

Ordinary Meeting Of Council



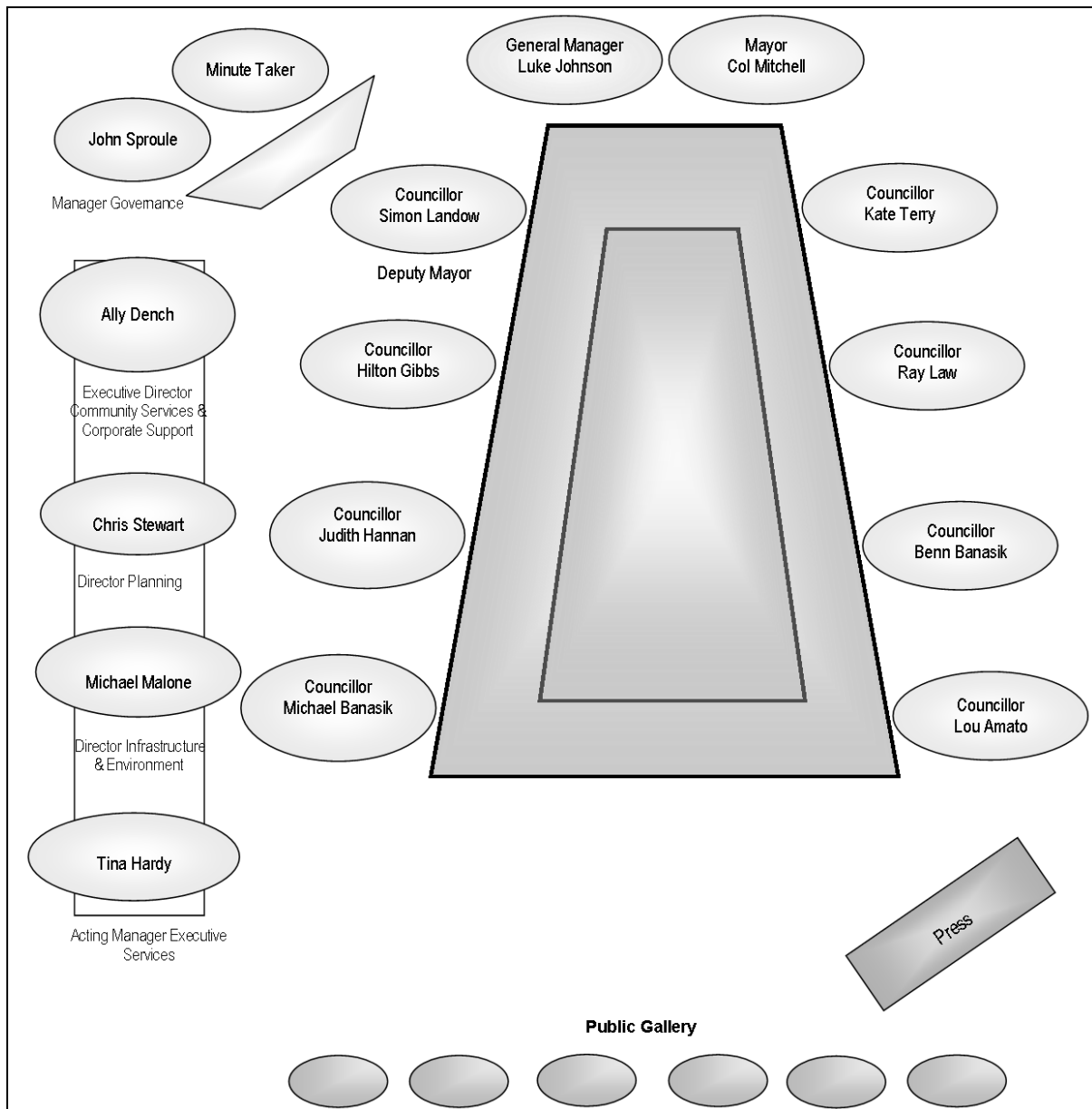
Wollondilly Shire Council

Notice of Meeting & Agenda Monday 17 August 2015

You are invited to attend the next Ordinary Meeting of Council to be held in the Council Chambers, 62-64 Menangle Street Picton on Monday 17 August 2015 commencing at 6.30pm.

Luke Johnson
General Manager

Seating in Council Chambers



EAST WARD

Cr Benn Banasik	0434 832 636	Email: benn.banasik@wollondilly.nsw.gov.au
Cr Ray Law	0427 901 275	Email: ray.law@wollondilly.nsw.gov.au
Cr Kate Terry	0439 665 149	Email: kate.terry@wollondilly.nsw.gov.au

CENTRAL WARD

Cr Lou Amato	0439 451 143	Email: lou.amato@wollondilly.nsw.gov.au
Cr Michael Banasik	0425 798 068	Email: michael.banasik@wollondilly.nsw.gov.au
Cr Colin Mitchell (Mayor)	0418 265 006	Email: col.mitchell@wollondilly.nsw.gov.au

NORTH WARD

Cr Hilton Gibbs	0439 299 749	Email: hilton.gibbs@wollondilly.nsw.gov.au
Cr Judith Hannan	0414 557 799	Email: judith.hannan@wollondilly.nsw.gov.au
Cr Simon Landow (Deputy Mayor)	0415 406 719	Email: simon.landow@wollondilly.nsw.gov.au

Business Papers will be available from Council's Foyer or alternatively on Council's website on the Friday before the Ordinary Council meeting.

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OPENING

RECORDING OF THE MEETING

In accordance with Council's Code of Meeting Practice the electronic recording of the Council Meeting and the use of electronic media during the proceedings is not permitted. This includes devices such as laptops, mobile phones, tape recorders and video cameras.

NATIONAL ANTHEM

ACKNOWLEDGEMENT OF COUNTRY

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- Ordinary Meeting of Council held on 20 July 2015

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Wollondilly Community Strategic Plan 2033

Council's format for reporting to our Ordinary Council Meetings will follow the:

1. Wollondilly Strategic Plan 2033 themes:

Looking after the **Community** | Accountable and Transparent **Governance** | Caring for the **Environment** | Building a strong local **Economy** | Management and Provision of **Infrastructure**

Under each of these themes are **Outcomes** – expressions of what we want to achieve in the long term which will be reflected in our reports.

2. Sustainability Principles (*reference page 10 of the CSP 2033*)

Equity | Precaution | Regeneration | Engagement | Sharing | Access | Participation | Rights | Governance

"Council will build the above principles into all facets of our organisation and everything we do."

1.

Community

Outcomes

1. Access to a range of activities, services and facilities.
2. A connected and supported community.

Strategies

CO1 - Community Building, Well-being and Identity

Deliver a range of community programmes, services, facilities and events which strengthen the capacity, well-being and cultural identity of our community.

CO2 - Working with Others

Work with other agencies and service providers to deliver community programmes, services and facilities which complement and enhance Council's service provision.

CO3 - Social Planning

Undertake strategic social planning and research regarding community needs and issues.

CO4 - Engagement and Communication

Implement excellence in our community engagement by listening to and responding to the needs and concerns of our residents.

Governance

Outcomes

1. Government, community and business talking and working together.
2. A Council that demonstrates good business management and ethical conduct.

Wollondilly Community Strategic Plan 2033

Strategies

- GO1 - Quality Employer
Provide an attractive employment choice for talented people.
- GO2 - Best Practice Governance
Be a leader in best practice local government governance.
- GO3 - Customer Service
Deliver responsive and helpful services to all our customers.
- GO4 - Advocacy
Advocate strongly for the interests of Wollondilly and its community.
- GO5 - Financial Sustainability
Maintain Council in a strong and sustainable financial position.
- GO6 - Resource Efficiency
Be efficient and effective in the use of Council resources and provide value for money in the delivery of services.
- GO7 - Information Management
Ensure best practice approach as to the delivery of quality information and technology services.
- GO8 - Corporate Image
Promote a positive representation of Council's corporate image.

Environment

Outcomes

1. Our local environment that is valued and protected.
2. A community that interacts with and cares for their environment.

Strategies

- EN1 - Biodiversity Resilience
Protect and conserve biodiversity and natural resources, including waterways, riparian lands and groundwater dependent ecosystems.
- EN2 - Growth Management
Apply best practice environmental principles to the management of future growth.
- EN3 - Development Assessment
Apply best practice environmental principles to the assessment of development and planning proposals.
- EN4 - Environmental Responsibility
Educate and promote legislative environmental responsibilities to the community.
- EN5 - Auditing, Monitoring and Enforcement
Undertake auditing, monitoring and regulatory enforcement to protect the environment and the health, safety and well-being of the community.
- EN6 - Waste Management
Improve waste minimisation and recycling practices in homes, workplaces, development sites and public places.
- EN7 - Sustainable Living
Educate, promote and support low consumption, sustainable lifestyles and lowering of the Shire's carbon footprint.

Economy

Outcomes

1. A strong local economy providing employment and other opportunities.

Strategies

- EC1 - Economic Development
Enhance economic development in Wollondilly Shire through innovative engagement and ongoing promotion of our strengths.
- EC2 - Planning for and Supporting Business
Strengthen and diversify Wollondilly's economic base by attracting and supporting the development of a diverse range of industries.
- EC3 - Manage Growth
Encourage and manage growth to ensure that it contributes to economic well-being.
- EC4 - Managing Development and Land Use
Manage and regulate land use and development in order to achieve a high quality built environment which contributes to economic well-being.
- EC5 - Protect Natural Resources
Protect natural resources so as to contribute to the Shire's economic well-being.

Infrastructure

Outcomes

1. Safe, maintained and effective infrastructure.
2. Access to a range of transport options.

Strategies

- IN1 - Maintain Road Network
Ensure that the road network is maintained to a standard that is achievable within the resources available.
- IN2 - Manage Road Network
Manage the road network to respond to community needs, growth in the Shire, improving road safety and improving transport choices.
- IN3 - Provision of Facilities
Provide a range of recreation and community facilities to meet the needs of the community.
- IN4 - Emergency Management
Plan for and assist in the community's response to emergencies such as bushfires and flooding.
- IN5 - Advocacy and Lobbying
Represent our community with regard to external services including energy, communications, water, waste management and resource recovery.

2.

Environmental Principles

EQUITY

We uphold the principles of intragenerational and intergenerational equity and fairness in how resources are distributed within this generation and between this and future generations.

PRECAUTION

We adopt the precautionary principle which is that actions that have the potential to harm our environment should not be undertaken if the consequences are uncertain and the science inconclusive.

REGENERATION

We work to protect and restore the earth's ecological integrity, biological diversity and natural processes.

ENGAGEMENT

We recognise that sustainability will happen faster if local communities become champions of sustainability and are involved in the decisions affecting sustainability.

SHARING

We will work with others to share resources and knowledge and to promote sustainability.

Social Justice Principles

EQUITY

We will strive for the fair distribution of resources with a particular emphasis on protecting those people who are considered vulnerable.

ACCESS

We will provide all people with opportunities to use relevant services and facilities regardless of their circumstances.

PARTICIPATION

We will encourage and provide opportunities for people to take part in decision making processes that impact on their quality of life.

RIGHTS

People should not be discriminated against and everyone is entitled to honesty, information and involvement.

GOVERNANCE

People deserve responsible governance and fair and accountable decision making.

Committee/Advisory Group Membership List – 2014-2015

COMMITTEES OF COUNCIL	MEMBERS AND DELEGATES	RESPONSIBLE COUNCIL OFFICER	WHEN HELD AND VENUE
ORDINARY COUNCIL MEETING	Mayor Deputy Mayor Full Council	Manager Governance	Meetings held at 6.30pm, 3rd Monday of each month in the Council Chambers.
COMMUNITY FORUM	Mayor Deputy Mayor Full Council	Manager Governance	Meetings held at 6.30pm, 2nd Monday of each month in the Council Foyer - Administration Building. Community Safety on the Agenda quarterly – February, May, August and November.
AUDIT COMMITTEE	Mayor Cr Gibbs	Manager Governance	Meetings held in office hours at the Council Chambers.
AUSTRALIA DAY COMMITTEE	Mayor Cr Hannan Cr Landow	Manager Community Outcomes	Meetings held at 6.00pm in the Council Boardroom as required.
COMMUNITY LEISURE CENTRE USERS ADVISORY GROUP	Cr Mitchell Cr Amato	Manager Infrastructure Planning	Meetings held at 6.00pm, March & September in the Council Chambers.
COMPANION ANIMALS REFERENCE COMMITTEE	All Crs welcome to attend	Manager Compliance	Meetings held at 7.00pm, 2nd Tuesday of February, April, June, August, October & December in the Council Boardroom.
DISABILITY ACCESS ADVISORY COMMITTEE (DAAC)	All Crs welcome to attend	Manager Community Outcomes	Meetings held at 2.00pm, 2nd Wednesday of February, May, August and November in the Council Chambers.
ECONOMIC DEVELOPMENT ADVISORY COMMITTEE	All Crs welcome to attend	Manager Economic Development & Tourism	Meetings held at 4.00pm, 4 th Wednesday of each month in Council's Boardroom.
ENVIRONMENT AND HERITAGE COMMITTEE	All Crs welcome to attend	Manager Environmental Services and Manager Planning	Quarterly.

Committee/Advisory Group Membership List – 2014-2015

COMMITTEES OF COUNCIL	MEMBERS AND DELEGATES	RESPONSIBLE COUNCIL OFFICER	WHEN HELD AND VENUE
LOCAL TRAFFIC COMMITTEE	Mayor Cr Gibbs Cr Amato	Manager Infrastructure Planning	Meetings held at 2.00pm on the third Wednesday monthly, except February, May and August meetings are held on the 4 th Wednesday at 10.00am in the Council Boardroom.
MINERALS AND ENERGY RESOURCES COMMITTEE (NEW)	All Crs welcome to attend	Manager Environmental Services	Quarterly.
PICTON FLOOD PLAIN RISK MANAGEMENT COMMITTEE	Cr Amato	Manager Infrastructure Planning	As required.
ROAD SAFETY GROUP	All Crs welcome to attend	Manager Infrastructure Planning	10.30am, 1st Thursday each month in the Council Chambers..
RURAL INDUSTRY LIAISON COMMITTEE	All Crs welcome to attend	Manager Planning	Meetings held as required in the Council Chambers.
TRANSPORT ADVISORY COMMITTEE	All Crs welcome to attend	Manager Infrastructure Planning	As required.
YOUTH ADVISORY COMMITTEE	All Crs welcome to attend	Manager Community Outcomes	Meetings held quarterly at 6.30pm on the 3rd Tuesday of the months of February, May, August and November in the Council Chambers.

Committee/Advisory Group Membership List – 2014-2015

EXTERNAL COUNCIL COMMITTEES	MEMBERS AND DELEGATES	RESPONSIBLE COUNCIL OFFICER	WHEN HELD AND VENUE
AGL COMMUNITY CONSULTATIVE COMMITTEE	No Councillor member	Manager Environmental Services	As required.
ASSOCIATION OF MINING RELATED COUNCILS COMBINED COUNCILS SOUTHERN MINING LIAISON COMMITTEE	Cr Mitchell Cr M Banasik	Director Infrastructure & Environment	Meetings held February, May, August and November at various venues.
BORAL CEMENT – MALDON PLANT – COMMUNITY LIAISON COMMITTEE	Cr Law	Manager Infrastructure Planning	Meetings held quarterly at various locations.
CAMPBELLTOWN ARTS CENTRE CULTURAL PRECINCT ADVISORY GROUP	Cr M Banasik	Manager Community Outcomes	Meetings held quarterly at Campbelltown Arts Centre.
COUNTRY PUBLIC LIBRARIES ASSOCIATION (SOUTH EASTERN ZONE)	No Councillor Member	Manager Community Outcomes	Meetings held quarterly at rotating host Council locations.
GEORGES RIVER COMBINED COUNCIL COMMITTEE INC	Cr M Banasik	Manager Environmental Services	Meetings held at 7.00pm, 4th Thursday of every second month at various venues.
GREATER SYDNEY LOCAL LAND SERVICES LOCAL GOVERNMENT ADVISORY GROUP	Cr Terry	Manager Environmental Services	Quarterly
HAWKESBURY NEPEAN LOCAL GOVERNMENT ADVISORY GROUP	Cr Gibbs	Manager Environmental Services	Meetings held quarterly at various venues usually Penrith.
ILLAWARRA COAL COMMUNITY CONSULTATIVE COMMITTEE	Cr B Banasik	Manager Environmental Services	Meetings held 4.30pm, last Tuesday of every second month.

Committee/Advisory Group Membership List – 2014-2015

EXTERNAL COUNCIL COMMITTEES	MEMBERS AND DELEGATES	RESPONSIBLE COUNCIL OFFICER	WHEN HELD AND VENUE
JOINT REGIONAL PLANNING PANEL	Mayor General Manager	Manager Planning	As decided by the Panel Chair.
LACHLAN REGIONAL TRANSPORT COMMITTEE	Cr Hannan Cr M Banasik (Alternate)	Director Planning	Meetings held quarterly.
LOCAL EMERGENCY MANAGEMENT COMMITTEE	No Councillor member	Manager Works	Meetings held 6 times per year at various venues.
MACARTHUR REGIONAL ORGANISATION OF COUNCILS (MACROC)	Mayor Cr Terry Cr B Banasik Cr Gibbs	General Manager	Meetings held 7.00pm, on Wednesdays quarterly at Campbelltown, Camden & Wollondilly Councils.
MALDON DOMBARTON RAIL LINK FEASIBILITY STUDY - PROJECT REFERENCE GROUP	Cr Hannan	Director Planning	As required.
MG MY GATEWAY	No Councillor Member	General Manager	Meetings held monthly at Centric, Park Central.
QUEEN VICTORIA MEMORIAL HOSPITAL ADVISORY GROUP	Cr Mitchell	Manager Community Outcomes	As required.
SOUTH EAST AUSTRALIAN TRANSPORT STRATEGY INC. (SEATS)	Cr Hannan	Manager Infrastructure Planning	Meetings held quarterly at various locations.
SOUTHERN HIGHLANDS TEAM - BUSH FIRE MANAGEMENT COMMITTEE	Cr Mitchell Cr Law	Manager Environmental Services	Meetings held at 12.30pm, 1 st Wednesday quarterly, Venue Bridge Street, Picton.

Committee/Advisory Group Membership List – 2014-2015

EXTERNAL COUNCIL COMMITTEES	MEMBERS AND DELEGATES	RESPONSIBLE COUNCIL OFFICER	WHEN HELD AND VENUE
SOUTHERN TABLELANDS REGIONAL ARTS ADVISORY GROUP	Cr M Banasik	Manager Community Outcomes	Meetings held quarterly at Goulburn Council offices.
SOUTH WEST SYDNEY ACADEMY OF SPORT ADVISORY GROUP	Cr Hannan	Manager Infrastructure Planning	Board Meetings held quarterly in Wollondilly, Campbelltown, Camden & Liverpool. Finance Meetings - Bi-monthly UWS.
SOUTH WEST REGIONAL WEEDS COMMITTEE	Cr Law	Manager Environmental Services	Meetings held at 9.00am, 1st Wednesday of March, June, September and December. Various locations South West Sydney.
SYDNEY CATCHMENT AUTHORITY LOCAL GOVERNMENT REFERENCE PANEL	Mayor	Manager Environmental Services	Meetings held at 12.00pm, 1st Monday quarterly.
TAHMOOR COLLIERY COMMUNITY CONSULTATIVE COMMITTEE	Cr Mitchell Staff representative	Manager Environmental Services	Meets quarterly as required at Tahmoor Colliery.
WOLLONDILLY DISTRICT LIAISON COMMITTEE (SLA WITH RFS)	Mayor	Manager Works	Quarterly.
YERRANDERIE MANAGEMENT COMMITTEE	Cr Law	Manager Environmental Services	Meetings held at 6.30pm, 1st Thursday March, June, September and December at The Heritage Centre, The Oaks. 1st Saturday of alternate months - all day Yerranderie.



Planning & Economy

Matters for Consideration – General Under Section 79C(1) of the Environmental Planning & Assessment Act 1979 (EP&A)

“In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) the provisions of:*

 - (i) any environmental planning instrument, and*
 - (ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and*
 - (iii) any development control plan, and*
 - (iiia) any planning agreement that has been entered into under Section 93F or any draft planning agreement that a developer has offered to enter into under Section 93F, and*
 - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*

that apply to the land to which the development application relates,

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) the suitability of the site for the development,*
- (d) any submissions made in accordance with this Act or the regulations,*
- (e) the public interest.*

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday
17 August 2015

Relevance to Community Strategic Plan

RELEVANCE TO COMMUNITY STRATEGIC PLAN – PLANNING AND ECONOMY

The reports contained within this section of the agenda outline actions and activities that contribute to the achievement of the outcomes as outlined in your Community Strategic Plan 2033.

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

PE1 – Development Application No. D525-05 – Alterations and Additions to Existing Commercial Building, to create Eight (8) Ground Level Shops, Nine (9) Units of Shop-top Housing Dwellings over new shops and Landscaping and a Draft Voluntary Planning Agreement (VPA)

PLANNING AND ECONOMY

PE1 Development Application No. D525-05 - Alterations and Additions to Existing Commercial Building, to create Eight (8) Ground Level Shops, Nine (9) Units of Shop-top Housing Dwellings over new shops and Landscaping and a Draft Voluntary Planning Agreement (VPA)

Consultant

D525-05

Planning & Economy



↑
LOCATION MAP N
(Showing zoning of subject property and zoning of adjoining lands/area)

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

PE1 – Development Application No. D525-05 – Alterations and Additions to Existing Commercial Building, to create Eight (8) Ground Level Shops, Nine (9) Units of Shop-top Housing Dwellings over new shops and Landscaping and a Draft Voluntary Planning Agreement (VPA)

DEVELOPMENT INFORMATION

Development Application No:	D525-05
Property Address:	55 - 57 Menangle Street, Picton
Applicant:	J T Consulting Services Pty Ltd
Owner:	J T Consulting Services Pty Ltd
Proposal Details:	Alterations and additions to existing commercial building, to create eight (8) ground level shops, nine (9) units of shop-top housing - being dwellings over the new shops - and landscaping.
Zone:	Wollondilly LEP 2011 - B2 Local Centre Wollondilly LEP 1991 - (applicable) - 3(a) Business.

