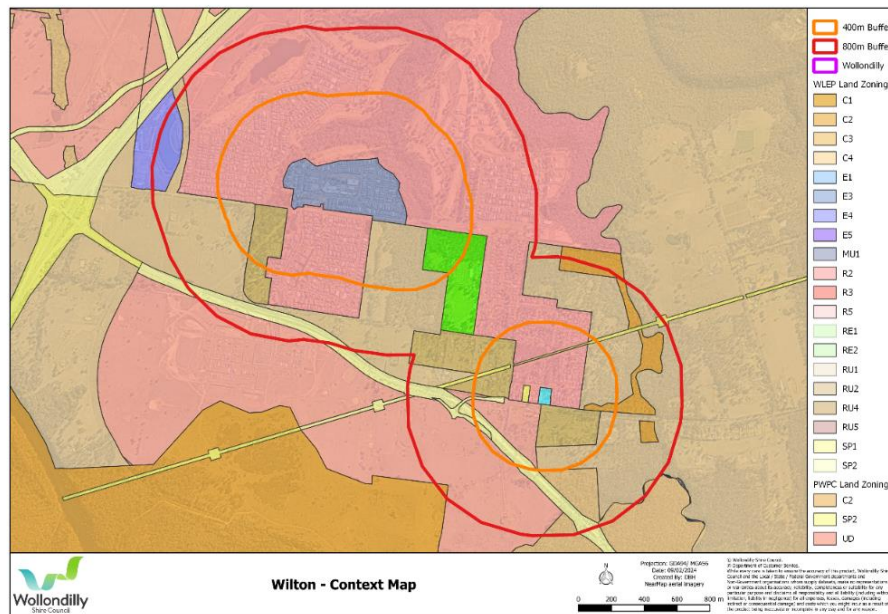
- A single neighbourhood shop



Constraints for low and mid-rise housing:

- Walking catchment extends into rural zoned land.
- Rural/urban land use conflict
- Single public high school services the whole shire
- Impacted by the new Western Sydney Airport including noise impact.
- Particularly vulnerable to natural hazards and is cut off from safe evacuation routes in bush fire and flood events.
- No train line servicing the area.

Wilton (including Bingara Gorge)



Available Infrastructure:

- A small Woolworths Metro
- Some small neighbourhood shops
- Limited bus network.
- Local primary school at capacity.

Housing Projections:

Dwellings cap is legislated in SEPP for each precinct. Totalling 15,000.

Dwelling cap per Precinct

- 1,800 Bingara Gorge
- 3,600 South East Wilton
- 5,600 Wilton North
- 1,600 Wilton Town Centre
- 2,350 West Wilton

Constraints for low and mid-rise housing:

- New estates serviced by a centralised pump out sewer system
- Sewerage plant requires additional upgrades to deal with any additional growth.
- New water reservoir needed.
- No train line servicing the area.
- Village serviced by an at capacity sewerage line that is pumped to Glenfield.
- Mine Subsidence District
- Bushfire prone area with limited evacuation routes.



Attachment 2



Picton Wastewater Scheme

Requirements for new connections – May 2023

Sydney Water's Picton Water Resource Recovery Facility is part of the Picton Wastewater Scheme and treats wastewater from homes and businesses in the Picton area.

The wastewater is treated to produce recycled water, which is used to irrigate crops at our Picton Farm.

As communities in the area have continued to grow, wastewater flows to the plant have increased - exceeding the capacity at our farm to reuse all the recycled water we produce. This impacts our ability to allow new wastewater connections to the Picton Wastewater Scheme for housing and growth.

Picton Wastewater Scheme - improvements and upgrades

We are planning to expand and upgrade the Picton Wastewater Scheme and manage the recycled water we produce at the Picton Facility, to provide an improved, reliable, and sustainable water recycling facility.

We will continue to review and monitor the improvements, which will help to enable further development in the Picton area. We will manage this closely and provide updates about changes to wastewater connection constraints for the Picton Scheme.

Until the upgrades are approved and commissioned, proposed developments will only be able to connect to the Picton Wastewater Scheme that meet the required criteria in this fact sheet.



Wastewater connection criteria requirements

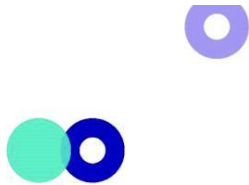
New connections to the Picton Wastewater Scheme will only be approved for proposed developments:

- within the existing Picton Wastewater Scheme boundary, and
- are consistent with the approved land use zoning **as of 31 December 2014**, under the *Wollondilly Local Environmental Plan (2014 Land Use Zoning)*.

This includes:

- complying developments for secondary dwellings (e.g. granny flats) within the existing Picton Wastewater Scheme boundary, that are consistent with Council's *2014 Land Use Zoning*, and
- proposed developments by Council or another proponent, for a public purpose or benefit, consistent with current land use zones (and as assessed by Sydney Water on a case-by-case basis).

A map of the Picton Wastewater Scheme provided on page three shows the location of the scheme boundary and villages, as well as Sydney Water's Picton Farm and Picton Water Resource Recovery Facility.