EXECUTIVE SUMMARY

- David Broyd Consulting Services Pty Ltd (DBCS) has been engaged to advise the Council and to prepare an independent assessment report for this Development Application. The report below is by DBCS Pty Ltd and is an independent assessment of:-
 - (a) The Development Application for alterations and additions to an existing commercial building, to create eight ground level shops, nine units of shop-top housing - being dwellings over the new shops - and landscaping; and
 - (b) The related draft Voluntary Planning Agreement (VPA);
- The application has been called up to Council for determination;
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extends to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application;
- Council is a signatory for the lodgement of the Development Application given Council's ownership in fee simple of St Mary MacKillop Lane and the works required in that lane for:-

PE1 – Development Application No. D525-05 – Alterations and Additions to Existing Commercial Building, to create Eight (8) Ground Level Shops, Nine (9) Units of Shop-top Housing Dwellings over new shops and Landscaping and a Draft Voluntary Planning Agreement (VPA)

- (a) The functioning of traffic access and manoeuvring related to the provision of the proposed garages; and
 - (b) The related impacts of removal of public car parking spaces in St Mary MacKillop Lane;
- This endorsement is documented by Council as being to enable the full assessment of the DA in no way indicates Council's support or otherwise for the application;
 - Nine submissions were received during the second exhibition period (December 2014 / January 2015). All submissions received were objecting to the application in its current form;
 - It is recommended that the application be refused and reasons for refusal are included in the recommendation.

For probity, it is important to advise that while DBCS Pty Ltd has been involved in negotiations and advice about the car parking, covenant for the Civic Plaza and related traffic and parking issues, DBCS Pty Ltd has not played a direct role in the original negotiations of the \$100,000.00 contribution or the preparation of the VPA and its explanatory note.

THE KEY ISSUES

The key issues in determining this Development Application are:-

1. The long standing timeframe - the subject Development Application having been lodged originally in 2005 - and the consequent need to make a determination as soon as it is reasonable to do so;
2. The inappropriateness to determine this crucial Development Application (DA) for this prominently located site in Picton Town Centre on the basis of out-dated legal and policy instruments – being; the Wollondilly Local Environmental Plan 1991 (WLEP 1991), Development Control Plan 7 – Off Street Car Parking, and DCP 27 – Picton Town Centre and also with the gap of there being no Development Contributions Plan applicable for contributions in lieu of physical provision of car parking which is one of the most significant issues in determining this application. (It has to be recognised however, that within this inappropriateness, there are no valid reasons for refusal);

PE1 – Development Application No. D525-05 – Alterations and Additions to Existing Commercial Building, to create Eight (8) Ground Level Shops, Nine (9) Units of Shop-top Housing Dwellings over new shops and Landscaping and a Draft Voluntary Planning Agreement (VPA)

3. Whether the development design - including the garage doors is compatible with the heritage value of the subject site and the Picton Urban Conservation Area;
4. The enabling of investment in and implementation of restoration of one of the most significant items of environmental heritage in Picton Town Centre, i.e. the NAB Bank Building within the subject site;
5. The proposal to retain 224m² of the privately owned subject site which is currently used for public access and as "civic space" / public thoroughfare. There is the question as to whether this is the best location for such "civic space" / public thoroughfare and whether the land value claimed by the proponent, as part of the VPA, to commit to a covenant for a 50 year period to guarantee that public access to this land is an appropriate planning and / or public benefit;
6. Whether the proposed provision for seven garages is adequate for the nine residential units and whether the "trade-off" of nine less public car parking spaces in St Mary MacKillop Lane to enable the seven private garages within the proposed development is acceptable in terms of public and planning costs and benefits;
7. Are the negotiated outcomes contained in the VPA satisfactory and fulfilling the acceptability and public and / or planning benefit tests for a VPA?

BACKGROUND

- On 21 June 2005, Council received Development Application No. D525-05 for "Additions, Extensions, New Shops and Offices"
- On 16 August 2010, the Development Application was reported to Council as "Alterations and Additions to Create New Shops and Offices to Existing Building in Three Stages and Strata Subdivision at 55 - 57 Menangle Street, Picton"
This report recommended refusal of the application on a number of planning grounds. Council deferred the matter for further consultation to address the shortfall in car parking
- On 1 September 2011, Council received amended plans and reports for development described as, alterations and additions to the existing commercial building, to create eight ground level shops, nine units of shop-top housing (dwellings over the proposed shops) and landscaping. The revised Statement of Environmental Effects identified a deficiency in the car parking proposed
- On 19 September 2011, following negotiations between Council and the developer and consequent agreement for a contribution of \$100,000.00 to be paid in lieu of physical provision of car parking, Council's then Development Contributions Co-ordinator formally invited the applicant to prepare a VPA and Explanatory Note to implement that agreement

PE1 – Development Application No. D525-05 – Alterations and Additions to Existing Commercial Building, to create Eight (8) Ground Level Shops, Nine (9) Units of Shop-top Housing Dwellings over new shops and Landscaping and a Draft Voluntary Planning Agreement (VPA)

- On 13 February 2012, Council received the first draft of the VPA and explanatory note. Council, the applicant and both parties' legal representatives commenced reviewing and negotiating the contents and details of the VPA.
- Amendments were made to include garages within the proposed development as clearly, owners / tenants of the residential units should have access to ancillary, secure garaging / parking. The most pragmatic and optimal number of garages was submitted as being seven primarily given site constraints and development feasibility. Consequently, nine car parking spaces would need to be removed from St Mary MacKillop Lane because of access, manoeuvring and safety reasons
- On 28 October 2014, Council received a copy of the VPA and Explanatory Note for public exhibition
- On 30 October 2014, Council's Executive Team endorsed the exhibition and the draft VPA and accompanying Explanatory Note - in conjunction with the amended DA - for a period of 28 days
- Nine objections were received during the exhibition period which was 23 November 2014 to 6 January 2015
- On 18 May 2015, a Status Report on the assessment of the development application was put to the Council Meeting. Council resolved:-
 - That Council note the contents of this report
 - That a Councillor Workshop be scheduled for a briefing provided by the Planning Consultant engaged to undertake the independent assessment
 - A determination report be provided to a future Ordinary Meeting for Council's consideration
- On 6 July 2015, that Councillor Workshop was conducted and the request was made for the Planning Consultant (DBCS Pty Ltd) to undertake the independent assessment to prepare a report for the Council meeting in August 2015.

CONSULTATION

The DA has been placed on public exhibition and notified twice in accordance with Council's relevant Policy, firstly between 25 November to 27 December 2008 in response to which one submission was received, and secondly as an amended DA together with the VPA from 23 November 2014 and 6 January 2015. Nine submissions were received in response to the latter and are summarised below.

PE1 – Development Application No. D525-05 – Alterations and Additions to Existing Commercial Building, to create Eight (8) Ground Level Shops, Nine (9) Units of Shop-top Housing Dwellings over new shops and Landscaping and a Draft Voluntary Planning Agreement (VPA)

DESCRIPTION OF SITE AND SURROUNDING AREA

The subject land is located on the Argyle and Menangle Street intersection, Picton. The site contains two heritage listed buildings, being the former CBC Bank (now known as the former NAB Bank Building) and the former Coach House. These buildings are listed as items of local environmental heritage - Item 1189, Picton under Schedule 5 of the Wollondilly Local Environmental Plan 2011 (WLEP 2011) and Items 29 and 30 respectively in Schedule 1 of Wollondilly LEP 1991.

The site is also within the Picton Urban Conservation Area as identified in WLEP 2011 (Item C2) of Schedule 5 and as Item 38 in Schedule 1 of Wollondilly LEP 1991.

Apart from the buildings, the site contains two mature Silver Poplar trees and a grassed area which is commonly used as an informal public open space area and a pedestrian thoroughfare between St Anthony of Padua Primary School, St Mary MacKillop Lane and Argyle Street.

The site is 1,679m² and is generally regular in shape.

North and directly opposite the site is the Former Post Office and furniture store, which are also items of local heritage significance and listed Items 185 and 186, Picton from Schedule 1 of WLEP 1991.

South of the site are the 'town square' area and then a double storey commercial building that was constructed in the early 1990's. This "town square" is private land under strata title but used by the public.

East of the site is a public car parking area along St Mary MacKillop Lane and the St Anthony of Padua Primary School.

DESCRIPTION OF DEVELOPMENT

Consent is sought for alterations and additions to the existing commercial building comprising the following:-

- Demolition of the amenities block at the southern end of the NAB building;
- Provision of an irregularly shaped, landscaped "civic plaza" at the southern end of the site, providing both visual setback to the Coach House building and an extension to the civic space of the Picton Town Square;
- Construction of eight ground level shops, with two facing Menangle Street, two facing Argyle Street, and four facing the proposed landscaped area;

PE1 – Development Application No. D525-05 – Alterations and Additions to Existing Commercial Building, to create Eight (8) Ground Level Shops, Nine (9) Units of Shop-top Housing Dwellings over new shops and Landscaping and a Draft Voluntary Planning Agreement (VPA)

- Construction of nine residential units (two one bedroom and seven two bedroom units) above the proposed shops - "shop-top" housing but as defined as dwellings above retail and commercial premises in the applicable WLEP 1991.

As described by the applicant, the net floor area of the proposed retail area is 620.7m² and the gross floor area of the residential component is 517.6m². In addition to the residential and commercial components of the development a passive recreation area of 125m² is provided as a roof terrace for use by the residents.

The Statement of Environmental Effects lodged with the application, states that the development generates a need for 31 car parking spaces to meet the parking requirements included in Wollondilly DCP No. 27 - Picton Commercial Area. 621m² of retail area generates the need for 18 spaces and the residential units generate the need for 13 spaces - totalling 31 spaces.

As an alternative to providing these spaces on site, the proponent has agreed:-

- A monetary contribution of \$100,000.00 to Council to provide on street or other public car parking in the vicinity of the site; and
- To embellish the landscaped area described above to Council's satisfaction and made available for public use for a period of 50 years - as committed in a covenant.

ASSESSMENT IN ACCORDANCE WITH SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT

PROVISIONS OF RELEVANT STATE ENVIRONMENTAL PLANNING POLICIES

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

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Comment:

The proposal is supported by an ABSA Assessor Certificate for the proposed development (ABSA Certificate No. 20860, issued 17 June 2011).

State Environmental Planning Policy No. 55 – Remediation of Land

There is no evidence on file to suggest that previous uses of land have resulted in ground contamination. A site visit did not reveal any visual evidence of contamination or potential sources of contamination. No further assessment and / or reporting is required.

Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River

In terms of the aims, Planning Policies and recommended strategies of this Plan:

- *The closest intermittent watercourse is located approximately 208 metres north east of the subject land. The closest perennial stream is located approximately 94 metres south (Stonequarry Creek);*
- *All stormwater generated from the site could be disposed of into Council's stormwater infrastructure and not directly into any watercourse;*
- *If the application were recommended for approval, conditions of consent would be recommended to ensure compliance with the provisions of the plan to ensure there will be no adverse impacts upon the receiving waters of the Hawkesbury Nepean River.*

WOLLONDILLY LOCAL ENVIRONMENTAL PLAN 2011 (WLEP 2011)

Economic Feasibility of the Proposed Development

The proponent amended the DA in 2011 on the basis that offices / commercial development was not viable. The proponent commissioned an Economic Feasibility Report (John Graveur, Certified Practising Valuer) which was submitted to Council in March 2015.

The main findings at the time of that report being submitted were:-

- There are a total of 136 commercial premises in Picton, 23 or 17% of which were vacant;
- In the Main Street / mall there were 83 commercial premises, 9 or 11% of which were vacant;
- "Off the main Street, there were 42 commercial premises, 10 or 24% of which were vacant;
- At the first floor level, there were 11 commercial premises in Picton, 4 or 37% were vacant.

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The main findings at the time of that report in relation to shop top housing being submitted were:-

- There were 20 such residences in Picton, with 0% vacant; and
- About 50 such residences in the Shire, with 1 or 2% vacant.

The conclusions in that report are:-

- In Picton, both the historical and current demand for "shop top" housing is higher than for first floor commercial office space;
- A vacancy rate is higher for first floor commercial office space at 35% as compared to "shop-top" housing which varies month to month in a range of 0 to 2.5%;
- Ales values are higher for "shop-top" housing than commercial development;
- Costs of finance are higher for commercial premises than shop-top housing;
- Development viability is of no or very limited weight as part of development assessment. The sample to reach the conclusion that first floor commercial premises has a high vacancy rate is low at 11 premises with four being vacant. Nevertheless, this report is taken as a valid assessment of economic viability;
- The development feasibility is not a merit-based issue for Council. Commercial premises on the first floor, while considered the preferred outcome, are accepted as not feasible at this stage.

Clause 1.8A of Wollondilly Local Environmental Plan 2011 (WLEP 2011) prescribes the savings provision relating to development applications. Clause 1.8A states as follows:-

"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."

On 23 February 2011, the WLEP 2011 was published on the NSW Legislation website and commenced. The relevant local environmental plan which was in force prior to the coming in to force of WLEP 2011 was the Wollondilly Local Environmental Plan 1991 (WLEP 1991) and, given Clause 1.8A, this is the applicable LEP for the assessment of this development application.

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WOLLONDILLY LOCAL ENVIRONMENTAL PLAN 1991 (WLEP 1991)

Aims and Objectives

Clause 2: Aims and Objectives - these are advised below together with related comments regarding implications for this DA.

Objective	Comment
(d) to conserve the environmental heritage of the Shire of Wollondilly, and	This is crucial to the assessment. It is concluded that the DA does not meet this objective.
(e) to integrate heritage conservation into the planning and development control processes, and	This assessment has been undertaken on this basis. The design, bulk and scale of the development is, in the opinion of Council's Heritage Advisor, inconsistent with the streetscape character of the Picton Urban Conservation Area.
(f) to provide for public involvement in the matters relating to the conservation of the Shire of Wollondilly's environmental heritage, and	The proposal has been notified in accordance with the relevant development control plans.
(g) to ensure that new development is undertaken in a manner that is sympathetic to and does not detract from the significance of heritage items and their settings, as well as the streetscapes and landscapes of Picton and Thirlmere and the distinctive character that they impart to the Shire of Wollondilly, and	This assessment has been undertaken on this basis. The design, bulk and scale of the development is, in the opinion of Council Heritage Advisor, inconsistent with the streetscape character of the Picton Urban Conservation Area.
(h) to ensure that development does not compromise the protection and maintenance of water quality within water supply catchment areas, and	As the development site is not located within a water supply catchment area, it is considered that the development would not have an impact upon water quality with a water supply catchment.
(p) to provide for a diversity of well-located housing types within the local government area of Wollondilly.	The proposal provides additional dwellings in a highly accessible location in the Picton Town Centre.

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Definitions

Characterisations of the proposed development in terms of definitions applicable in WLEP 1991 are: "Commercial premises" and "multiple dwelling".

"Commercial premises - means a building or place used as an office or for other business or commercial purposes, but does not include a building or place elsewhere specifically defined in this clause or a building or place used for a purpose elsewhere specifically defined in this clause."

"Multiple dwelling - means two or more dwellings on an allotment of land, but does not include a dwelling-house that contains a granny flat."

"shop means a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials, but does not include a building or place elsewhere specifically defined in this clause, a building or place used for a purpose elsewhere specifically defined in this clause."

Zoning and Zone Objectives

The applicable zoning is WLEP 1991 in 3(a) (Business) and the land use table to the 3(a) (Business Zone), Item 4 identifies forms of development that are prohibited. "Dwellings and multiple dwellings" are prohibited "other than dwellings or multiple dwellings erected in conjunction with shops or commercial premises".

Zoning of land: 3(a) (Business Zone)
 Permissibility: Yes - with development consent

Zone objectives are set out below with comments in terms of implications for this DA.

Objectives	Comments
3(a) Business Zone	
(a) to focus and consolidate retail and business development in accessible locations, and	The proposal will provide additional commercial floor space in a highly accessible location in the Picton Town Centre. Consideration has been given to disability access and proximity to public transport. However, the removal of one disabled car parking space is proposed to be removed without compensatory provision.

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Objectives	Comments
<p>(b) to promote the amenity and efficiency of business commercial centres, and</p>	<p>The proposal provides additional commercial premises in the core of Picton Town Centre, includes restoration of the main heritage building and good visual context for the Coach House.</p> <p>However, the removal of the nine public car parking spaces from St Mary MacKillop Lane is a detraction from efficient access by customers to existing businesses.</p> <p>The development would not have an impact on the amenity of the existing built form with the existing NAB building remaining largely unaltered.</p> <p>However, as car parking for the commercial component of the development would not be provided and only seven secure garage car parking spaces are to be provided for residents, it is anticipated that the development would have an impact on traffic efficiency in the commercial and business centre.</p>
<p>(c) to ensure that there is adequate provision for car parking facilities in the vicinity of commercial centres.</p>	<p>The development would require the provision of 31 parking spaces. Seven secure garages are proposed at the rear of the proposed development with access to St Mary MacKillop Lane.</p> <p>Residential units should have ancillary car parking and if car parking standards are applied at the rate included in the applicable DCP 7: Picton Off-Street Car Parking, then 13 such secure parking spaces should be provided.</p> <p>The proposed seven secured garages would result in the loss of nine car parking spaces on St Mary MacKillop Lane.</p> <p>As an alternative to providing these spaces on site, the applicant has offered a monetary contribution of \$100,000.00 to Council to provide on street or other public car parking in the vicinity of the site. (i.e. Walton Street car park); the costs for which are offset by the land value and embellishment of 224m² of landscaped area (to Council's satisfaction) and commit to make availability for public use for a period of 50 years by a covenant.</p>

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Relevant Wollondilly LEP 1991 Clauses

Clause	Comment
Part 3 Special provisions	
20 Development within proclaimed mine subsidence district	The land is within a proclaimed mine subsidence district and the approval of the Mine Subsidence Board (MSB) for the proposed development has been obtained.
27 Tree Preservation	The Tree Preservation Order (TPO) relating to land zoned 3(a), stipulates that a person may not remove any tree without the consent of Council, with the exception of trees that are dead, dying or dangerous. The proposal includes the removal of the Prunus and Poplar trees. The trees are not identified as forming part of the environmental heritage on the site.
29 Development along arterial roads (1) The Council shall not consent to an application for consent to carry out development on land which has frontage to an arterial road unless: (a) access to that land is provided by a road other than the arterial road, wherever practicable, and (b) in the opinion of the council, the safety and efficiency of the arterial road will not be adversely affected by: (i) the design of the access to the proposed development, (ii) the emission of smoke or dust from the proposed development, or (iii) the nature, volume or frequency of vehicles using the arterial road to gain access to the proposed development.	 The subject land has frontage to two arterial roads. There are no other streets to gain access to the land. Access to the site is mainly proposed to be provided to and from St Mary MacKillop Lane. The design of the access to the proposed development, the nature, volume and frequency of vehicles using the arterial road to gain access to the proposed development will in the opinion of NSW Transport: Roads and Maritime Services have a detrimental effect on the safety and efficiency of the arterial road with specific reference to Menangle Street and St Mary MacKillop Lane.
30 Heritage items The Council must not grant consent to a development application required by this clause unless it has	The overall architectural treatment, bulk and scale are considered by Council's Heritage Consultant to have the potential to adversely

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Clause	Comment
<p>taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the item and any stylistic or horticultural features and its setting.</p>	<p>impact on the heritage values of heritage items on the site, the Picton Town Centre and heritage values of the Picton Conservation Area.</p> <p><i>The Heritage Consultant has raised concerns with the design of the building as follows:-</i> "Heritage impact of bulk and scale</p> <p><i>The design presents an unacceptable bulk in the new building and insufficient separation of the new building from the original. The facades of the new development will present to the street as two storey high vertical walls";</i></p> <p>"Argyle Street frontage</p> <p><i>There is a lack of depth in the façade to Argyle Street. The development will present to the street as flat façade. There is a lack of recess to clearly separate the slate roofed original building from the metal roofed new building. The applicant's amended plans provide minimal setback for the Argyle Street frontage and are not considered to provide sufficient depth";</i></p> <p>"St Mary MacKillop Lane frontage</p> <p><i>The St Mary MacKillop Lane frontage is unacceptable.</i></p> <p><i>The visual impact of the proposed garage doors has a real potential to impact on the heritage significance of the heritage items on the site and in the vicinity".</i></p>
<p>31 Development in the vicinity of heritage items</p> <p>The Council must not grant consent to an application to carry out development on land in the vicinity of a heritage item unless it has made an assessment of the effect the carrying out of that development will have on the heritage significance of the item</p>	<p>There are other buildings of local heritage significance to the shire in the visual catchment of the subject site. These buildings are the Former Post Office and furniture store, which are listed as items of environmental heritage (Items 31 and 26 respectively), Picton under Schedule 1 of the WLEP 1991.</p>

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Clause	Comment
and its setting.	Council's Heritage Advisor has advised that the proposal has potential to impact on the heritage values of heritage items on the site, the Picton Town Centre and heritage streetscapes of the Picton Conservation Area.
32 Heritage Conservation Areas: A person must not, in respect of a heritage conservation area: (a) demolish or alter a building or work within the area, or (b) damage or move a relic within the area, or (c) excavate for the purpose of exposing a relic within the area, or (d) damage or despoil a place within the area, or (e) erect a building on or subdivide land within the area, except with the consent of the Council.	The proposal is located in the Picton Urban Conservation Area, which is listed as Item 38, Picton under Schedule 1 of the WLEP 1991; While the clause is self-explanatory, it does emphasise the crucial need to achieve compatibility of the development outcome of the subject site with the Picton Urban Conservation Area.
Conservation incentives 35 Conservation incentives	The developer clearly has intentions to invest in the former CBC building to restore its heritage values. The proposed design of the development will have significant impacts on the heritage values of adjoining buildings and the Picton Urban Conservation Area. Public car parking will be lost. The exclusions enabled by this clause are recommended not to be applied.
36 Land subject to bushfire hazards The Council shall not consent to subdivision of or to the erection of a building on the land to which this plan applies which, in the opinion of the Council is subject to bushfire hazards, unless it has made an assessment of:	The proposal is for the erection of a building to which this plan applies. The land is identified on the current bushfire planning maps as bushfire prone land. The proposal is not integrated for the purposes of the s91 of the EP&A Act, being a development requiring a bush fire safety authority under S100B of

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Clause	Comment
(a) whether adequate provision has been made for access to the land for fire fighting vehicles, fire breaks, reserves and fire radiation zones, and	the Rural Fires Act 1997. Adequate access to the site is provided for fire fighting vehicles, fire breaks, reserves and fire radiation zones. Complies.
(c) the design of any proposed dwelling-house in relation to bushfire hazard.	The bushfire threat posed to the subject site is not considered to be significant and does not warrant additional design or material requirements to ameliorate against the threat of bushfire.

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ENVIRONMENTAL PLANNING AND ASSESSMENT MODEL PROVISIONS 1980

As the DA is being assessed under WLEP 1991, these model provisions apply.

Relevant Provisions	Comment
12 Land used for commercial or industrial purposes	The subject site has direct frontage to two arterial roads. If the application were recommended for approval, conditions of consent would be recommended to require that the land between the road frontage and the buildings, shall not be used for the storage, sale or display of goods or for advertising purposes without the consent of the consent authority.
13 Off street loading etc. facilities (1) Subject to this clause, the consent authority shall not consent to the erection or use of any building on land zoned for commercial or industrial purposes unless provision is made within the site area for loading and unloading facilities satisfactory to the consent authority.	Currently the loading / unloading of goods to service the existing building (unoccupied), occurs from both the street and from St Mary MacKillop Lane to the east of the site. The proposal shall include provision for the loading and unloading of goods to be undertaken wholly within St Mary MacKillop Lane. Council's Development Engineer has considered the proposed loading and unloading facilities and considers the arrangements satisfactory subject to

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Relevant Provisions	Comment
<p>(2) If a building referred to in subclause (1) has access to a rear lane, the loading and unloading facilities shall be provided from that lane unless the consent authority is satisfied that the lane is inadequate for the purpose.</p> <p>(3) This clause does not apply to development being minor alterations to an existing building if, in the opinion of the consent authority, the size and shape of the land having regard to existing buildings render the provision of facilities in accordance with this clause impracticable.</p>	<p>recommended conditions.</p> <p>A centralised bin storage location is proposed to the rear of the existing Coach House including six shared residential bins and two bins for use by the commercial tenants. The storage area shall be secured and a key to the storage area shall be provided to the Council waste collection officers. Satisfactory.</p> <p>The loading and unloading of goods from Menangle or Argyle Streets is not satisfactory. The loading and unloading of goods from the shared zone on St Mary MacKillop Lane has been considered by Council's Development Engineers and is satisfactory subject to recommended conditions.</p> <p>N/A. The alterations are not of a minor nature.</p>
<p>34 Flood prone land</p> <p>(1) A person shall not erect a building or carry out a work on land within a flood prone area without the consent of the consent authority.</p> <p>(2) The consent authority may, as condition of its consent, require the floor of the building or work to be erected at a height sufficient, in the opinion of the consent authority, to prevent or reduce the incidence of flooding of that building or work or of adjoining land.</p>	<p>The subject site is partially affected by the 1% AEP flood event within the Stonequarry Creek catchment.</p> <p>The proposed ground floor is below the 1% AEP but does meet the lower minimum floor requirement for commercial uses. The upper floor meets the minimum floor level requirement (500mm above the 1% AEP flood) for residential development but the parking does not achieve the 500mm freeboard height required.</p> <p>The development cannot achieve the required minimum floor level for the residential parking without major re-design and the road access cannot be raised to allow for the redesign of the development to</p>

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Relevant Provisions	Comment
	meet this requirement. Hence, conditional consent would mean acceptance of social and economic benefits outweighing this non-compliance.

PROVISIONS OF RELEVANT DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)

There are no draft EPI's applicable.

PROVISIONS OF RELEVANT DEVELOPMENT CONTROL PLANS

The transitional arrangements as part of the adoption of Wollondilly Development Control Plan 2011 included the following statement with regard to Development Applications lodged prior to that adoption:-Relevant clauses in DCP 2011 (as amended in December 2014) are:-

Clause 1.4: Savings Provisions – This plan does not apply to any Development Application or application for a modification to a Development Application submitted under Section 96 of the Environmental Planning and Assessment Act (EP&A Act) 1979 that was lodged prior to the date of the plan coming into effect.

The DCP 2011 repealed the following DCPs and relevant Council planning related policies from the date of its implementation “except as they apply to existing Development Applications or modifications”.

- Development Control Plan No 7 – Off-street Car Parking
- Development Control Plan No 25 – Commercial Development
- Development Control Plan No 27 – Picton Commercial Centre
- Development Control Plan – Notification and Advertising of Development Applications

It is concluded therefore that Clause 1.4 in DCP 2011 provides that this subject DA, originally lodged in 2005, must be assessed under the relevant DCPs and Council planning related policies applicable at the time and prior to the adoption of DCP 2011 and the adoption of the amendments to DCP 2011 in December 2014.

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DEVELOPMENT CONTROL PLAN No.7 – OFF-STREET CAR PARKING (DCP 7) - As AMENDED 5 AUGUST 1998

Objectives

The objectives of this DCP are:-

- To ensure that sufficient off-street car parking is provided with developments taking into regard existing on-street and public parking areas;
- To ensure that parking areas and access ways are constructed in such a manner as to provide a smooth trafficable surface, to avoid conflict between pedestrians and vehicles, and to ensure adequate manoeuvring space and entry to facilities;
- To outline an appropriate level of contribution for the provision of parking which cannot be provided on-site;
- To ensure that private off-street car parking is not provided in commercial centres where accessible public car parking areas are already provided, and to outline and allow for a suitable level of contribution.

Car Parking Standards

Off-street car parking requirements contained in DCP 7 include:

- Commercial premises and offices - One space per 35m² of net floor area;
- Residential units - One space per one bedroom unit, one and a half spaces per two bedroom unit;

Consequently:

▪ Retail Area (net) = 621m ² ÷ 35m ²	= 18 spaces
▪ 2 x 1 Bedroom Units	= 2 spaces
▪ 7 x 2 Bedroom Units	= 11 spaces
TOTAL:	= 31 spaces

DCP 7 for off-street car parking is aimed to optimise opportunities for consolidated and accessible retail and commercial development within the Picton Town Centre by requiring and enabling larger car parks to be constructed in the vicinity of the town centre and the contributions in lieu of physical provision of car parking for retail and commercial development.

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However, there is no relevant Development Contributions Plan under section 94 of the *Environmental Planning and Assessment Act 1979* (as amended) to enact this and therefore there is no legal basis for Council to require contributions to be made in lieu of physical provision of car parking in the Picton commercial centre.

DCP 7 was also directed at retail and commercial development only and did not incorporate provisions for dwellings in the town centre above retail and commercial development (“shop-top housing” in WLEP 2011). The DA in for this site as originally amended in 2011 incorporated nine units as “shop-top housing” without any proposed provision of garages or dedicated car parking spaces. This is considered totally inappropriate in terms of accessibility by unit owners / tenants, security of vehicles owned by owners / tenants of the units, and would be a very poor planning outcome if car parking spaces were provided for the owners / tenants in a separate location.

Hence by negotiation, re-design was undertaken by the proponent to incorporate seven garages into the proposed development – but still providing only seven of the thirteen (13) car parking spaces required by such residential units – one space is required for each one bedroom unit and two spaces are required for each of the seven proposed two bedroom units. Additionally, nine public car parking spaces will have to be removed from St Mary MacKillop Lane to enable access and safe manoeuvring of vehicles in and out of these proposed seven garages. These nine (9) public spaces are in a long standing highly accessible location in proximity to the town centre and the school and their removal has been subject of significant objection.

Relevant Provisions in DCP 7

Relevant Provisions	Comment
5 Design of Car Parking Areas	
5.1 Layout and Design	
Layout and design of off-street car parking areas shall be constructed / designed to a standard as outlined in Council's Construction and/or Design Specification and Australian Standard 2890.1 Part 1 – Car Parking Facilities.	In the event that consent is granted, the proposed garages will need to be constructed / designed to a standard as outlined in Council's Construction and / or Design Specification and Australian Standard 2890.1 Part 1 – Car Parking Facilities. Complies.
Parking areas are to be accessible to the public at all times.	The proposed garages are for the private use of the residents of the development. Public access is therefore not appropriate.

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Relevant Provisions	Comment
<p>5.2 Construction</p> <p>Parking spaces and access driveways are to be constructed, paved, line marked, signposted and maintained to the satisfaction of the Shire Engineer.</p>	<p>If the application were recommended for approval, conditions of consent would be recommended so that the proposed garages and alterations to the parking layout on St Mary MacKillop Lane comply with all construction, line marking and signposting requirements.</p>
<p>5.3 Signposting</p> <p>Parking areas shall be sign posted with standard signs and have “entry” and “exit” signs where appropriate to Council’s satisfaction.</p> <p>Parking spaces and paths of travel for access for the disabled shall be signposted to the satisfaction of the Shire Engineer.</p>	<p>Access to Mary MacKillop Lane is currently appropriately signposted.</p> <p>If the application were recommended for approval, conditions of consent would be recommended for additional signposting to the external of the garages may be required to prohibit parking outside of the garages at all times.</p> <p>If the application were recommended for approval, appropriate conditions of consent would be recommended.</p>
<p>5.4 Entry and Exit to Site</p> <p>The driveways and on-site arrangements are to be such that vehicles drive in a forward direction entering and leaving the site.</p>	<p>Entry to and from the proposed secured garages on St Mary MacKillop Lane cannot be achieved through entering and leaving the garages in a forward direction.</p>
<p>6. Contribution In Lieu of Parking</p> <p>6.1 Criteria:</p> <p>Generally car parking will be required to be provided on site with all developments in accordance with the requirements of this plan. There are, however, a number of commercial areas in the Shire where Council will require or may accept a contribution in lieu of providing off-street parking. These areas are in the villages of Picton, Tahmoor, Thirlmere, Warragamba, The Oaks and Oakdale. Council is at present carrying out studies of all of these areas to determine which</p>	<p>See Section below on the VPA for relevant analysis.</p>

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Relevant Provisions	Comment
sites are identified. At present requests for a contribution in lieu of providing parking in these areas will be assessed on their merits.	
<p>6.2 Cost of Contribution</p> <p>The cost of the contribution is determined on both the land content and construction costs to Council involved in providing parking. The land content is assessed at the current market value of commercial land in that vicinity. (NOTE: The area per car space is calculated at total area of proposed Council car park divided by number of designated car spaces).</p> <p>Construction costs include the cost of designing, drainage, paving, line marking, signposting and landscaping. The total cost is determined by Council on an annual basis.</p>	See Section below on the VPA for relevant analysis.
<p>7. Other Requirements</p> <p>7.1 Calculation of Spaces Where the calculation of the parking required results in a fraction, the requirement will be taken to the nearest whole number.</p>	Noted and applied in this case.
<p>7.2 Landscaping</p> <p>A detailed landscaping plan is required for all car parking areas in conjunction with the development application.</p>	The application is supported by a site plan indicating the location of all proposed landscaping. If the application were recommended for approval, conditions of consent would be recommended requiring a landscape plan being submitted for approval prior to the release of the Construction Certificate.

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Relevant Provisions	Comment
<p>7.3 Disabled Driver Car Parking</p> <p>A minimum of 1 space per 100 car spaces is to be made available for disabled driver car parking. If less than 100 spaces are provided then at least 1 space is to be made available. This space is to be clearly marked and identified, and provided as close as practicable to shop entrances. The width of the space is to be at least 3.0 metres.</p>	<p>No disabled car parking is proposed. The proposed garages are for the exclusive use of the residents of the proposed dwellings. No garage is capable of being adapted for use a disabled person car parking space.</p> <p>Furthermore, the proposed development will result in the removal of one disable person's car parking space in St Mary MacKillop Lane.</p>
<p>7.4 Loading Bays</p> <p>These shall have dimensions to suit the type of vehicle servicing the development, with absolute minimum dimensions of 6.0 x 3.0m.</p>	<p>A shared loading area located on St Mary MacKillop Lane is proposed. Despite the non-compliance the proposed loading and unloading arrangements are considered to be satisfactory (subject to appropriate conditions).</p>

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DEVELOPMENT CONTROL PLAN No. 27 – PICTON COMMERCIAL AREA (DCP27) - AS AMENDED MARCH 2000

DCP 27 Objectives

- (i) To ensure that the aesthetic appearance, scale, height and design of commercial buildings is compatible and harmonious with existing development, especially in relation to the historic and 'main street' character of Picton;
- (ii) To provide controls which generally improve access for motorists and pedestrians to parking and shopping areas;
- (iii) To ensure that an adequate amount of off-street car parking is provided;
- (iv) To encourage more efficient usage and development of commercial sites;
- (v) To provide for pedestrian comfort and amenity; and
- (vi) To ensure that developments shall provide sufficient area for loading and unloading of goods, garbage collection and septic waste collection. Garbage and septic waste collection points are to be located in such a way that they allow for easy removal of waste materials.

The visual impact and compatibility with existing development have seen issues subject of advice from Council's heritage advisor and from some objections in response to the public exhibition of the Development Application in December 2014 and January 2015. Essentially the heritage advisor is stating that:-

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- a) The proposal represents an over development of the site and is highly incompatible with the existing heritage character in the Picton Urban Conservation Area;
- b) The “articulation” of the proposed extensions and alterations are inconsistent with the existing building;
- c) The proposal for the garages and in particular the design of the garage doors are completely incompatible with the

Relevant Provisions	Comment
4. Standards	
4.2 Flooding Much of the Picton commercial area is affected by flooding. All development is to take into account the controls contained in Council’s policies regarding flooding. Land which forms part of the primary floodway area and therefore further development is not permitted. The primary floodway areas is shown in Map 1 of DCP 27.	The subject site is partially affected by the 1% AEP event within the Stonequarry Creek catchment.
4.3 Car Parking/Rear Access A number of off street public car-parks exist in Picton. These car-parks along with the areas they are intended to service, are identified on Map 1. Generally no public car parking will be permitted on commercially zoned land in these areas, although private car parking areas may be permitted.	The \$100,000.00 contribution is intended to be applied to the car parking provision in Council's Walton Lane car park. There is no contribution plan in place nominating the monetary contribution rate for parking within the shire. Section 6 of DCP 7 provides the mechanism only for calculating the rate of monetary contributions in lieu of parking spaces onsite. The applicant has offered to enter into a VPA in lieu of providing on-site car parking. The cost of constructing each car space will be approximately \$9,855.00, with the result that the cost of constructing 31 car spaces will be approximately \$305,505.00.
4.4 Scale of Development/Height and Site Coverage Restrictions All commercial developments are to be harmonious in terms of their	The FSR for the proposed development is

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Relevant Provisions	Comment
<p>size, scale and bulk with surrounding properties and the general area in which they are located. There is no restriction on the height of buildings.</p> <p>The maximum site coverage is 100%, however this will not be achievable in areas where off street car parking is required. The floor space ratio of commercial development is not to exceed 2:1.</p>	0.72:1
<p>4.5 Building Setbacks</p> <p>There is no formal building setback line, however the siting of buildings is to be harmonious with the existing streetscape of Picton.</p>	<p>The development would continue to be staggered along the Menangle Street setback.</p> <p>Along Argyle Street, the proposed alignment shall follow the existing setbacks to the wall and a verandah is proposed on the additional building.</p> <p>The verandah would generally be located between zero setback and 0.5 metres from Argyle Street.</p> <p>On the eastern property boundary, the building would be located on a zero lot line setback. Complies.</p> <p>A minimum 3 metre setback is provided to the Picton Town Square.</p>
<p>4.6 Landscaping</p> <p>Landscaping of car parking areas is to be designed and carried out in accordance with Development Control Plan No.7 – Off Street Car Parking.</p>	<p>If the application were recommended for approval, conditions of consent would be recommended requiring a landscape plan being submitted for approval prior to the release of the Construction Certificate.</p>
<p>4.7 Awnings</p> <p>Awnings are to be provided on the street frontages shown on Map 1. This is to provide adequate protection from weather elements to pedestrians.</p>	<p>It is considered that the proposed awning treatments along Menangle and Argyle Streets are satisfactory with regard to the requirements of the plan.</p>

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Relevant Provisions	Comment
<p>4.8 Disabled Access</p> <p>Disabled access is to be provided to all commercial areas from pedestrian and car parking areas.</p>	<p>The ground floor is universally accessible. There is no provision for access to the residential areas above ground floor. Complies.</p> <p>There is also no provision for the replacement of the disabled car parking space that will have to be removed for the safe access and manoeuvring to the garages as part of the proposed development.</p>
4.9 Solar Access	The subject site does not adjoin residential development and / or private open space areas.
4.9 Fencing	No additional fencing proposed. The existing 'spear' fencing to the NAB Building shall be retained.
4.10 Servicing	<p>The bin disposal area shall be secured and centrally located at the rear of the former Coach House building with direct access to the Council car parking area on St Mary MacKillop Lane.</p> <p>Loading and unloading is proposed to be carried out in the shared loading and unloading zone on St Mary MacKillop Lane, immediately east of the subject land.</p>

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DEVELOPMENT CONTROL PLAN No. 46 – MANAGEMENT OF CONTAMINATED LANDS (DCP 46)

The provisions of DCP 46 have been addressed as part of the SEPP 55 assessment of the proposal. No additional reports or remediation work is considered necessary for the intended use of the site.

WOLLONDILLY DEVELOPMENT CONTROL PLAN No. 50 - RESIDENTIAL DEVELOPMENT (DCP 50)

This DCP applies to all residential development in the 2(a) (Residential “A”), 2(d) (Residential “D” Village) zoned land in the Shire, and residential development in land zoned 3(a) (Business Zone) pursuant to Wollondilly Local Environmental Plan 1991.

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Relevant Provisions	Comment
<p>2. Objectives</p> <p>(a) ensure that development enhances the existing character and amenity of the towns and villages of Wollondilly;</p> <p>(b) create residential areas which support a range of well located housing types;</p> <p>(c) encourage development which enhances the streetscape and which minimises the impact on the amenity of adjoining properties;</p> <p>(d) encourage the principles of ecologically sustainable development and innovation in housing design;</p> <p>(e) ensure that development does not have a negative effect on rivers, creeks and riparian areas;</p> <p>(h) to build better communities by integrating new and existing housing;</p>	<p>Shop-top housing which is essentially the proposal contained in the amended Development Application is not defined as part of WLEP 1991 which is the applicable LEP for the assessment of this Development Application. The relevant definition is therefore “dwellings above retail and commercial premises”.</p> <p>The proposal embodies restoration of the existing building to the benefit of retaining and enhancing heritage character in Picton. The "shop-top housing" is well located but will have adverse effects on adjoining properties because of negative traffic and parking impacts</p>
<p>5. General Controls</p> <p>5.1 Bushfire Protection</p>	<p>The land is identified on the current bushfire planning maps as bushfire prone land. The proposal is not integrated for the purposes of the s91 of the EP&A Act, being a development requiring a bush fire safety authority under S100B of the Rural Fires Act 1997.</p> <p>The bushfire threat posed to the subject site is not considered to be significant and does not warrant additional design or construction requirements to ameliorate against the threat of bushfire. Complies.</p>
<p>5.3 Housing Type</p>	<p>The proposed shop-top housing shall be integrated with the commercial premises and are located on land serviced by a reticulated sewerage scheme. The proposal is limited to</p>

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Relevant Provisions	Comment	
	two storeys in height. Complies.	
5.4 Site Area and Dimensions	N/A.	
5.5 Density	N/A.	
5.6 Setbacks	The proposed setbacks have been designed to comply with the requirements of the Building Code of Australia. Complies.	
5.7 Private Open Space	8m ² balconies are proposed to be provided to each unit with an additional 125m ² of common open space on the roof top terrace. Separate outdoor drying facilities are provided. Complies.	
5.8 Parking & Access	<p>The car parking required for the proposed nine units are as follows:-</p> <p>7 x 2 bedroom dwellings = 11 spaces 2 x 1 bedroom dwellings = 2 spaces</p> <p>Required resident car parking = 13 spaces</p> <p>Provided = 7 spaces - with one apparently being used for trailer storage</p> <p>The proposal for the "shop-top housing" is deficient six residential car parking spaces.</p> <p>The applicant has offered to enter into a VPA in lieu of providing additional car parking on-site.</p>	
5.9 Building Height	<p>The maximum height of a building at any point shall not exceed 7.2 metres</p> <p>A dwelling shall not exceed a maximum of two storeys.</p> <p>The height of the ridge shall not exceed 9.5 metres from the natural or finished ground level (whichever is greater) directly below</p>	<p>The proposed development exceeds 7.2 metres.</p> <p>The proposal presents as a two storey development. Complies.</p> <p>The ridge height of the building does not exceed 9.5 metres from natural ground level. Complies.</p>
5.10 Access and Mobility	The ground floor is universally accessible. There is no provision for access to the residential areas above ground floor. Complies.	