In addition to the criteria requirements described for new connections, Council will refer all proposed developments, (except complying developments), to Sydney Water during the development application process.

Sydney Water will then provide advice to Council about the capacity of wastewater services available in the Picton Wastewater Scheme. This includes confirming whether the proposed development can connect to the Picton Scheme for wastewater services.

Developments unable to meet the required criteria

Developments that do not meet the criteria requirements will be unable to connect to the Picton Wastewater Scheme, until the system is able to accept additional wastewater flows.

This includes:

- planning proposals to rezone or uplift land within the Picton Wastewater Scheme boundary
- proposed developments or planning proposals to rezone land outside the Picton Wastewater Scheme boundary.

Where proposed developments require the land to be rezoned, or are outside the Picton Wastewater Scheme, alternative wastewater servicing solutions can be discussed with Wollondilly Shire Council. This may include private on-site wastewater management options.

Next steps

If your proposed development has progressed to the Development Application stage and meets the required criteria for connecting to the Picton Wastewater Scheme, a Building Plan Approval and/or Section 73 Certificate will likely be required as the next step.

To start the [Building Plan Approval](#) process, lodge your plans at [Sydney Water Tap in](#).

Depending on the size and complexity of your development, you can apply for your [Section 73 Certificate](#) with Sydney Water's Developer Direct team, or you may need to engage a Sydney Water accredited Water Servicing Coordinator.

If you are unsure about whether your proposed development fits the connection criteria requirements outlined in this fact sheet, you can lodge a Feasibility Assessment application to Sydney Water through a Water Servicing Coordinator¹.

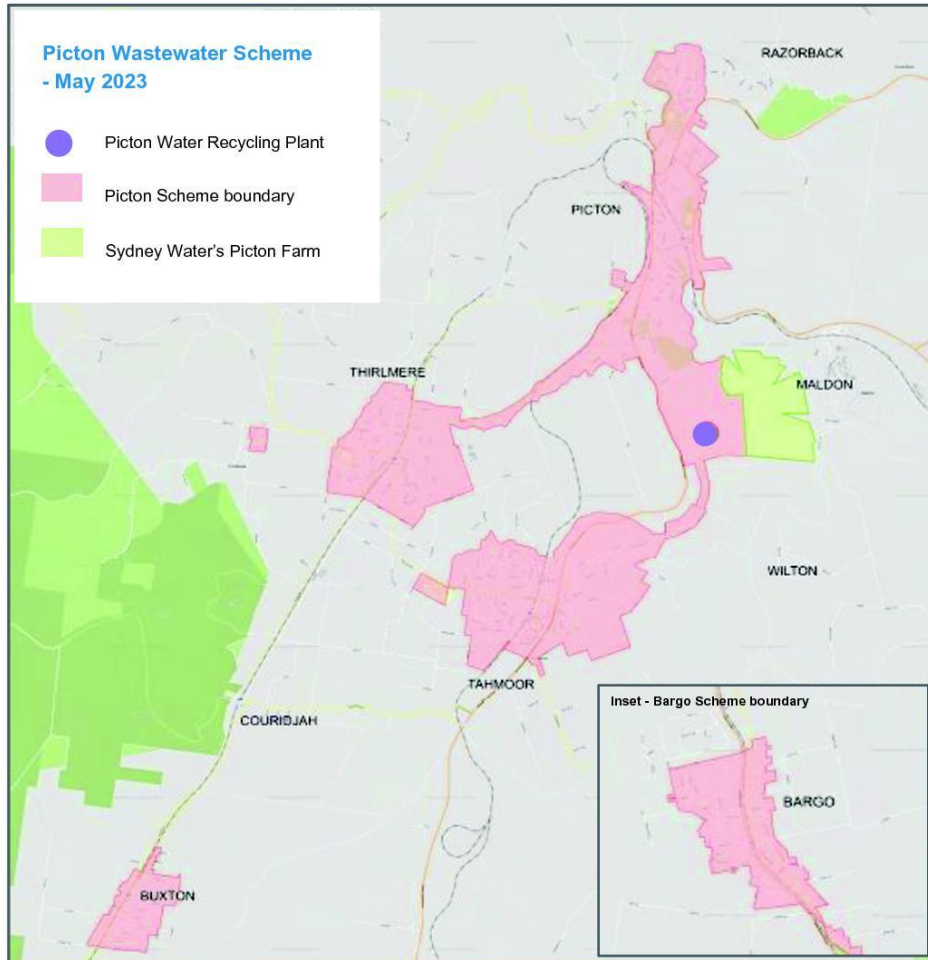
More information

To learn more about Sydney Water's development requirements and approval processes, please contact us:

Email:
developerservices@sydneywater.com.au

Visit:
sydneywater.com.au /
steps for first-time developers

¹ Sydney Water application fees and Water Servicing Coordinator fees apply



Source:

<https://www.sydneywater.com.au/content/dam/sydneywater/documents/Fact%20sheet%20-%20Picton%20WW%20Scheme.pdf>