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Relevant Provisions	Comment
<p>5.11 Landscaping</p>	<p>On-site landscaping proposed. If the application were recommended for approval, conditions of consent would be recommended requiring a landscape plan being submitted for approval prior to the release of the Construction Certificate. Complies.</p>
<p>5.12 Streetscape</p> <p>Buildings adjacent to a public street must address the street by providing entries that are readily apparent from the street.</p> <p>The front façade of buildings shall be softened by the use of verandahs, balconies or wall offsets.</p> <p>Garages, and driveways shall be designed and located to not dominate the street by:</p> <ul style="list-style-type: none"> minimising the frontage width of garages and driveways; and ensuring that roof form and materials complement that of the associated dwelling and the character of the locality. <p>Buildings shall be designed to overlook streets and public/private open space areas, with at least one habitable room window overlooking such area.</p>	<p>Entry to the commercial tenancies and resident lobby is readily apparent from the street.</p> <p>The proposal makes use of balconies and wall offsets to soften the Menangle and Argyle Street facades.</p> <p>The proposed garages present to St Mary MacKillop Lane and are in the opinion of Council's Heritage Advisor, incompatible with the heritage values of the locality.</p> <p>The design of the residential units provides passive surveillance opportunities of the rear lane, public streets and the Picton Town Centre.</p>
<p>5.13 and 5.14 Heritage and Visual Amenity and Design</p> <p>Dwellings shall be designed to enhance the existing character of the streetscape having due regard to building form, scale and proportions.</p> <p>Colours and materials shall reflect the immediate neighbourhood and shall be non-reflective.</p>	<p>Some aspects of the building and site design have positive merit but certain aspects present significant incompatibilities and detract from rather than enhance existing character, heritage values and good urban design outcomes reference the advice of Council's Heritage Advisor.</p>

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Relevant Provisions	Comment
<p>Significant buildings and vegetation are to be retained where practicable. Dwellings shall address (i.e. face towards) public streets and public places. Building facades or secondary facades shall incorporate elements within the roof and wall to create an articulated appearance.</p> <p>Buildings are to have a maximum unarticulated wall length of 5m to street frontages and front elevation (i.e. on battleaxe allotments).</p> <p>Unrelieved side walls for dwellings shall have a maximum length of 12m.</p> <p>Articulation is to consist of modulation together with punctuation by windows, verandahs, balconies and the like. Roof form is to be varied to provide variety.</p> <p>Garages shall not visually dominate the front façade.</p> <p>Any fencing forward of the building line shall not exceed 1.2m and shall be decorative (e.g. picket, open style or masonry).</p> <p>On corner allotments secondary street fencing shall not be greater than 1.5 metres high and shall be constructed of materials consistent with the design and principal wall materials of the dwelling and should incorporate masonry as a component of the fencing construction.</p>	
<p>5.16 Visual and Acoustic Privacy</p>	<p>In response to this issue the proponent engaged an acoustic specialist whose report concludes that there is no adverse impact potentially on residential unit owners / tenants as a consequence of other activities occurring at proximity in the Picton Town</p>

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Relevant Provisions	Comment
	Centre or as a consequence of the waste disposal collection associated with retail and commercial premises within this subject development or for adjacent retail and commercial premises.
5.17 Fencing and Retaining Walls	No additional fencing proposed. The existing 'spear' fencing to the NAB Building shall be retained. Complies.
5.18 Access, Safety and Security	The proposal provides clear sight lines and effective lighting. If the application were recommended for approval, conditions of consent would be recommended based upon the advice regarding Crime Prevention through Environmental Design provided by NSW Police.
5.19 Solar Access & Energy Efficiency	Refer to DCP 52 Energy Efficiency Assessment.
5.20 Water Management	If the application were recommended for approval, conditions of consent would be recommended requiring Water conservation devices that are at least AAA-rated are to be installed in the dwellings to minimise the volume of wastewater produced.
5.21 Site Facilities	Mail boxes and clothes drying facilities are to be provided onsite. Complies.
5.22 Waste Minimisation and Management	The proposal is supported by a waste management plan. A centralised bin storage location is proposed to the rear of the existing coach house including six shared residential bins and two 1,110 litre bins for use by the commercial tenants. The storage area shall be secured and a key to the storage area shall be provided to the Council waste collection officers. Satisfactory.
5.23 Sustainable Site Requirements for Building Work	The proposal is capable of being conditioned to comply with the sustainable site requirements for building work. Complies.
5.24 Section 94 Contributions A contribution under section 94 of the Environmental Planning and Assessment Act, 1979 may be payable for certain types of residential development and subdivision.	Council does not have an applicable Section 94 Development Contributions Plan for car parking in the Picton Town Centre. Section 94A is enabled by the Section 94 Development Contributions Plan adopted in 2011 and this would be \$6,806.00.

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DEVELOPMENT CONTROL PLAN 52 - ENERGY SMART HOMES

Relevant Provisions	Comment
4.2 Minimum Energy Requirements	The proposal is supported by a ABSA Certificate of thermal performance. Additional details will be required if Council resolves to grant development consent.
5. Guidelines	The Hot water systems proposed (electric instantaneous) do not comply with the water heating - general guidelines. The applicant has sought a variation. All other specific performance standards have been adopted or exceeded.

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TRAFFIC AND CAR PARKING ANALYSIS BY CONSULTANT TO PROPONENT

Transport and Urban Planning Pty Ltd were engaged by the proponent to evaluate the likely traffic, car parking and pedestrian impacts arising from the development proposal. Subsequent to the report, a representative of this company also attended the meeting with Council professional staff and sought to respond to the RMS advices.

Below is the extract of the conclusions of this company's report (March 2015) are summarised as follows:-

"Traffic Impacts

1. *The lack of onsite car parking suggests that any public traffic impacts arising from the proposal will be contained to resident vehicle accessing or egressing the garages viz St Mary MacKillop Lane. The projected level of peak hour traffic to / from these garages is in the order of three to four trips per hour, i.e. one vehicle movement every 15 minutes. Customers to the new shops, 47 per hour in peak times, may also park in St Mary MacKillop Lane, the rear car park or elsewhere in Picton, but many of these shoppers may be multi-purpose trips, i.e. to one of the new shops and to another existing shop in Picton, in which case the trip is an existing trip and parking demand, not a new trip.*
2. *The impact of increased traffic and car parking demands as a result of the proposal on the adjoining school and existing retail uses during overlapping hours is minimal and within the available capacity of the site and access road system.*

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Access

3. *The access to and from the site is from the existing two way entry / exit driveways and adjoining roads.*
4. *The sight distances at the access location is good and meets Austroad requirements for the 50km/h operating speed limits within the precinct.*
5. *The proposal in terms of vehicle manoeuvring provisions is in accordance with AS2890.1 and AS2890.2.*
6. *Access to the site for vehicles is as per existing and will not have any adverse impacts on existing traffic flows in Picton. Pedestrian access is via Menangle Street, Argyle Street and St Mary MacKillop Lane. No adverse pedestrian impacts are expected at these locations.*

Car Parking

7. *The level of car parking required for the proposal by Council's DCP will be provided by way of a voluntary developer contribution as agreed by Council. The only on site car parking to be provided are seven resident garage spaces off St Mary MacKillop Lane.*

Pedestrian Impacts

8. *The development in itself is not likely to realise any significant pedestrian impacts. However any impacts arising from the development on existing before and after school pedestrian activity should be viewed in the context that:-*
 - *Traffic and pedestrian movements to the development before 9:00am are not likely to be high; and*
 - *In the after school period, 3:00pm - 3:30pm when school pedestrian and parking demand peak, traffic and pedestrian movements to / from the retail shops will only be moderate, i.e. not at peak demands.*

Recommendation

9. *It is recommended that Wollondilly Council approve this application so that the modern redevelopment of the site proposals can proceed."*

SUMMARY OF REFERRALS AND ADVICES

Below is a more detailed presentation and analysis of the advices received in response to referrals of the Development Application.

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The Development Application was referred to:-

- Council's Development Engineer
- Council's Waste Management Officer
- Council's Heritage Advisor
- Council's Disability Access Officer
- NSW Transport Roads and Maritime Services
- NSW Police

Development Engineer's Advice

The advice of Council's Development Engineer is quoted below:-

Flood Liability of the Subject Site and Proposed Development

"The currently adopted flood study provides for a flood level of 158.0 metres AHD. This was current at the time of the original lodgement of the subject DA in the 2005.

There was an updated flood study commenced in 2006 followed by supplementary analysis to take into account potential impacts to climate change. A draft study was finalised in July 2011 and was placed on public exhibition in early 2012 but this did not progress to adoption. This was then subject to further modelling with better base survey and building footprints. This resulted in a revised draft report, yet to be exhibited, that includes a flood level of 158.3 metres AHD with a modification likely to be recommended based upon adopted climate change impact for an adjusted flood level of 158.6 metres AHD.

The flood levels have two implications:-

Residential development is required to have floor levels of 500mm above the flood level; and

Construction up to this level is required to be flood compatible.

Parking associated with residential development has been set at the 1% AEP flood level in other developments based upon safety concerns during evacuation and in the best scenario this is 158.0 metres AHD or 700mm above the currently proposed floor level. However, it is considered that there is no benefit to be gained in this instance as the exit path cannot be made to rise from the property if it starts at the higher floor (at flood) level.

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Traffic Issues

The following are the key issues:-

Existing traffic is congested and parking is at premium at peak times.

The lane originally proposed as a service land has evolved to become a pedestrian thoroughfare for both town centre and school access.

A section of the lane adjoining the Picton town square development is too narrow for the current two way traffic and the parking bay.

The present angle parking is not to standard as it is used as front in where it should be reverse in.

The nose in angle parking means that vehicles are crossing the oncoming traffic, but more importantly, the exit manoeuvre is across two lanes and into oncoming traffic.

Options for parking replacement by relocating the angle parking to the other side of the lane results in a winding path of travel and limited benefit in terms of car spaces.

Parking

As demonstrated above, the current proposal has a very similar impact on the existing on-street parking with or without garages. Hence, subject to the aesthetic and or heritage aspects and pedestrian safety being properly managed, the proposal has a better outcome in terms of parking provision with the garages.

There should be a re-assessment of the car parking spaces required in the following terms:

Spaces required in the VPA are 31;

Spaces provided is six with seven provided and one used for waste storage; Spaces removed are nine (eight outside the development and one for a “blister” on the opposite side);

St Mary MacKillop Lane is owned by Council in fee simple, although it can be assumed that there has been a clear intent to create a rear lane as one section further down has a right of carriageway over the lane;

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A number of other properties also gain rear access directly off the lane and garaging is in place on some of the smaller properties;

Council's property assessment panel has considered a proposal for the land owned in fee simple to be dedicated as a public road.

Council's Heritage Advisor

The heritage advisor's response of 11 February 2015 to the exhibited DA is summarised as follows:-

"The main problem is the dominance of the new building over the heritage item. The development is surrounded by heritage items and is a heritage item in itself. There is unacceptable bulk in the new building and insufficient separation of the new building from the original. The size of the new development will read as two storey high vertical walls.

In relation to the Argyle Street frontage, the design attempts to disguise the overwhelming bulk and scale of the development with some modifications to the façade. The lack of depth in the façade to Argyle Street is featured by a building with a verandah that projects only 600mm from the wall of the new building. The appearance of the building with verandah will be flat. There is a lack of recess to clearly separate the slate roofed original building from the metal roof new building. The recess should be at least 2 metres deeper and landscaped.

This is a four sided building with a view from every surrounding street and a view of the development from Menangle Street showing the garage doors at the ground level is unacceptable and should be a landscaped path with shop fronts behind, not garage doors.

The proposal results in unacceptable heritage impact of overcrowded parking in the heritage conservation area

A very large medium density housing development and other medium density zoned blocks are only a short walk from the town centre and from this site. Shop-top housing requires on site car parking, hence the introduction of totally inappropriate garages on the eastern side of the building. The upper floor should be commercial, not residential."

NSW Transport - Roads and Maritime Services

The analysis of traffic, parking and pedestrian safety issues has been extensive and is summarised below in terms of the advice from NSW Transport – Roads and Maritime Services (RMS) and the responses from the proponent's consultants.

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In summary the RMS position is as follows:-

- Concerns with the resident parking located directly adjacent to the public road and non-acceptance that vehicles will enter the garages in the manner shown in the plans provided by the proponent's consultants;
- RMS maintains that these arrangements are likely to exacerbate queuing on St Mary MacKillop Lane which could exacerbate queuing on Menangle Street;
- RMS does not accept that sight lines are good, particularly for any vehicle which enters their garage in a forward direction thereby forcing them to reverse out. RMS maintains that this is likely to create safety issues, will be at a low speed and is not considered appropriate given that pedestrians including school children will be using the lane to access other parking. Ultimately this safety concern is a matter for Council;
- While the limited parking on site would discourage a proportion of customers from entering St Mary MacKillop Lane a proportion of customers will seek to park on this lane given its convenience. The nature of the businesses, the extent of congestions and the other parking options will dictate how many customers circulate through St Mary MacKillop Lane looking for parking spots;
For those customers who do not circulate through St Mary MacKillop Lane some will not find car parking spaces forcing them to either circulate once more or find alternative parking. Either way, these movements will cause congestion around St Mary MacKillop Lane and of significance to RMS, have the potential to create queuing of east bound traffic on Menangle Street as there is no opportunity for through vehicles to pass right turning vehicles;
- In relation to the two traffic management options submitted by the proponent's Traffic Consultant, Mr M Bridgman, as follows:
 - Option i):-
Restriction of right turn movements from Menangle Street into Mary MacKillop Lane during select times of day;
 - Option ii):-

Introduction of parking restrictions in the east bound kerb side lane of Menangle Street during select times of day.

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- RMS commented that the first option is not supported as it will compound peak traffic movements and would likely result in dispersed impacts across the surrounding road network and that the second option may have merit in a traffic management perspective by allowing through traffic to negotiate turning vehicles. Implementation will impact on parking supply and access to nearby businesses during the restriction timeframes. Additional information should be provided to address such impacts and further consultation with the local traffic committee and affected businesses should be undertaken where appropriate.
Any removal of parking spaces to accommodate the proposed development should be addressed through accessible and equitable alternatives in particular changes should not impact on accessibility for vulnerable persons or existing businesses. Any changes to parking supply should be consistent with Council's parking strategy;
- RMS also commented that it must be recognised that any comparison of permanent garages and public parking spaces is not considered relevant.

The existing parking spaces are on street visible and may be regulated or removed over time to address community needs. The current design of the development will introduce a potentially permanent series of manoeuvring conflicts along a significant length of the public laneway.

Such conflicts are an external impact of the development that must be addressed by the Development Application. RMS re-iterates its previous concerns in relation to site line for resident vehicles and reversing from garages fronting the public laneway. RMS's position is also that consideration should be given to amending the scale and the internal layout of the development to provide an alternative on-site parking solution that minimises impacts on existing parking supply and facilitates safe pedestrian and vehicular movements along St Mary MacKillop Lane.

In summary, the responses to the above comments by the proponent's traffic consultant are as follows:-

"It's certainly not a problem all day and I disagree that it is a problem of any significance at all but given the RMS and Council say it is then it is a matter that needs to be resolved between Council and the RMS. I have suggested an option which RMS states as merit. We don't want to take any ownership of the problem and then we have to solve it through removal of any kerbside car parking in Menangle Street even for a short time in the Monday to Friday pm peak is only another matter for objectors to get behind and oppose the DA.

PE1 – Development Application No. D525-05 – Alterations and Additions to Existing Commercial Building, to create Eight (8) Ground Level Shops, Nine (9) Units of Shop-top Housing Dwellings over new shops and Landscaping and a Draft Voluntary Planning Agreement (VPA)

If a problem should exist the Council should refer this particular matter to the local traffic committee and resolve independent of this DA. In terms of the removal of angle parking in the lane and the provision of resident garages to suggest that somehow seven garages will have a greater impact on pedestrian safety and amenity than the existing 10 or so one hour angle public parking spaces is in my view unsupported.”

NSW Police

The NSW Police Force provided advice mainly in relation to crime prevention through environmental design (CPTED). Essentially the Development Application is conditionally accepted based upon the following advice:-

- “Entry points should be designed so as to maximise surveillance opportunities to and from these areas and from inside as well as outside;
- Vegetation should be maintained in and around the buildings to maximise natural surveillance;
- CC TV cameras should be installed internally and externally of the buildings to both levels;
- The public area lighting must be bright and even and outdoor lighting includes sensor lights installed around car parks and exit and entry points, with all lighting being vandal proof throughout the development;
- Vegetation should be 3 to 5 metres clear of pathways;
- Car park design and definitional legibility should be subject of the design;
- A graffiti management plan needs to be incorporated into the maintenance plan for the development.”

Council's Disability Access Officer

The main aspects of this advice are:-

The planning details on the shop units do not provide enough detail to ascertain if Australian Standards will be met, hence prior to construction certificate, details must be provided and assessed to ensure that accessibility to shops is available as per the Disability (Access to Premises – Buildings) Standards 2010 and associated Australian Standards including, but not limited to, AS1428.1 and AS1428.2

It is recommended that the removed accessible parking space be relocated to an appropriate site nearby.

Waste Management Officer and Waste Education Officer

With conditions, the application can be accepted in terms of design and arrangements for waste management.

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Council's Property Assessment Panel

Although not a referral for advice in relation to the DA, it is important to note that in June 2013 the Property Assessment Panel resolved as follows:-

Separate negotiations required with JT Consulting Pty Ltd for a Voluntary Planning Agreement for car parking contributions and preservation of public access to Argyle Street;

Proceed with investigations to dedicate Lot 11 DP 535032, Lot 12 DP 536558, Lot 13 of the existing car park area – accept for the area zoned RE1 Public Recreation adjacent to Stonequarry Creek as public reserve;

Subject to negotiations of the surrounding of right of way that the minimum dedication would be from Menangle Street to Lot 12;

Funding to be provided from the infrastructure planning budget;

Subject to Council approval this matter is to be referred back the panel following negotiations;

These matters not proceed until after the public exhibition and finalisation of the VPA and Development Application.

Council is a signatory for the lodgement of the Development Application given Council's ownership in fee simple of St Mary MacKillop Lane and the works required in that lane for the functioning of the proposed development – particularly in terms of traffic access and manoeuvring, the provision of the proposed garages and the related impacts of removal of public car parking spaces in St Mary MacKillop Lane. It is important to emphasise that Council's consent to the lodgement of the DA provided in good faith is not an endorsement of the development application.

THE VOLUNTARY PLANNING AGREEMENT

It should be noted that dollar values referenced in the VPA are 2013 values and will require indexing / updating if the VPA proceeds further.

Equity is a key issue in terms of the "public value" attributed to the contribution in lieu of physical provision of both the car parking spaces required for commercial development and for the "shop-top housing". The \$100,000.00 contribution committed by the proponent as part of negotiations in June 2011 compares with the following estimates of car parking provision costs (land value and construction):-

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- 14.3 square metres for each of the 31 spaces would require a total of 443.1 square metres;
- The land value for the required car parking at \$450.00 per square metre in lieu of physical provision would therefore be \$199,350.00;
- Construction costs are estimated at \$9,855.00 per space and consequently the cost of construction of 31 spaces is \$305,505.00;
- Consequently, the total land plus construction value for the 31 spaces is \$504,805.00 with the total cost (land value plus construction) of each space therefore being \$16,285.00.

If the proponent's submission is accepted in terms of the value and land for embellishment works on the proposed civic space as being \$225,732.00 – the difference is \$279,073.00 i.e. significantly in excess of the \$100,000.00 which negotiated (originally in June 2011) and integrated into the Voluntary Planning Agreement. However – again, the above negotiated outcome included in the VPA has to be considered on the basis that Council has no development contributions plan which can legally require the contributions in lieu of non-physical provision of the car parking spaces. The crucial question that arises from this analysis is whether the VPA therefore meets the acceptability tests – as contained on the DIPNR Circular of 2005 and the Policy on VPA's as adopted by Council recently for public exhibition - particularly in terms of planning and public benefits. It is concluded that the VPA as exhibited does not satisfy these tests.

It is noted that the VPA only offset the car parking requirements that are required by the development. The VPA does not offset the Section 94 / 94A contributions that will be payable under Council's Development Contribution Plan 2011. It is estimated that Council could receive \$6,806.00 in Section 94A contributions, levied at a rate of 1% for the proposed cost of works associated with the commercial component of the development.

IMPACT OF THE DEVELOPMENT

The subject site is one of the most crucial and prominent sites in Picton Town Centre and in many ways defines the character of the centre being at the core at the intersection of Argyle and Menangle Streets, hence the impact in terms of design, visual effects and compatibility with the heritage character of the subject site, adjacent buildings and within the Picton Urban Conservation Area are highly significant issues.

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Therefore assessing this Development Application in accordance with out dated planning instruments (LEP 1991), DCP 7 and DCP 27 is quite inappropriate to achieve the best planning outcomes. Whilst any inconsistencies with WLEP 2011 and DCP 2011 (and as amended in December 2014) would not have any legal status, the underlying policy intentions of those plans do need to be taken into account.

The impact of the proposed development on car parking provisions in St Mary MacKillop Lane (removal of nine car parking spaces) and on the traffic and pedestrian safety within St Mary MacKillop Lane are significant issues. The latter can be managed but the loss of these public car parking spaces which are long standing provision are highly accessible to both the town centre and St Anthony's School, they do represent significant issues for the planning of Picton Town Centre.

Again it is unfortunate that there is no strategic plan for Picton Town Centre against which to judge the development intentions for the site, the locational distribution of car parking within the town centre and the intentions in relation to physical provision of car parking / garages for shop-top housing.

SUITABILITY OF THE SITE

The site subject of the DA is prominently located on the south-western corner of the intersection of Argyle and Menangle Streets in the Picton Town Centre. There are two items of environmental heritage significance on the site and the site is within the Picton Urban Conservation Area. The subject site is one of the most important sites in Picton for which "to get the planning outcome right".

This is one of the most prominent sites in Picton Commercial Centre and the best planning outcome would be a retail and commercial development. However, the applicant's position is that shop and / or offices on the first floor are not viable and this is accepted at this stage.

Negotiations and maintenance of the heritage values of the NAB Building and retention of the visual corridor from Argyle Street to the Coach House are also very important outcomes.

CONSULTATION AND PUBLIC SUBMISSIONS

The amended DA was placed on public exhibition between 12 November 2014 and 6 January 2015 – including an agreed extension due to the Christmas and New Year period. The concerns raised in submissions are summarised as follows:

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Development Form, Heritage and Visual Impacts

- Proposal is significant detraction from the heritage value of the site and the area in proximity – the proposal degrades the historical value of this sector of Picton;
- “Vast, unsympathetic over-development” on most prominent site;
- Site is in a prominent location and the seven garages present an adverse visual impact, given the heritage value of the NAB building, the Coach House and the heritage items directly opposite on Menangle Street.

The garage doors in particular are highly visible and unsightly – also given that this is a significant visual entry into the Picton Commercial Centre.

- Proposed provision of additional retail space is welcomed but architecture should be more sympathetic to the heritage values of the NAB building and Visitors Centre;
- The adverse visual impacts will also present adverse effects on tourism;
- Open garage doors and activities within the garages will present noise and visual nuisances;
- There should be one entry only into the proposed development with basement car parking provided;
- Could get washing on balconies of units (shop-top housing) which would be totally inappropriate for location.

Residential Use Component

- This shop-top housing is not servicing the commercial core of Picton and is not appropriate, - the inclusion of shop-top housing triggers the need for garages and the consequent, adverse visual effects;
- There are other significant sites providing opportunities for medium density development in proximity to the Picton Commercial Centre which are better suited for the provision of such residential accommodation.
- Development should be fully commercial including the first floor – with Council playing a role in attracting State Government tenants to the subject commercial floor space.
- Residents of the shop-top housing will have amenity issues given the waste collection between 11:00pm and 5:00am, and other noise generators in proximity e.g. the Picton Hotel.
- The provision of shop-top housing in itself leads to the needed provision of car parking and consequent deficiencies of car parking in St Mary MacKillop Lane which will, in turn, have adverse effects on businesses in proximity.

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Traffic and Pedestrian Safety Implications

- Safe access to the laneway by motorists and pedestrians is generally compromised;
- Safety of school children is a major issue;
- Manoeuvring in and out of garages will impede traffic flow and create safety risks for vehicular traffic and for pedestrians in St Mary MacKillop Lane;
- Significant risks will be posed to parents and children associated with the primary school on the adjacent site to St Mary MacKillop Lane – particularly at drop off and pick up times for children;
- There will be risks generated also for children who congregate following delivery to and collection from the school by the local bus service given the bus shelter in immediate proximity to the access to St Mary MacKillop Lane from Menangle Street.
- Turning circles not provided and the minimum setback of 2.5 metres for pedestrian sight lines (Australian Standard) is compromised;

Inadequate Car Parking

- The loss of car parking spaces on St Mary MacKillop Lane is unacceptable given that there is already major car parking deficiency issues in that sector of Picton centre and there will be consequent loss of business income;
- Current customers to the Picton Town Centre will be deterred from returning to the centre to do shopping and will take their business to other centres in proximity, such as Camden;
- Only seven spaces to be provided for nine units – causing consequent parking problems;

Loading and Un-loading

- Adequate details are not provided in the exhibited plans;
- Is likely to create safety risk issues in St Mary MacKillop Lane including manoeuvring relative to the high voltage electricity sub-station adjacent to the lane way.

Crime Prevention

- There is no passive surveillance opportunities created by the design of the proposed development.

Open Space, Development Contributions and the Voluntary Planning Agreement

- The \$100,000.00 contribution proposed is inadequate given the decline in parking provision resulting from the proposal;
- The level of “compensation is unacceptable;

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- Lack of consideration of retaining / providing open space for community use given historical use and location within centre and heritage precinct;
- Object reduction in space available for public use and tree removal. Open space should be enhanced and dedicated – the centre of Picton lacks an open space precinct;
- The grassed area which is appreciated by the community will disappear and the opportunity to create a “cultural centre space” as part of a heritage precinct will be lost;
- Contribution of \$100,000.00 for non-provision of car parking is unacceptable given that money will be used to provide parking separated from development site;
- Small parcel of grass to be provided for public use is of no public benefit;
- Overall “exchange of public benefits” not sufficient;

THE PUBLIC INTEREST

There are positive outcomes of the DA for the public interest in terms of:-

1. The facilitated commitments to restoration and maintenance of two important heritage items: the former NAB Building and the Coach House;
2. The commitment by covenant for public use of 224m² of ‘Civic Space’ which also ensures a visual corridor from Argyle Street to the Coach House;
3. The commitment to contribute \$100,000.00 to the provision of car parking in lieu of non-physical provision on site when there is no Development Contributions Plan which legally requires that.

However, there are very significant public dis-benefits which outweigh the benefits above:-

1. Certain incompatibilities of building and site design with the heritage values of the site and locality;
2. Loss of long-standing public car spaces which serve existing businesses and good access to the commercial centre and the adjacent Primary School;
3. Inadequate safety of traffic and pedestrians consequent upon the access and manoeuvring of vehicles associated with the proposed garaging and car parking arrangement;
4. The deficiency of number of garages for the proposed number of residential units; and
5. The inequities in the VPA.

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SUMMARY ANALYSIS OF KEY ISSUES

This section draws together analysis of the key issues, the assessment in accordance with section 79 (c) and the public submissions to reach conclusions and the recommendation.

Longstanding DA

Clearly, an application should not remain undetermined for this extensive time. Hence, Council should now make every endeavour to make a decision.

The Legal and Planning Policy Framework

A consequence of the length of time for which the DA has been active, is that it has to be assessed under WLEP 1991 and out dated / superseded DCP's 7 and 27.

The site subject of the DA is prominently located on the south-western corner of the intersection of Argyle and Menangle Streets in the core of the Picton Town Centre. There are two items of environmental heritage significance on the site and the site is within the Picton Urban Conservation Area.

Council has no Development Contributions Plan which can legally require any contributions in lieu of non-physical provision of the car parking spaces. There is also no current strategy for the town centre in terms of needed capacity for retail and commercial growth to respond to projected population and development growth in its catchment and what the locations of car parks need to be to respond to those capacity needs.

The subject site is one of the most important sites in Picton on which "to get the planning outcome right". The legal obligation to assess this DA in accordance with out dated legal and policy planning instruments is not appropriate and not likely to deliver that "right planning outcome".

Heritage Compatibility

Clearly, Council's Heritage Advisor is of the opinion that the development design is not compatible. However, this must be considered relative to the commitment to restore the existing ("former CBC and NAB Building) and provide visual context for the Coach House which are proposals integral to the DA and the reasonable economic feasibility of developing the site. The design has many attributes and is well within FSR / density provisions. The applicant's position regarding development feasibility and non-viability of offices / commercial development on the ground floor is accepted at this stage. The DA does facilitate investment in the restoration and maintenance of one of Picton's most significant heritage items.

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On balance, the current design is not concluded to be compatible with the heritage significance of the site or the Picton Conservation Area with the design and visual exposure of the garage doors in particular are considered to be incompatible in heritage terms. However, with some limited further negotiation, it is considered that the heritage issues could be favourably resolved.

The “Civic Space”

Council does have alternative plans for the provision of civic space. The proposal to retain visual exposure of the Coach House from Argyle Street certainly has merit.

The inclusion of the land value for this space of 224m² (to be enabled for public use and traversing by way of a 50 year covenant) is concluded to have public benefit but the value of it is not equitably compared to the non-inclusion of and value in the calculation for the provision of car parking. Again, however, Council has no current legal basis to ensure that land value for car parking contributions is factored in.

Car Parking and Related Calculation of Contributions

DCP 7 was also directed at retail and commercial development only and did not incorporate provisions for dwellings in the town centre above retail and commercial development (“shop-top housing” in WLEP 2011).

The DA for this site as amended in 2011 incorporated nine units as “shop-top housing” without any proposed provision of garages or dedicated car parking spaces. This was considered totally inappropriate in terms of accessibility by unit owners / tenants, security of vehicles owned by owners / tenants of the units, and car parking spaces being provided for the owners / tenants in a separate location.

Thirteen car parking spaces are required by the proposed nine residential units. Re-design was submitted by the proponent to incorporate seven garages into the proposed development – but this is realistic and pragmatic given constraints and with one of these garage spaces potentially being needed for water storage purposes. Nine public car parking spaces will have to be removed from St Mary MacKillop Lane to enable access and safe manoeuvring of vehicles in and out of these proposed seven garages. These nine public spaces are in a long standing highly accessible location in proximity to the town centre and the school and their removal has been subject of significant objection.

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Realistically however, it would mean pressure on remaining car parking spaces along St Mary MacKillop Lane and the car park at the southern end - which would be residential generated demand not retail and commercial generated demand. This is contrary to the intentions of Council policies in DCP 7 and DCP 27.

The \$100,000.00 contribution committed by the proponent as part of negotiations in June 2011 compares with:-

- Land value for the required car parking in lieu of physical provision would therefore be \$199,350.00;
- Construction costs are estimated at \$305,505.00;
- Total land value plus construction costs for the 31 spaces is \$504,805.00; and
- The total cost (land value plus construction) of each space therefore being \$16,285.00;

The value and land for embellishment works on the proposed civic space has been submitted by the applicant as being \$225,732.00 – meaning a difference of \$279,073.00 (\$504,805.00 - \$225,732.00) i.e. significantly in excess of the \$100,000.00 which has been negotiated and integrated into the Voluntary Planning Agreement.

Also, in relation to the calculation of contributions in lieu of physical provision of car parking:-

- DCP 7 references the area for each car parking space should be calculated by dividing the total area of the existing / proposed car park by the number of spaces – in this case this would mean this approach being applied to the Walton Lane car park;
- DCP 27 references the space required for each car parking space (taking into account access, egress, landscaping etc.) to be 35m²;
- DCP 27 was adopted at a later date than DCP 7 and therefore prevails;
- Land value in Picton commercial centre is \$300.00 to \$400.00m² and \$600.00m² for good road frontage: (average of \$450.00m²).

Hence:-

- If 35m² per car parking space is applied multiplied by 31 spaces, this is land area take of 1,085m² to provide the car parking spaces in lieu for this development;
- Taking the average land value of \$450.00m², the value of the 1,085m² is \$488,250.00;

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- Construction costs of the 31 spaces is estimated at \$305,505.00 (\$9,855.00 per space x 31);
- Hence, total land value plus construction costs is \$793,755.00;
- If the proponent's estimate of \$225,732.00 is accepted for land value and embellishment of the "civic plaza", the difference is \$568,023.00 – which has to be compared with the \$100,000.00 contribution in the VPA and the conclusion drawn that the contribution is unacceptable in terms of proper planning and public benefit, Council accountability and equity.

The above negotiated outcome included in the VPA has to be considered on the basis that Council has no relevant Development Contributions Plan. However, the conclusion clearly has to be reached that the VPA does not meet the acceptability tests – particularly for planning and public benefits – (as contained on the DIPNR Circular of 2005 and Council's exhibited Policy on VPA's) – and represents a very inequitable outcome.

The VPA

It is fundamental to VPA's that their content is not accepted as over-riding any merit based assessment conclusions – i.e. a consent "cannot be bought". The merit assessment conclusions regarding car parking, traffic access and safety and pedestrian safety are that the application cannot be supported. It is also concluded that the negotiated contributions of \$100,000.00 and the 50-year covenant for committed public use of the "civic plaza" are highly insufficient in terms of planning and public benefit and in terms of an equitable outcome for Council.

Overall Conclusion

The DA also cannot be supported therefore in terms of assessment under the heads of consideration of section 79 (c) - "suitability of the site" and the "public interest" - also addressed above.

The DA and the related VPA cannot be supported. Refusal of the DA and discontinuation of the VPA in its current form are consequently recommended.

Council is also recommended to delegate to the General Manager to promptly invite the applicant to enter into negotiations to address the issues raised in this report and seek to achieve a good outcome on this critical site.

FINANCIAL IMPLICATIONS

There are significant financial implications analysed in the section on the VPA above.

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Additionally, a Council determination to refuse the DA may lead to an appeal being lodged by the applicant with the Land and Environment Court with consequent costs to Council.

ATTACHMENTS:

1. Site Plan and Ground floor Plan of Proposed Development
2. First Floor Plan of Proposed Development
3. Aerial Photo – Site Context
4. Photograph - Menangle Street to Development Site
5. Photograph -Current Angled Parking on St Mary MacKillop Lane
6. Photograph - Area of “Civic Space” from Argyle Street
7. Photograph - Looking North Along St Mary MacKillop Lane
8. Photograph - Towards Menangle Street – Where On-Street Car Parking May Be Lost

RECOMMENDATION

That Council determine Development Application No. D525-05 - Alterations and additions to existing commercial building, to create eight ground level shops, nine units of shop-top housing - being dwellings over the proposed new retail premises and landscaping at 55 to 57 Menangle Street, Picton - by refusing development consent for the following reasons:-

1. The deficient provision of car parking for the owners / tenants of the proposed residential units is unacceptable because:-
 - (a) This does not provide for dedicated, highly accessible, secure garaging / car parking for all of the owners / tenants.
 - (b) Only six usable garages are proposed for nine residential units which is a deficiency of seven (7) such garages / car parking spaces relative to the car parking standards in Development Control Plan 7: Off Street Car Parking.
 - (c) Displacement of public car parking spaces in St Mary MacKillop Lane and the car park at its southern end provided for business oriented use will occur by demand generated by the proposed residential units not provided with dedicated, secure garages / car parking spaces.
2. The seven (six usable) garages proposed for private residential oriented use will lead to the unacceptable loss of nine public car parking spaces in St Mary MacKillop Lane which currently have predominantly business generated use given that:-

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- (a) Predominant, current public usage is fully consistent with the 3 (a) Business zoning under Wollondilly Local Environmental Plan 1991 and B2 Local Centre zoning under Wollondilly Local Environmental Plan 2011, the provisions of Wollondilly Development Control Plan 7: Off Street Car Parking and Development Control Plan 27: Picton Commercial Area.
 - (b) There will be adverse impacts on existing businesses and accessibility for vulnerable persons.
3. Adverse implications for traffic and pedestrian safety in terms of:-
 - (a) The resident parking located directly adjacent to the public road and non-acceptance that vehicles will enter the garages in the manner shown in the plans provided by the proponent's consultants.
 - (b) The proposed arrangements for entry into, and egress from, the garages are likely to exacerbate queuing on St Mary MacKillop Lane which could exacerbate queuing on Menangle Street.
 - (c) Sight lines are not adequate particularly for any vehicle which enters their garage in a forward direction thereby forcing them to reverse out. This in turn is likely to create safety issues, will be at a low speed and is not considered appropriate given that pedestrians including school children will be using the lane to access other parking.
 - (d) Competition for car parking spaces and circulation in St Mary MacKillop Lane will cause congestion around St Mary MacKillop Lane and have the potential to create queuing of east bound traffic on Menangle Street as there is no opportunity for through vehicles to pass right turning vehicles.
4. The development design is incompatible with the heritage values of the subject site and the Picton Urban Conservation Area - particularly in terms of:-
 - (a) The design presents an unacceptable bulk in the new building and insufficient separation of the new building from the original. The facades of the new development will present to the street as two storey high vertical walls.
 - (b) There is a lack of depth in the façade to Argyle Street and the development will present to the street as flat façade, there is a lack of recess to clearly separate the slate roofed original building from the metal roofed new building and there is minimal setback for the Argyle Street frontage.

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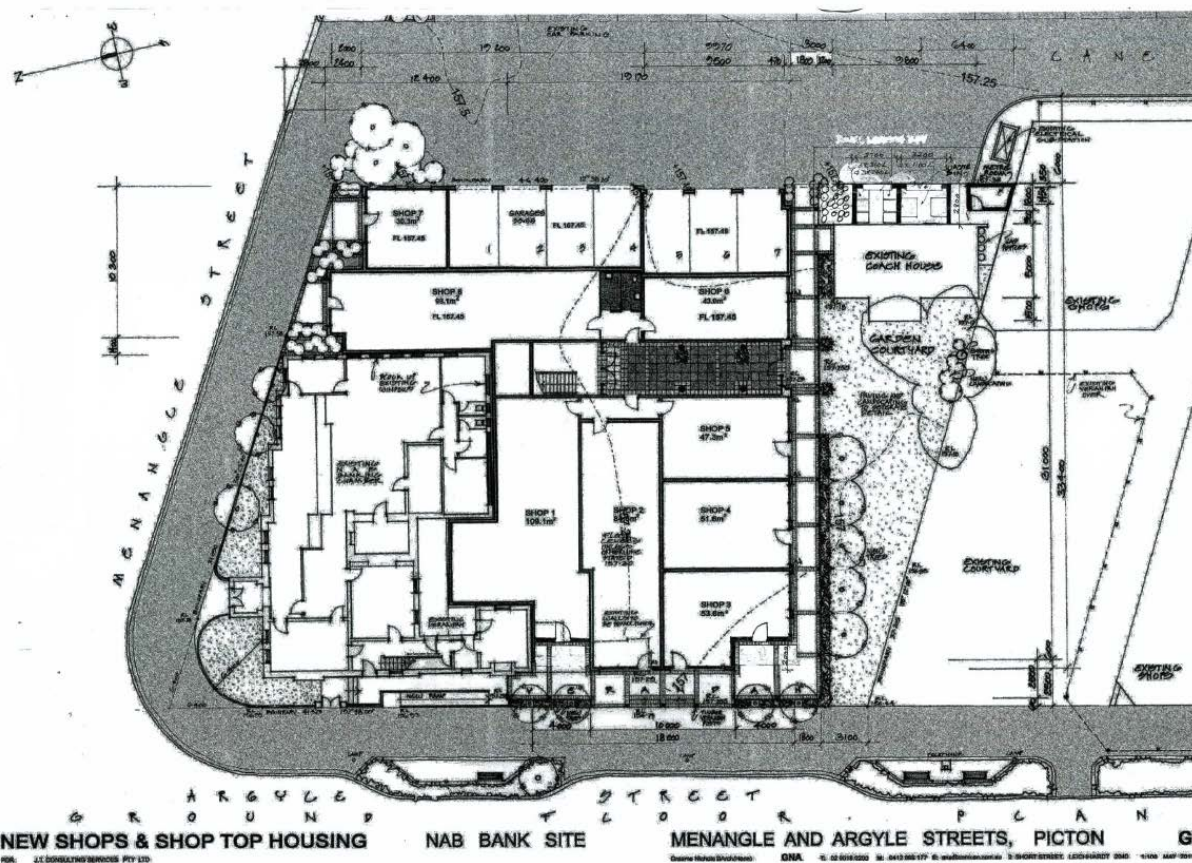
- (c) The elevation presenting to St Mary MacKillop Lane frontage is unacceptable in terms of the visual impact of the proposed garage doors having a real potential to have adverse visual impacts on the heritage significance of the heritage items on the site and in the vicinity.
5. The development proposal is not suitable for the site.
 6. The development proposal is not in the public interest.
 7. That Council determine that the Voluntary Planning Agreement is inequitable, does not meet the acceptability tests of planning and public benefits and therefore be discontinued.
 8. That Council delegate to the General Manager to promptly invite the applicant to enter into negotiations with a view to enabling expeditious submission of a new, revised Development Application.

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ATTACHMENT 1 – D525-05 – 17 AUGUST 2015

Site Plan and Ground floor Plan of proposed development



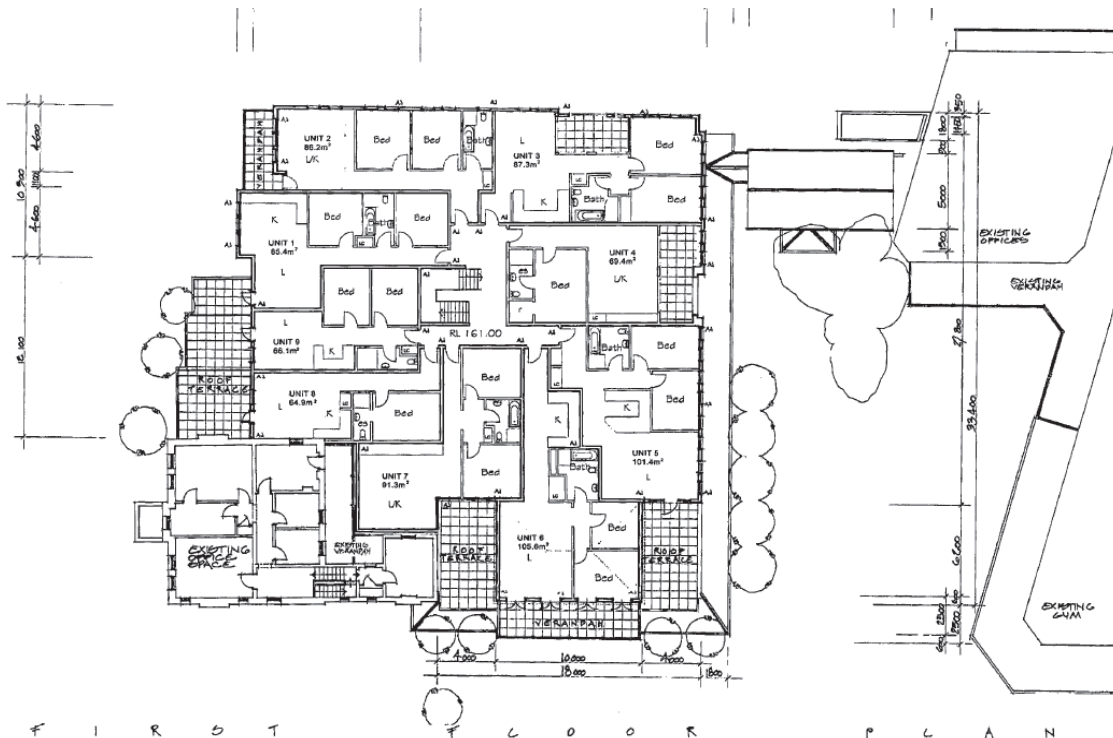
Planning & Economy

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ATTACHMENT 2 – D525-05 – 17 AUGUST 2015

First floor Plan of Proposed Development



F I R S T F L O O R P L A N
 NEW SHOPS & SHOP TOP HOUSING NAB BANK SITE MENANGLE AND ARGYLE STREETS, PICTON J

Geospatial Information GNA T: 02 9519 0239 M: 9412 99617 E: geospatial@gn.com.au 2 SHIRT STREET, LEEDHURST 2040 9108 9027 2011

Planning & Economy

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ATTACHMENT 3 – D525-05 – 17 AUGUST 2015

Aerial Photo – Site context



Planning & Economy

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ATTACHMENT 4 – D525-05 – 17 AUGUST 2015

Menangle St to development site



Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

PE1 – Development Application No. D525-05 – Alterations and Additions to Existing Commercial Building, to create Eight (8) Ground Level Shops, Nine (9) Units of Shop-top Housing Dwellings over new shops and Landscaping and a Draft Voluntary Planning Agreement (VPA)

ATTACHMENT 5 – D525-05 – 17 AUGUST 2015

Current angled parking on Saint Mary McKillop Lane



Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

PE1 – Development Application No. D525-05 – Alterations and Additions to Existing Commercial Building, to create Eight (8) Ground Level Shops, Nine (9) Units of Shop-top Housing Dwellings over new shops and Landscaping and a Draft Voluntary Planning Agreement (VPA)

ATTACHMENT 6 – D525-05 – 17 AUGUST 2015

Area of “Civic Space” from Argyle St



Planning & Economy

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

PE1 – Development Application No. D525-05 – Alterations and Additions to Existing Commercial Building, to create Eight (8) Ground Level Shops, Nine (9) Units of Shop-top Housing Dwellings over new shops and Landscaping and a Draft Voluntary Planning Agreement (VPA)

ATTACHMENT 7 – D525-05 – 17 AUGUST 2015

Looking north along Saint Mary McKillop Lane



Planning & Economy

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

PE1 – Development Application No. D525-05 – Alterations and Additions to Existing Commercial Building, to create Eight (8) Ground Level Shops, Nine (9) Units of Shop-top Housing Dwellings over new shops and Landscaping and a Draft Voluntary Planning Agreement (VPA)

ATTACHMENT 8 – D525-05 – 17 AUGUST 2015

Towards Menangle Street – where on-street car parking may be lost



Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

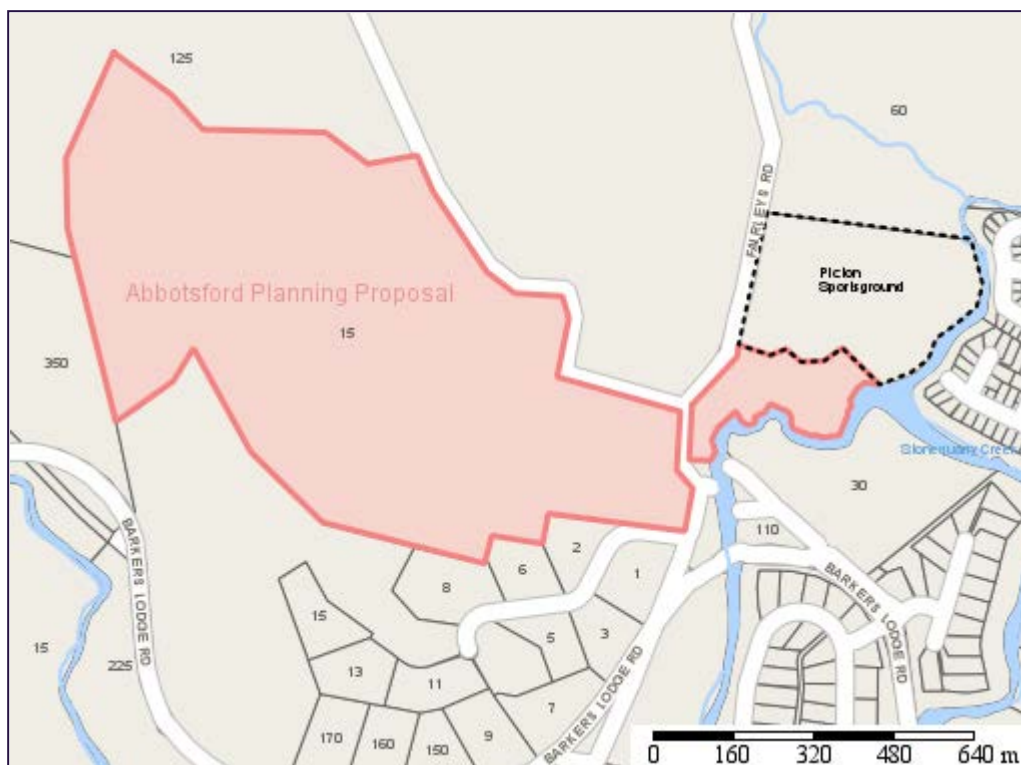
PE2 – Planning Proposal – Abbotsford

PE2 **Planning Proposal – Abbotsford**
259421

TRIM 6497

Applicant: Rein Warry & Co
Owner: R & F Ziems Pty Ltd & Ms G J Thompson & Mr N L Arber

Planning & Economy



Stage	Completed
Preliminary notification	20 October - 11 November 2011
Gateway Determination	24 April 2012
Consultation with Public Agencies	May/June 2012
Specialist Studies	July 2013
Public exhibition/community consultation	Not yet completed
Referred to Minister for Publication	Not yet completed

PE2 – Planning Proposal – Abbotsford

EXECUTIVE SUMMARY

- This report is provided to update Councillors on the assessment of the Abbotsford Planning Proposal. This assessment has identified a need to alter the Gateway Determination by amending the proposed land use zones, minimum lot size and building heights, and to protect heritage across the site.
- The Planning Proposal relates to part Lot 1 DP 1086066 (No. 15) Fairley's Road, Picton.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extend to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended:
 - That Council support the proposed amendments to the Abbotsford Planning Proposal relating to proposed land use zones, minimum lot sizes, building height and heritage protection.
 - That an amended planning proposal is prepared and forwarded to the Minister for Planning and Environment for an alteration to the Gateway Determination.
 - That the proponent be informed of Council's decision.

REPORT

1.1 SITE DESCRIPTION

The 'Abbotsford' property is located approximately 1 kilometre from the Picton town centre, in a direct line, and 1.5 kilometres by road.

The subject site, Lot 1 DP 1086066, is approximately 70.87ha in area within a mostly rural setting with most of the area having been cleared for grazing and with only small patches of remnant trees and shrubs remaining.

The site is located in two separate parcels of land separated by Abbotsford Road. The land starts relatively flat rising gently to meet steep slopes up to the plateau in the West.

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

The Abbotsford Homestead is central to the acceptability of the planning proposal.

PE2 – Planning Proposal – Abbotsford

1.2 CHANGES SOUGHT TO EXISTING PLANNING PROPOSAL

There are five (5) key elements to the revised planning proposal:

- i. Changes to the original proposed land use zones
- ii. Removal of land from the planning proposal
- iii. Changes to the original proposed minimum lot size
- iv. Changes to the maximum building height
- v. Proposed new heritage items

The proposed amendments to the Planning Proposal are not anticipated to have a significant effect on the potential lot yield across the site which is approximately 30-40 Lots.

The proponent was notified of the intended direction for the planning proposal and has made a submission which is included as an attachment to this report. Council has since met with the proponent and undertaken a joint site visit to discuss their views.

i. Changes to the original proposed land use zones

The original planning proposal sought to rezone the land from RU2 Rural Landscape to R5 Large Lot Residential, E3 Environmental Management and RE1 Public Recreation.

It is now proposed to rezone the component of the site intended for rural residential type development, being the majority of the site, to E4 Environmental Living instead of the previously proposed R5 and E3 land use zones. It is no longer proposed to rezone any land within the site for RE1 Public Recreation purposes.

E4 Environmental Living has been identified as the most appropriate land use zone under Policy PLA0035 - Environmental Protection Zones as the site is considered to form part of an environmental landscape.

The site is located within a landscape which contributes to the setting of Picton as a town surrounded by lightly vegetated and undeveloped hills. This setting is considered to be significant and should be retained. The site is also characterised by a number of historic structures which are considered integral to this landscape and worthy of retention.

ii. Removal of land from the planning proposal

The original planning proposal sought to rezone an area of land for RE1 Public Recreation. This 4.42 hectare area of land is located directly south of the existing Picton Sportsground and is separated from the rest of the planning proposal site by Abbotsford and Fairleys Road.

It is no longer proposed to rezone this small area of land for public recreation as there is not considered to be any strategic planning merit for this approach.

PE2 – Planning Proposal – Abbotsford

Council's Land & Property Panel have considered the merit of the proposed RE1 Public Recreation land use zone given such a land zone would have implications for Council. The Land & Property Panel's consideration determined the following:

- *That Council should not accept the proposed RE1 land as there is no foreseeable need*
- *The land is not identified in the Open Space Strategy*
- *There are significant potential costs to accept this land as RE1, noting substantial weed control measures are required*
- *The RE1 land has high constraints and high flood risk which severely limits the potential for development*
- *The suggested forgone [development] contributions would be better spent on the existing sports facility to the north of the site*
- *Offsetting development contributions as a result of land dedications is considered to be a cost*
- *Acquiring this asset when not strategically required would be contrary to best practice asset management. It is not consistent with Local Government Reform Package, "Fit for the Future" and recent community engagement with the special rate variation.*

Subsequently, it is no longer proposed to zone any land within the site to RE1 Public Recreation. The proponent has requested that this area of land is now excluded from the planning proposal. An attachment to this report illustrates the area of land to be removed from this Planning Proposal.

iii. Changes to the original proposed minimum lot size

The original planning proposal sought a minimum lot size of 4000sqm for the rural residential component of the site.

A Geotechnical Study has been prepared to inform the planning proposal which has identified a number of areas within the subject site which are unsuitable for urban development due to either evidence of active instability, slopes greater than 20% or narrow ridge tops. A figure from the geotechnical study has been provided as an attachment to this report and identifies what areas or 'building envelopes' across the site are possible for residential development.

The figure illustrates that, apart from a few small exceptions, land suitable for residential development is located on the lower slopes of the site and this is reflected in the planning proposal by a proposed minimum lot size of 4000sq.m for the lower areas.

It is recommended that the remainder of the site which is mostly, unsuitable for urban development, be retained within a single lot which would take in the ridge line and upper slopes of the site.

PE2 – Planning Proposal – Abbotsford

This is considered appropriate for the following reasons:

- to preserve the environmental landscape referred to above by minimising development along the ridge line;
- The geotechnical report has identified a significant portion of the upper slopes to have a 'High' or 'Very High' risk of instability.
- Any housing sites, while not necessarily on ridge lines, would be located in prominent locations;
- The driveway access to any potential dwelling would need to comply with Council's design specifications and will likely require concrete construction resulting in development which would appear as a scar or blemish on the landscape.
- The site is constrained in terms of adequately managing wastewater disposal. Effluent management areas cannot be located within areas identified as having a 'high' or 'very high' geotechnical risk category. These areas of risk area shown in an attachment to this report.

The overall impact would not be in keeping with the zone objectives for the proposed E4 Environmental Living land use zone which are:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To provide for a limited range of rural land uses that do not have an adverse effect on surrounding land uses.*

It is proposed that a minimum lot size of 20 hectares be applied to this area which would retain the area within a single lot. An attachment to this report illustrates the approximate location of the areas proposed to have a minimum lot size of 4000 sqm or 20 hectares. The exact boundary between these areas will be based on the 'boundary line' identified on the figure from the geotechnical study which is also attached to this report.

The proponent does not support this approach and has requested a minimum lot size of 4 hectares for the upper areas which would enable up to 5 lots. This is not considered appropriate for the reasons detailed above.

The proponent has argued that one consequence of retaining the upper areas within a single lot would be that the likely end use for the land would be to graze stock such as cattle and that this would lead to land use conflict with new residents once the lower area has been developed.

iv. Changes to the maximum building height

The original planning proposal sought a maximum building height of 9 metres which is the height limit generally applied to large lot residential areas.

PE2 – Planning Proposal – Abbotsford

An environmental protection zone is now proposed across the majority of the site (E4 Environmental Living) in place of the originally proposed R5 Large Lot Residential. Building height limitations, at present, are not generally applied to land zoned E4 Environmental Living Land under the Wollondilly Local Environmental Plan 2011.

However, future development across the site will need to be managed carefully in order to conserve the natural and cultural landscape values evident in the rural character and heritage on the site.

In this regard, Council's Heritage Advisor has recommended that development should be limited to single storey (although a first floor could be included within the roof pitch area). This could best be achieved by establishing a maximum building height of 6.8 metres.

It is noted that in the proponent's submission, included with this report, seeks a maximum building height limit consistent with the maximum building height limit of 9 metres on nearby land. Council recently met with the proposed and discussed this matter and the proponent is now supportive of the proposed height limit of 6.8 metres.

v. Proposed new heritage items

Heritage is one of the key issues for this planning proposal.

In addition to the already listed Abbotsford site, there are two other structures on the site that are considered to be of local heritage significance and worthy of protection under the Wollondilly Local Environmental Plan. These are summarised in the table below;

Item	Reason
Byrne's Exhibition Dairy (two brick buildings)	Byrne's Exhibition Dairy has moderate historical significance as one of a small number of local dairies. It provides tangible evidence of early town development and early 20th century building techniques. It also has research potential in the study of the history of the local dairy industry. This can be linked to other local dairy relics such as the Rotolactor and Menangle Creamery. While dairies were not uncommon in NSW, it is unusual to find a dairy building in such a good state of preservation externally. Byrne's Exhibition Dairy is a good representative example of infrastructure built for the local dairy industry.
Rural silo structures	The silos are a good representative example of the type of rural silo structure built in the local area in the 1930s to 1940s period.

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

PE2 – Planning Proposal – Abbotsford

Item	Reason
	<p>While the silos do contribute to the rural landscape, the overriding reason for listing the silos would be to proactively encourage their adaptive reuse.</p> <p>If heritage listed, Clause 5.10(10) - Conservation incentives of the Wollondilly Local Environmental Plan 2011 (WLEP) provides a planning incentive whereby variations to the WLEP could be permitted where the conservation of the heritage item is facilitated by the development.</p>

Planning & Economy

The proponent supports the proposed heritage listing of the two additional items.

CONSULTATION

Consultation with Council Staff

Staff from Development Assessment recommend the retention of the upper slopes and ridge line within a single lot due to concerns with access, geotechnical instability, visual prominence and wastewater disposal.

The proposed removal of the RE1 Public Recreation land use zone is in response to consultation with the Land & Property Panel. Their views have already been discussed in the section above.

Consultation with Public Agencies

Public Agencies have not been consulted directly about the proposed changes to the planning proposal.

Further formal consultation is proposed during the public exhibition of the planning proposal.

Community Consultation

In accordance with Council's notification policy, initial community consultation was undertaken for the planning proposal as submitted to Council in October 2011. At that time no submissions were received.

No community consultation has been undertaken specifically related to the alterations sought by this report. However, if the changes were considered acceptable and an alteration to the Gateway Determination sought, the normal process would require a statutory 28 day period of community consultation (public exhibition).

PE2 – Planning Proposal – Abbotsford

ALTERATION OF A PLANNING PROPOSAL

Should Council resolve to support the amendments, the Planning Proposal will be amended and then forwarded to the Minister for Planning and Environment for an Alteration to the Gateway Determination.

In deciding to forward an amended Planning Proposal to the Gateway process, Council is endorsing the amendments to *Council's* Planning Proposal.

Council's options are:

1. Resolve to support an amended planning proposal in the form described in Section 1.2 of this report (i.e. support the alternative land use zones and heritage listing 2 new items)
2. Resolve to support the Planning proposal in its current form. With this option no alteration to the Gateway Determination would be required.

Option 1 is the recommendation of this report.

A Plan for Growing Sydney

The proposed amendments to the planning proposal will not result in an inconsistency with this Plan.

Section 117 Ministerial Directions

The proposed changes to the planning proposal are considered to be consistent with these directions. In particular, Direction 2.3 Heritage Conservation.

State Environmental Planning Policies

The amendments sought to the Planning Proposal would not create an inconsistency with any relevant SEPP.

Wollondilly Growth Management Strategy

The proposed amendment does not affect the site's suitability as previously assessed under the Growth Management Strategy.

The subject site is not identified as a potential residential growth area on the Structure Plan for Picton, contained within the Growth Management Strategy 2011 (GMS). Notwithstanding this, the assessment of the planning proposal against the GMS key policy directions indicates that it is generally consistent with the strategy's aims by siting growth on the periphery of the Picton urban area.

It is anticipated that the scope and timing of the stabilisation works will be secured through a Voluntary Planning Agreement. Discussions are underway with the proponent on this matter.

PE2 – Planning Proposal – Abbotsford

The principal justification for rezoning the land is that it will benefit the Abbotsford homestead which is an item of State Heritage significance. Rezoning the land will enable works to stabilise the homestead ruins and help prevent further deterioration.

Wollondilly Local Environmental Plan, 2011 (WLEP, 2011)

Based on the amendments to the planning proposal sought by this report, the revised planning proposal would seek amendments to WLEP 2011 as described below:

- amend the Land Zoning Map from Zone RU2 Rural Landscape to E4 Environmental Living. It would no longer seek an R5 Large Lot Residential or RE1 Public Recreation land use zone on any part of the site.
- amend the Lot Size Map from a minimum lot size category of 40 hectares across the site to 4000 square metres on the lower slopes and 20 hectares along the ridge and upper slopes.
- amend the Height of Buildings Map to establish a Maximum Building Height Category of 6.8 metres.
- amend Schedule 5 Environmental heritage to include the Byrne's Exhibition Dairy and the Rural silo structures.
- amend the Heritage Map to provide an appropriate curtilage around the existing Abbotsford item and new items at the Byrne's Exhibition Dairy and the Rural silo structures.

Wollondilly Development Control Plan, 2011 (WDCP, 2011)

Site specific controls are to be proposed for inclusion within the Wollondilly Development Control Plan. These will be the subject of a separate report.

FINANCIAL IMPLICATIONS

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

All proposals which result in an increased intensity of land use within the Shire shall also lead to increased demand for Council services and facilities over time. Council will need to consider this in the adopted budget and forward estimates.

ATTACHMENTS:

1. Abbotsford Planning Proposal Heritage Items (Proposed & Existing)
2. Letter from Rein Warry & Co.

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

PE2 – Planning Proposal – Abbotsford

RECOMMENDATION

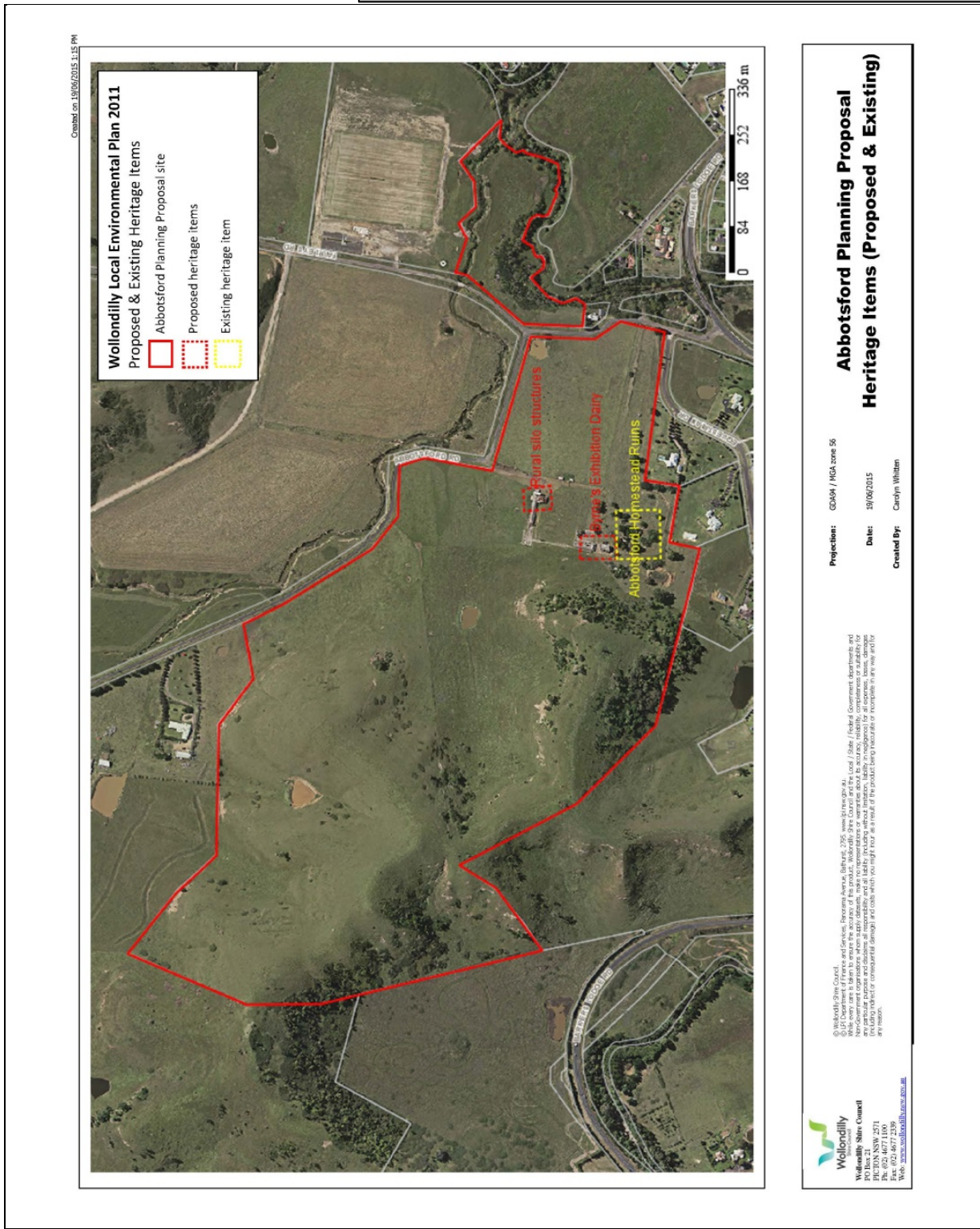
1. That Council support the proposed amendments to the Abbotsford Planning Proposal being:

Part Lot 1 DP 1086066 (No.15) Fairleys Road, Picton, to amend Wollondilly Local Environmental Plan 2011, as follows:

- amend the Land Zoning Map from Zone RU2 Rural Landscape to E4 Environmental Living
 - amend the Lot Size Map from a minimum lot size category of 40 hectares across the site to 4000 square metres on the lower slopes and 20 hectares along the ridge and upper slopes
 - amend the Height of Buildings Map to establish a Maximum Building Height of 6.8 metres
 - amend Schedule 5 Environmental heritage to include the Byrne's Exhibition Dairy and the Rural silo structures
 - amend the Heritage Map to provide an appropriate curtilage around the existing Abbotsford item and new items at the Byrne's Exhibition Dairy and the Rural silo structures.
2. That an amended planning proposal is prepared and forwarded to the Minister for Planning and Environment for an alteration to the Gateway Determination.
 3. That the proponent be informed of Council's decision.

PE2 – Planning Proposal – Abbotsford

ATTACHMENT 1 - 6497 – 17 AUGUST 2015



Planning & Economy

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Abbotsford Planning Proposal
Heritage Items (Proposed & Existing)

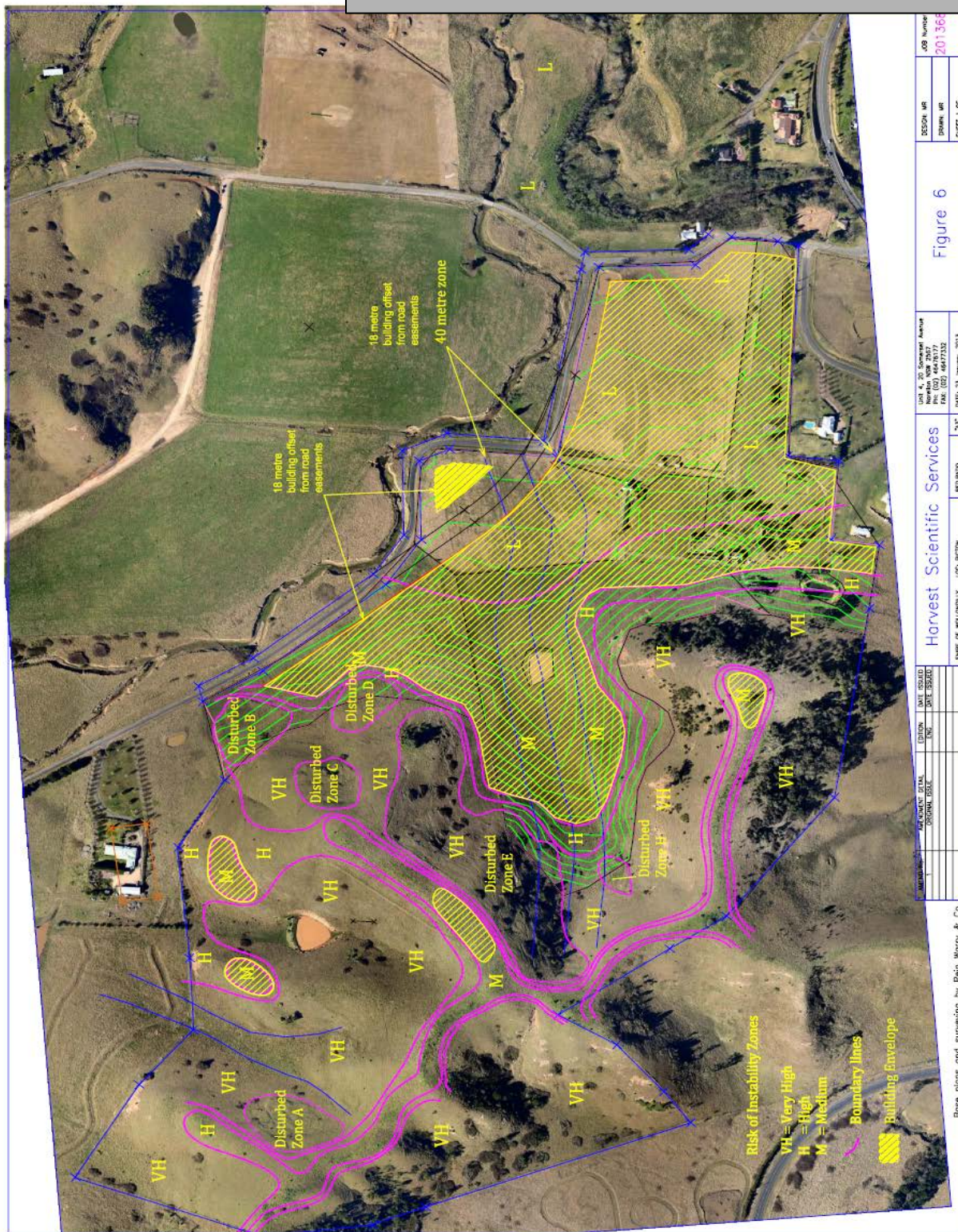
Projection: GDA94 / MGA zone 56
 Date: 19/06/2015
 Created By: Carolyn Whittan

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Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

PE2 – Planning Proposal – Abbotsford

ATTACHMENT 1 - 6497 – 17 AUGUST 2015



100% 1:50 Scale Survey of Area No. 102 444 8177 No. 102 448 7733 DATE: 23 January, 2013		DESIGN MR DRAWN MR SHEET 1 OF
Harvest Scientific Services SHEET OF WOLLONDILLY DISTRICT		JOB NUMBER 201366
Figure 6		

Base plans and surveying by Rein Worry & Co.

Planning & Economy

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

PE2 – Planning Proposal – Abbotsford

ATTACHMENT 2 - 6497 – 17 AUGUST 2015

Planning & Economy

REIN WARRY AND CO. PTY.LTD

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WOLLONDILLY SHIRE COUNCIL
 29 JUN 2015
 RECEIVED AT COUNTER
 BY: *M. Mayo*

25/6/2015

Our Ref: 7042
 Your Ref:

The General Manager
 Wollondilly Shire Council
 Menangle Street
 PICTON NSW 2571 Ms Carolyn Whitten
 Dear Sir,

WOLLONDILLY SHIRE COUNCIL
 TRIM No. 6497
 PROJECT No. 6497
 30 JUN 2015
 AUTH No. Tania
 ASSIGNED TO

Re: Planning Proposal Gateway determination Abbotsford Road Picton

We refer to the above matter and to Council's email dated the 24th June, 2015 and provide the following advice:-

1. In relation to the area adjoining Council's football fields we were initially of the view that it had a building envelope above the 1%AEP flood level. An inspection of the flood risk assessment done by Floodmit, to support the rezoning proposal, that does not seem to be the case. As this land does not have a flood free building area then it must remain part of the larger allotment and its future potential will be considered at some later stage. For the purposes of this Planning Proposal it can be excluded from the rezoning;
2. We are unsure what is meant by the "remaining planning proposal site". Could Council please advise which area is the focus of this comment;
3. The upper slopes and ridges present a number of building envelopes. A twenty (20) hectare minimum allotment size is too large. Whilst this land has limited access from the subject land, there is access from adjoining land which could better utilise this higher ridge and upper slope land. A four (4) hectare minimum would be more appropriate. Any future development application will need to satisfy the consent authority that there is sufficient building and waste water areas available. The twenty (20) ha minimum does not allow any merit development application to be lodged. Please change to four (4) ha minimum for the upper area;
4. We are unsure why there should be a different building height imposed to other surrounding zones. A consistent maximum building height with the adjoining land should apply;
5. There is no concern regarding the listing of Byrne's Exhibition Dairy (single factory building only) as it is contained with the heritage curtilage of Abbotsford. There is no objection to the silos being a separate Heritage item;
6. The Heritage curtilage has been pegged and agreed upon by the relevant

Page 1 of 2

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

PE2 – Planning Proposal – Abbotsford

ATTACHMENT 2 - 6497 – 17 AUGUST 2015

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heritage qualified consultants, both Council and ours. If Council means that the heritage curtilage is the area as pegged and drawn on plans submitted to Council then there is no objection;

We also note that Strategic Planner Grant Rokobauer has left Council. We trust that his departure does not impact on the processing of this planning proposal.

Should you wish to discuss this matter further or have any queries in this matter please do not hesitate to contact our office.

Yours faithfully
REIN WARRY AND CO

Page 2 of 2

PE3 – Planning Proposal – Clearview

PE3 Planning Proposal – Clearview

41

TRIM 5875

Applicant: Tesrol Clearview Pty Ltd
Owner: As Above



Stage	Completed
Preliminary notification	24 March 2010 - 23 April 2010
Gateway Determination	8 August 2011
Consultation with Public Agencies	September-October 2011
Specialist Studies	March 2014
Pre-exhibition approval from Department of Planning & Environment	11 July 2014
Public exhibition/community consultation	23 July - 20 August 2014
Referred to Minister for Publication	

EXECUTIVE SUMMARY

- This Planning Proposal has been prepared by Wollondilly Shire Council. It seeks to amend the provisions of Wollondilly Local Environmental Plan, 2011 as they apply to Lots 21, 37, & 36 DP 751287 and Lot 1 DP 1058734 and Lots 1 & 2 DP 1079669 (No.s 664, 740 & 760) (Thirlmere Way) and 25 Star Street (Picton) to:
 - Change the zoning of the land to part R2 Low Density Residential (R2) and part R5 Large Lot Residential (R5)
 - Change the minimum lot size to 450m sqm for the land zoned R2 and part 4,000m sqm for the land zoned R5
 - Change the maximum building height to 9m

PE3 – Planning Proposal – Clearview

- Include the land on the urban release area map
- The Planning Proposal includes amendments to the Wollondilly Development Control Plan, 2011 in relation to mine subsidence, conservation of native vegetation, land contamination, land instability and urban release area requirements.
- The Planning Proposal is consistent with the Key Policy Directions and Assessment Criteria to Council's Growth Management Strategy.
- 17 submissions were received in response to Community Consultation. Of these submissions 15 objected, one is neutral and one is in support.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extend to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended:
 - That Council support the Planning Proposal with amendments as described in this report
 - That the Planning Proposal be finalised and forwarded to the Minister for Planning and Environment for publishing
 - That Council exhibit proposed changes to the Wollondilly Development Control Plan, 2011 or 2015.
 - That the applicant and persons who made submissions be notified of Council's decision.

REPORT

BACKGROUND

The application was last reported to Council on Monday 18 April 2011 where it resolved as follows:

1. *That Council support the draft planning proposal for approximately 300 dwellings (for lot 21 DP751287, Lot 36 DP751287, Lot 37 DP751287, Lot 1 DP1058734, Lot 1 DP1079669 and Lot 2 DP1079669).*
2. *That the planning proposal be forwarded to the Minister for Planning for a Gateway Determination;*
3. *That the persons who made submissions regarding this matter be notified of Council's decision.*
4. *That the applicant is to submit details of the potential location(s) of any on-site sewerage treatment plant, due to uncertainty regarding the potential impacts of an on-site sewerage treatment plant on nearby residential properties.*

PE3 – Planning Proposal – Clearview

5. *That Council's traffic engineering staff will assess the feasibility and traffic access implications of the proposal put forward by the applicant to prevent vehicular access to the site via Connellan Crescent.*

1.1 SITE DESCRIPTION

The site is known as 'Clearview' and is situated on the western edge of the township of Picton, rising up along two ridgelines. It comprises 6 lots with a total area of approximately 82 hectares. Historically the site was used for dairy farming and currently is used for grazing cattle. Most of the site is cleared except on the western end. The site is partially bounded on two sides, the north and east by an unformed road, Star Street and by Thirlmere Way to the south. Access to the eastern end of the site from Argyle Street is via Thirlmere Way and under a railway bridge for the main Southern Railway. A dirt track on the western end of the site from Thirlmere Way provides access to this part of the site. On its western end the site adjoins a community title development which contains large lot residential development.

1.2 DESCRIPTION OF PROPOSAL

It is proposed to amend Wollondilly LEP to rezone rural land to allow for residential development. The proposal is to:

- Rezone the eastern portion of the site to R2 Low Density Residential and allow for a minimum allotment size of 450m sqm, and
- Rezone the western portion of the site to R5 Large Lot Residential and allow for a minimum allotment size of 4000m sqm
- Allow a maximum building height of 9m. Currently there is no maximum building height
- Include the land on the Urban Release Area Map

The proposal will potentially allow for the development of approximately 300 allotments.

1.3 GATEWAY DETERMINATION

A Gateway Determination was issued dated 8 August 2011. The Gateway Determination granted that the inconsistencies with Section 117 Directions 1.2 Rural Zones and 3.4 Integrating Land Use and Transport are of minor significance or are consistent with the objectives etc. and no further approval on these matters was required for the project to proceed. The conditions of the Gateway Determination are summarised in the following table with comments as to how these have been addressed in the Planning Proposal process.

PE3 – Planning Proposal – Clearview

Gateway Condition	Addressed by:
1. Council is to consult the relevant authorities regarding coal extraction as per the requirements of S117 Direction 1.3 Mining, Petroleum and Extractive Industries.	The Department of Trade & Investment (Mineral Resources) has objected to the planning proposal as mining expansion under the Clearview site is proposed in the medium term
2. A flood study is required in accordance with S117 Direction 4.3 Flood Prone Land and to assess impact of waste water facility and on Cumberland Plain Woodland (CPW).	A flood study was undertaken which found that with appropriate stormwater management no adverse impact is anticipated on Cumberland Plain Woodland or downstream. This assessment included the provision of a wastewater facility.
3. Consultation with Commissioner of the NSW Rural Fire Service and in relation to S117 Direction 4.4 Planning for Bushfire Protection	Consultation was undertaken with the Commissioner of NSW RFS and they are satisfied that the site will be able to comply with the provisions of <i>Planning for Bushfire Protection 2006</i> .
4. Further information on its 'water and wastewater strategy' including the likely location of proposed future facilities.	An assessment of the proposed wastewater recycling facility indicated that it would provide a lower water usage and overall environmental benefits.
5. Council is to undertake consultation with Sydney Water to obtain in-principle agreement to the proposed waste water facility infrastructure.	Sydney Water has advised that they are able to service the site with reticulated water and sewer subject to the developer augmenting trunk infrastructure. Accordingly there is no necessity to obtain Sydney Water's in-principle agreement for the waste water facility.
6. Land to be identified on the urban release area map for the purpose of Clause 6.1 of Wollondilly LEP 2011. Consultation with relevant authorities during exhibition in regards to the provision of State Infrastructure Contributions.	Completed.

PE3 – Planning Proposal – Clearview

Gateway Condition	Addressed by:
7. Planning proposal, agency consultation and studies to be completed and submitted to Department's regional office for consideration prior to public exhibition.	Completed
8. Community consultation for 28 days.	Completed
9. Consultation with public authorities under Section 56(2)(d) of the EP&A Act.	Completed
10. A public hearing is not required unless in response to a submission or if reclassifying land.	Noted.
11. The timeframe for completing the LEP is 24 months from the week following the date of the Gateway determination.	The timeframe has been extended and the current deadline is now 15 August 2015. A further extension to the deadline has been sought from the Department.

CONSULTATION

2.1 CONSULTATION WITH COUNCIL STAFF

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

Manager Infrastructure Planning

A roundabout at Thirlmere Way/Rumker St is proposed and this will provide the main access into the eastern end of the site via Antill Street. In relation to Connellan Street it is proposed to make the bridge access and egress left turn only from Argyle Street which will improve the current intersection and limit additional traffic arising from future development of the Clearview site.

There is no need for a pedestrian bridge over Connellan St as there are no connecting footpaths along Argyle St. As a result there may be a danger to pedestrians if the bridge is installed, because after using it, pedestrians might then try to cross Argyle St even though there are no pedestrian crossing facilities near to where the pedestrian bridge would connect.

Pedestrian access will be required under the railway bridge by lowering of the roadway to a depth to provide sufficient clearance to allow trucks to pass beneath the bridge due to the offsetting of the road alignment required to provide for the shared pathway. The road works on either side of the bridge will need to be subject to detailed engineering design to ensure that the new road levels work.

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An assessment of stormwater management throughout the site has indicated that drainage of the site through the use of on-site detention and culverts will ensure that development of the Clearview site will not result in adverse impact on downstream properties.

Manager Environmental Services

There is a need to protect identified Cumberland Plain Woodland (CPW) which is located on the western end of the site within areas proposed to be zoned R5 Large Lot Residential. The CPW trees are unique in their age and their elevated location in the landscape and for this reason should be retained.

Although only a small part in the north-western section of the site is bushfire-prone, the introduction of the 10/50 vegetation clearing code by the Rural Fire Service may place CPW trees at risk, so the Asset Protection Zone from dwellings should be located away from these trees.

The site inspection observed that there is very limited mid-storey and almost non-existent native groundcover in some of the area identified as CPW. This area has been modified from continuous grazing and pasture improvement.

While an E3 zoning would offer a high level of environmental protection the lack of diversity in the groundcovers and mid-storey would require management to ensure that native species are encouraged for recruitment. For this reason the site could benefit from a Vegetation Management Plan which establishes some preliminary weed control prior to the registration of lots. A biodiversity layer could be suitably applied over the existing zoning and building envelopes established to ensure that tree removal does not occur.

Future residents will need to understand that a covenant includes the retention of fallen timber and hollow trees.

A positive covenant should be applied which requires the CPW trees to be retained and natural areas to be encouraged as much as practicable.

2.2 CONSULTATION WITH PUBLIC AGENCIES

The Gateway Determination required consultation with the following Public Agencies:

- Mine Subsidence Board
- NSW Education and Community
- NSW Local Land services - Greater Sydney Local Land Service
- Office of Environment and Heritage
- Department of Primary Industry - Office of Water, Agriculture
- NSW Trade & Investment (Resources & Energy)
- NSW Transport & Roads and Maritime Services

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- NSW Police Service
- NSW Rural Fire Service
- NSW Department of Health- Area Health Service
- Sydney Water
- Endeavour Energy
- NSW Trains - Australian Rail Track Corporation
- Ambulance Service of NSW
- NSW Fire Brigades
- State Transit Authority
- Telstra
- Relevant Infrastructure service providers

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

Mine Subsidence Board (MSB)

The MSB did not raise an objection to this proposal and supported the proposed use of the MSB guidelines for future buildings on the site.

Comment

Noted

NSW Education & Communities

The Department of Education & Communities (DEC) undertook a high level analysis which indicates that the planning proposal would generate additional demand for public education spaces. The Clearview site would be within the catchment of Picton Public School which is currently fully utilising all permanent classrooms and relies on supplementary temporary classrooms. The DEC has requested a meeting to discuss their findings and are seeking to have a new developer contribution for educational establishments to assist in meeting education infrastructure needs.

Comment

Council is organising regular consultation with DEC to discuss their requirements. A developer contribution to assist in meeting infrastructure demands generated by new developments may enable their timely provision.

NSW Local Land Services - Greater Sydney (GS LLS)

The GS LLS administers the *Native Vegetation Act 2003* (NV Act 2003) which applies to the Shire of Wollondilly. They support activities that achieve the objects of the NV Act and consider that proposed developments should be located and designed to minimise impacts on native vegetation with any clearing required mitigated by establishing offset areas.

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The GS LLS note that CPW has been identified on the site and is listed under the *Threatened Species Conservation Act 1995* and *Environmental Protection Biodiversity Conservation Act* as a Critically Endangered Ecological Community. GS LLS supports the recommendations in the Flora and Fauna study to conserve the remaining CPW on site under a Positive Covenant and to encourage the use of indigenous, endemic native plants in the rehabilitation of the drainage lines.

The NV Act 2003 will continue to apply to land proposed to be zoned R5 Large Lot Residential and therefore approval for clearing would be required unless the activity is excluded or exempt from the NV Act 2003.

The GS LLS recommend that the asset protection zone provisions are taken into account when placing the building envelopes on the sites where the CPW is present to reduce further impact on the remnant vegetation.

Comment

It is proposed to include provisions in the Wollondilly DCP to protect the CPW.

Office of Environment and Heritage (Environment) (OEH - Environment)

The OEH-Environment has provided responses as follows:

Aboriginal Cultural Heritage

The OEH has reviewed the Aboriginal Cultural Heritage Assessment March 2012 and supports its finding and recommendations.

Comment

Noted

Biodiversity

The OEH has raised some concerns about some aspects of the proposed positive covenant for CPW in relation to long term maintenance, ancillary residential development and the NSW Government 10/50 Vegetation Clearing Code of Practice in relation to Asset Protection Zones.

Comment

The OEH comments are noted and the provisions in Wollondilly DCP for protecting and maintaining biodiversity and CPW have been strengthened.

Flood Risk Management

The OEH have indicated that the Water Cycle and Flood Study Report (Hyder 2014) has provided a sound understanding of flood behaviour for events up to the 100 year ARI flood. Further work is required to address the probable maximum flood (PMF) which should be undertaken as part of the detailed design of any future development of the site.

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Comment

A further detailed assessment in relation to the PMF level will be undertaken as part of a development application for any future subdivision of the site.

Department of Primary Industry - NSW Office of Water (NoW)

The NoW has indicated that there are several mapped watercourses within the site which form part of the Redbank Creek Catchment. They suggest that any proposal to extend residential development should be compliant with the requirements of the Riparian Corridor Guidelines.

Further consideration will need to be given to the treatment of a watercourse which currently traverses Antill Street which is proposed to be used for access to the Clearview site.

Comment

Treatment of the riparian corridors will be a major consideration as part of any future assessment of a development application for subdivision.

NSW Department of Trade & Investment (Resources & Energy) (DTIRIS)

The DTIRIS Mineral Resources Branch (MRB) does not support the proposed rezoning as it considers that the potential number of residences is likely to have a significant impact on local mining operations. There is also the potential for coal resources to be sterilised. The MRB has serious concerns but would reconsider their position as soon as longwall mining has been completed underneath the site. The site is not within a mine subsidence area and therefore any compensation should there be subsidence issues would be required from the local colliery.

Comment

There is an approval for longwall mining under the Clearview site and DTIRIS has indicated that longwall mining is likely to proceed in the short to medium term. It is anticipated that the Clearview site will not be fully developed with housing for another 10 years. Accordingly it is proposed that the building guidelines used by the MSB are applied to any future building approval to mitigate any future subsidence should longwall mining be undertaken after residential development.

Transport for NSW & Roads & Maritime Services (TfNSW and Roads and Maritime)

TfNSW and Roads and Maritime have assessed the proposal and consider that the proposed roundabout at the junction of Thirlmere Way/Antill Street would continue to operate at an acceptable level of service with full development of the site in 2024. They have advised that they do not object to the planning proposal in principle.

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Comment

The TfNSW and Roads and Maritime comments are noted.

NSW Police Force

The NSW Police Force undertook a Safer by Design Evaluation and have not issues with this planning proposal.

Comment

The NSW Police Force comments are noted.

NSW Rural Fire Service (NSW RFS)

The NSW RFS provided comments in response to the Bushfire Hazard Assessment and advised that the site would be able to meet *Planning for Bushfire Protection Guidelines 2006*.

Comment

A small area to the north west of the site is prone to bushfire hazard.

South Western Sydney Local Health District (SWSLHD)

The SWSLHD supports the provision of a range of housing options to promote housing affordability. They also support its location adjacent to existing urban areas and minimising impact on productive agricultural land and the natural environment. The SWSLHD commented as follows:

- A focus on public and active transport facilities and connections to the railway and Picton town centre.
- There is current capacity to service future residents at the Wollondilly Community Health Centre at Tahmoor but growth should be monitored to ensure demand can be met.
- It should be clear that the site is not used for any primary agricultural or food production and that the proposed changes will not impact on food security. A community garden to provide fresh produce could be considered.
- Supports improved pedestrian and vehicle access over the railway line.
- A Regional Integrated Primary and Community Care Centre is proposed at Wilton Junction once the population reaches a level of economic viability for service provision.

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Comment

There are currently requirements under Wollondilly DCP 2011 for the provision of pedestrian/cycleway links to town centres as part of any future subdivision. To ensure pedestrian links are provided, it is proposed to lower Thirlmere Way under the railway bridge to provide adequate clearance for a pedestrian path. The SWSLHD comments are noted in relation provision of health services. The site was previously used for dairy farming which is no longer viable and there is limited potential for alternative agricultural uses with the site's steep topography and location adjacent to urban areas. It is not considered that the rezoning of this land will be an issue with regard to food security.

Sydney Water

Sydney Water has advised that there is capacity under current water and wastewater schemes to service the proposed development with extension and amplification of existing networks.

Comment

Sydney Water has included the Clearview site in their planning with regard to increasing the capacity of Picton Sewage Treatment Plant. Accordingly there is no necessity for an on-site wastewater treatment system.

Endeavour Energy

Endeavour Energy indicated that they would determine the electrical supply arrangements following confirmation of lot yields and development potential.

Comments

Endeavour Energy's comments are noted.

Department of Primary Industry – Agriculture (DPI)

The DPI - Agriculture have advised that the site contains agricultural land class 4 suitable for grazing and constrained for cropping and does not contribute to a major loss of an agricultural resource. The proposal will need to consider if there is potential for odour to impact the proposed residential release from a poultry farm to the north-west.

Comments

The DPI-Agriculture comments are noted. The nearest poultry farm property is located approximately 800m to the north-west. An odour assessment found that there will be no impact from poultry activities on any potential residential lots.

Australian Rail Track Corporation Ltd

ARTC requests that due to the location of the rail corridor, Council consider noise and vibration in its assessment of the rezoning application.

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Comment

It is considered that as the site is not adjacent to the railway line that there are unlikely to be any major issues in relation to noise and vibration. Further assessment of these matters would be undertaken as part of any proposed subdivision and housing.

2.3 COMMUNITY CONSULTATION

The Gateway Determination specified a 28 day period of community consultation and public exhibition. During this time the Planning Proposal, specialist studies and other documents as required by the Gateway Determination were made available for public viewing on Council’s website and at Council’s Administration Building and in Picton library. A public notice was placed in the local newspaper. Letters were sent to adjoining landowners and previous submitters

The issues raised in submissions that are relevant to the assessment of the Planning Proposal are summarised in the following table along with assessment comments.

Issue Raised	Assessment Comment
<p>Mining</p> <ul style="list-style-type: none"> - Tahmoor Coal seeks deferral of the rezoning until after the completion of planned underground longwall mining which is expected to be completed within 10 years. - Significant mine subsidence impacts are expected - Consultation with stakeholders has indicated that where possible surface development should not occur until after completion of longwall mining - Financial costs of monitoring, mitigating, managing, repairing and restoring impacts to structures and infrastructure is substantial and is borne solely by Tahmoor Coal directly or indirectly through the coal industry funded Mine Subsidence Board. - Subsidence impacts would affect proposed infrastructure as well as housing 	<p>The concerns outlined are recognised. It is anticipated that any future residential development will not be fully completed until around 2024. It is proposed that future housing would be constructed using mine subsidence guidelines. It is considered that both mining and residential development should be able to be undertaken provided there is consideration given to the staging and timing of future subdivision and the design of residential development in relation to potential mining impacts.</p>

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Issue Raised	Assessment Comment
<ul style="list-style-type: none"> - Social costs involving disruption and inconvenience to repair damaged housing. -The proposed development should be staged around the mining schedule which is currently well underway. - subsidence may impact the flow of water 	
<p>Minimum 450m sqm lot size</p> <ul style="list-style-type: none"> - Impact on landscape character - Restricts children's environment - potential slum, 'throw up' housing, disgusting -negative impact on surrounding area - too high density - will affect property values - against rural living principles - loss of privacy, serenity, views & quietness - suburban development in rural area - more medium density -inappropriate on outskirts of town should be 1000 sqm - 800 sqm near bridge appropriate -not in character with Picton 	<p>The proposed minimum lot size of 450m² will apply to the R2 Low Density Residential part of the site. Although this is the minimum lot size, it is likely that many lots particularly those along the ridges will be considerably larger. Around one third of the site on the western end which is proposed to be zoned R5 Large Lot Residential would have a minimum lot size of 4,000m².</p> <p>The aim of the 450m² minimum lot size is to enable maximum development on the lower, flatter parts of the site. Smaller lots would potentially provide opportunities for more affordable housing.</p> <p>Overall the density of the site will be relatively low when compared to other suburban areas in Picton and elsewhere.</p> <p>No housing will be permitted on ridgelines to protect views from adjoining land.</p>
<p>Lack of community infrastructure/services</p> <ul style="list-style-type: none"> - inadequate public transport - high level of car dependency - playgrounds needed - cycleways or pedestrian paths and links needed -pedestrian route under Thirlmere Way railway bridge unsafe 	<p>Bus services would provide public transport along Thirlmere Way and Argyle Street. The site is less than 2 kms from Picton railway station.</p> <p>Consideration would be given to the provision of a playground as part of the assessment of any future subdivision.</p>

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Issue Raised	Assessment Comment
<ul style="list-style-type: none"> - local schools overcrowded - more medical facilities required - infrastructure required before housing built - capacity for reticulated sewer is uncertain 	<p>Pedestrian links throughout the site and to existing infrastructure would be required and traffic management would ensure that such routes are able to be safely used.</p> <p>The need for additional school facilities is recognised and will need to be addressed for the current and future population. Liaison and consultation with NSW Education is ongoing in this regard.</p> <p>Similarly additional medical facilities are required and a larger population will make such facilities more economically viable.</p> <p>Sydney Water has indicated that there is capacity to sewer the site using Picton Sewerage Treatment Plant</p>
<p>Traffic impacts</p> <ul style="list-style-type: none"> - inadequate traffic survey - impact on intersections on Argyle St, Prince St & bridge - roundabout on Antill St needs to cope with heavy truck traffic to rural properties on Star St which will also be narrower - impact on Connellan Crescent & resident safety -roundabout on Argyle St & to Prince St needs widening to four lanes -intersection of Prince St & Menangle St needs widening - roads already congested - north Connellan Crescent & Antill St West should be constructed due to main traffic flow -need for another bypass around Picton - congestion & conflict on 	<p>The Roads and Maritime Services are satisfied with the traffic analysis undertaken.</p> <p>Improvements will be able to be made to intersections and roads near the proposal as part of any development consent and through developer contributions.</p> <p>The access to rural properties will be a consideration of any future roundabout and road proposal in association with future development of the Clearview and West Picton sites.</p> <p>The main access to the site is proposed via Antill Street. Connellan Street will not be used for access to the site with the proposal to limit access and</p>

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Issue Raised	Assessment Comment
<p>Thirlmere Way with difficult access for residents to properties</p> <ul style="list-style-type: none"> - traffic should not be directed onto Connellan Crescent - -proposed access from Stonequarry Estate - potential traffic access along narrow & unstable ridgeline on northern side 	<p>egress to left turn only.</p> <p>There is no proposed access from Stonequarry Estate. Proposed access on the northern side of the site will be considered in more detail at the development application stage.</p>
<p>Flora & Fauna</p> <ul style="list-style-type: none"> - local herd of wallaroo not mentioned in study. - some endangered animals were not included - the Draft DCP requirements to protect the CPW are not considered to support the proposed covenant. 	<p>The Flora and Fauna study has adequately addressed the habitat and biodiversity features of the site and has proposed the protection of CPW an endangered ecological community and enhancement of indigenous vegetation along riparian corridors. This will ensure that the habitat for native animals is retained and improved.</p> <p>The requirements for the proposed covenant will be incorporated into the Draft DCP to achieve the best conservation outcomes.</p>
<p>Landscape and amenity</p> <ul style="list-style-type: none"> - the visual analysis study did not include either of the two nearest homes. -loss of rural ambience -lighting will affect our property - noise will be an issue in the natural amphitheatre - fencing is required to prevent domestic animals interfering with livestock - proposal is against rural living 	<p>Detailed consideration in terms of visual impacts on specific properties will be assessed as part of any future application for subdivision.</p> <p>Landscaping of the site along riparian corridors and throughout the site should reduce the visual impact.</p> <p>There will be some loss of rural character and amenity impacts but this has to be balanced with the need for additional and affordable housing.</p> <p>Potential future lots will be fenced but owners of animals are expected to ensure that they are contained within properties.</p>

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In summary, the matters raised in submissions have been addressed by proposed provisions in Wollondilly DCP or can be dealt with as part of the assessment of future development applications.

2.4 PLANNING PROPOSAL

The Planning Proposal has been prepared in accordance with Section 55 to the EP&A Act, 1979 and the guidelines published by the DP&E. The Planning Proposal has been revised from the publicly exhibited version in response to matters raised through consultation.

Council's options are:

1. Resolve to support the Planning Proposal in the form as described in Section 2.13 to this report.
2. Resolve to support the Planning Proposal in another form. With this option a new Gateway Determination, amended specialist studies and a new public exhibition period may be required.
3. Resolve not to support the Planning Proposal. With this option there is no further action to be taken on the Planning Proposal other than to inform the applicant, submitters and the DP&I that the Planning Proposal has been terminated. The applicant could choose to submit a new Planning Proposal. There are no appeal rights through the Land and Environment Court against Council' refusal to support the Planning Proposal at this stage of the process.

Option 1 is the recommendation of this report.

2.5 A PLAN FOR GROWING SYDNEY

The Plan has a vision for a city of housing choice with homes that meet our needs and lifestyle and are affordable. It is considered that this planning proposal will provide this housing choice.

2.6 DRAFT SOUTH WEST SUBREGIONAL STRATEGY TO 2031

A strategy has not been finalised but housing growth will be an important element. In terms of what is highlighted in the metropolitan plan, south west strategy the planning proposal meets the objectives as it is located adjoining urban land to consolidate housing growth around Picton.

2.7 METROPOLITAN PLAN FOR SYDNEY TO 2036

This plan highlighted the need for consolidated housing growth around town centres which has been met by this planning proposal.

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2.8 DRAFT SOUTH WEST SUBREGIONAL STRATEGY

The strategy set out housing targets for the sub region to be met mainly by growth around urban centres. The strategy outlines a range of matters to be considered in planning proposal including heritage, biodiversity, riparian areas and resources. The planning proposal has satisfactorily addressed relevant matters.

2.9 SECTION 117 MINISTERIAL DIRECTIONS

It is considered that the planning proposal has satisfactorily addressed all relevant directions.

2.10 STATE ENVIRONMENTAL PLANNING POLICIES

State Environmental Planning Policies have been satisfactorily addressed in the planning proposal.

2.11 AMENDMENT TO THE STATE ENVIRONMENTAL PLANNING POLICY (MINING, PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES) (COAL SEAM GAS EXCLUSION ZONES) 2013

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

2.12 WOLLONDILLY GROWTH MANAGEMENT STRATEGY

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.	This proposal meets all the relevant Key Policy Directions and Assessment Criteria contained within the GMS.
P2 All land use proposals need to be compatible with the concept and vision of 'Rural Living' (defined in Chapter 2 of the GMS).	This proposal is generally consistent with the concept and vision of 'Rural Living'.
P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.	Council consulted with the community on the original rezoning application. Issues raised included traffic and the potential loss of rural character. This has been addressed by this Planning Proposal, consultation with government agencies

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Key Policy Direction	Comment
	and the provision of specialist studies. From the public exhibition, there is still community concern about aspects of the proposal but it is considered that the provisions for stormwater management, landscaping, conservation of CPW, pedestrian access, mine subsidence impacts and traffic management will ensure that the planning proposal will have minimal environmental impact.
P4 The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.	No such representations have been made regarding this draft proposal and therefore this Key Policy Direction has been satisfied.
P5 Council is committed to the principle of appropriate growth for each of our towns and villages. Each of our settlements has differing characteristics and differing capacities to accommodate different levels and types of growth (due to locational attributes, infrastructure limitations, geophysical constraints, market forces etc.)	This Planning Proposal has included a detailed visual analysis which has investigated the context of the Clearview site, and the site's contribution to the character of Picton. The proposed zoning and minimum allotment size boundaries have had regard to the key visual impact of development across the site, and proposes to support denser development within lower-set areas which are less visible, while providing for larger and more 'rural' character allotments on the higher and more prominent parts of the site.
Housing Policies	
P6 Council will plan for adequate housing to accommodate the Shire's natural growth forecast.	The draft proposal contributes toward Council's dwelling target for Picton outlined in the GMS. The Structure Plan for Picton includes the subject land as a 'potential residential growth area'.
P8 Council will support the delivery of a mix of housing types to assist housing diversity and affordability so that Wollondilly can better accommodate the housing needs of its different	The scale of the Clearview site and the proposed minimum allotment sizes will support a diverse range of housing types to be accommodated within a single land release area. Further, the inclusion of two residential zones on the site will generate a variety of lifestyle opportunities,

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Key Policy Direction	Comment
community members and household types.	including rural lifestyle allotments on the western fringe.
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 proposed zoning split will deliver a density of approximately 15 dwellings per hectares in areas within close proximity to the existing Picton township, in accordance with NSW Planning and Environment's target for Greenfield sites. The western portion of the site is proposed to be zoned for large lots and lower density to create a ‘rural fringe’ feel for the portion of the site furthest from the existing Picton township.
P10 Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.	The Clearview site is strategically positioned directly adjacent to the rezoned PTT West Picton site to the east and the existing Stonequarry rural residential development to the west of the site. These residential developments provide the site with a strategic sequential position to extend the existing township of Picton to link to the existing outer residential developments.
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.	This Planning Proposal has demonstrated that appropriate infrastructure can be provided in the form of reticulated water & sewer services, adequate drainage and required upgrades to the traffic network. Developer contributions payable at the development application stage will further fund the necessary local infrastructure required to support any future development.
P18 Council will encourage sustainable growth which supports our existing towns and villages, and makes the provision of services and infrastructure more efficient and viable – this means a greater emphasis on	The Clearview site is currently well serviced by existing road networks and public transport on major nearby roads. Residential development on the site for approximately 350 new dwellings will stimulate demand for services within the existing Picton centre, which will strengthen the local economy. Further

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Key Policy Direction	Comment
concentrating new housing in and around our existing population centres.	consultation will be required with the NSW government in terms of the provision of adequate education facilities.
P19 Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.	<p>The Clearview site is strategically positioned directly adjacent to the rezoned PTT West Picton site to the east and the existing Stonequarry rural residential development to the west of the site. These residential developments provide the site with a strategic sequential position to extend the existing township of Picton to link to the existing outer residential developments.</p> <p>Due to the scale of the single holding of Clearview, the site can accommodate approximately 350 new dwellings within a single precinct, which provides a major contribution to the housing targets for the subregion.</p>
P20 The focus for population growth will be in two key growth centres, being the Picton/Thirlmere/ Tahmoor Area (PTT) area and the Bargo Area. Appropriate smaller growth opportunities are identified for other towns.	The subject site is situated in close proximity to the Picton town centre and the Structure Plan for Picton includes the subject land as a 'potential residential growth area'.
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.	This Planning Proposal contains measures to ensure that biodiversity is conserved. Larger lots along the higher western end and ridgelines will assist in ensuring minimising visual impacts from future development on the site.

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2.13 FINAL FORM OF PLANNING PROPOSAL

2.13.1 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP 2011)

Based on the specialist studies and consultation and engagement the following changes are recommended to the exhibited version of the Planning Proposal for WLEP 2011:

- Amend the Natural Resources Biodiversity Map to include vegetation mapped as Cumberland Plain Woodland

This amendment is required to ensure that this vegetation is identified for future assessment in terms of biodiversity conservation.

The Planning Proposal seeks amendments to WLEP 2011 as described below:

- Amend the Land Zoning Map from Zone RU2 Rural Landscape to R2 Low Density Residential and R5 Large Lot Residential as shown in Attachment 1
- Amend the Lot Size Map from a minimum lot size category 16 hectares to a minimum lot size of 450m² for R2 Low Density Residential and 4,000m² for Large Lot Residential land as shown in Attachment 2
- Amend the Height of Buildings Map from a Maximum Building Height Category of no maximum height to a Maximum Building Height Category of 9 metres as shown in Attachment 3
- Amend the Urban Release Area Map to include the Clearview site as shown in Attachment 4

2.13.2 WOLLONDILLY DEVELOPMENT CONTROL PLAN 2011 AND DRAFT WOLLONDILLY DEVELOPMENT CONTROL PLAN, 2015 (WDCP 2015)

The timing of the making of this Local Environmental Plan amendment is unknown and therefore it is not known whether Wollondilly DCP 2011 will remain at that time or WDCP 2015 will be in place. Amendments are proposed to Draft WDCP 2015 and were included in the public exhibition material for the planning proposal to insert controls as follows:

- Mine Subsidence - guidelines for construction of dwellings potentially affected by mine subsidence
- Land Contamination - identifying the site as potentially being contaminated
- Land Instability - ensuring that buildings are located on stable land

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Some changes were made to the exhibited amendments to the DCP as follows:

- Biodiversity - This has replaced the Vegetation provisions that were exhibited and reflects concerns raised by the Office of Environment and Heritage, Council's Environment section and the community. The controls include details about the proposed covenant to protect CPW.
- Urban Release Area - Controls to address Clause 6.3 in Wollondilly LEP 2011

The amended DCP provisions are included as attachment 5, however, will need separate exhibition to comply with legislative requirements.

FINANCIAL IMPLICATIONS

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

All proposals which result in an increased intensity of land use within the Shire shall also lead to increased demand for Council services and facilities over time. Council will need to consider this in the adopted budget and forward estimates.

ATTACHMENTS:

1. Draft Land Zone Map
2. Draft Lot Size Map
3. Draft Height of Buildings Map
4. Draft Urban Release Area Map
5. Draft Amendments to Draft Wollondilly DCP 2015

RECOMMENDATION

1. That Council support the Planning Proposal for land being:

Lots 21, 37, & 36 DP 751287 and Lot 1 DP 1058734 and Lots 1 & 2 DP 1079669 (No.s 664, 740 & 760 and 25 Star Street) (Thirlmere Way) (Picton)

To amend Wollondilly Local Environmental Plan, 2011 as follows:

- Amend the Land Zone Map to part R2 Low Density Residential (R2) and part R5 Large Lot Residential (R5) and;
- Amend the Minimum Lot Size Map to 450 sqm for the land zoned R2 and part 4,000 sq for the land zoned R5 and;
- Amend the Height of Building Map to apply a maximum building height of 9m and;
- Amend the Urban Release Area Map to include the subject land.

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PE3 – Planning Proposal – Clearview

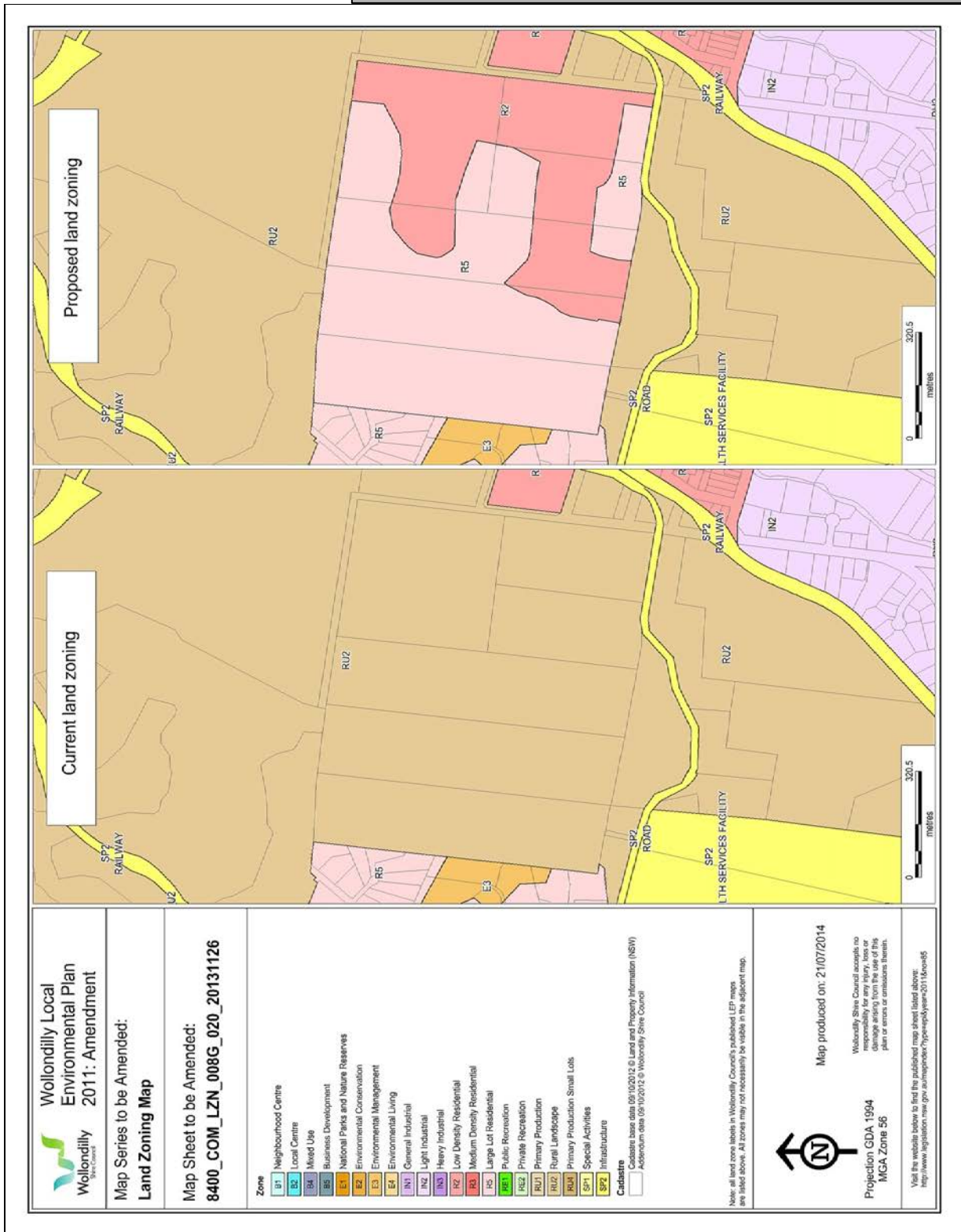
2. That in accordance with Section 59 to the Environmental Planning and Assessment Act, 1979 the Planning Proposal be forwarded to the Director-General with a request to make arrangements for the drafting of the amended Local Environmental Plan and that the Minister make the Plan in the form as detailed in this report and in the Planning Proposal or in a form the Minister may determine appropriate to account for the objection by the Department of Trade and Investment.
3. That Council exhibit the proposed amendments to Wollondilly Development Control Plan (2011 or 2015).
4. That the applicant and persons who made submissions regarding the Planning Proposal be notified of Council's decision.

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

PE3 – Planning Proposal – Clearview

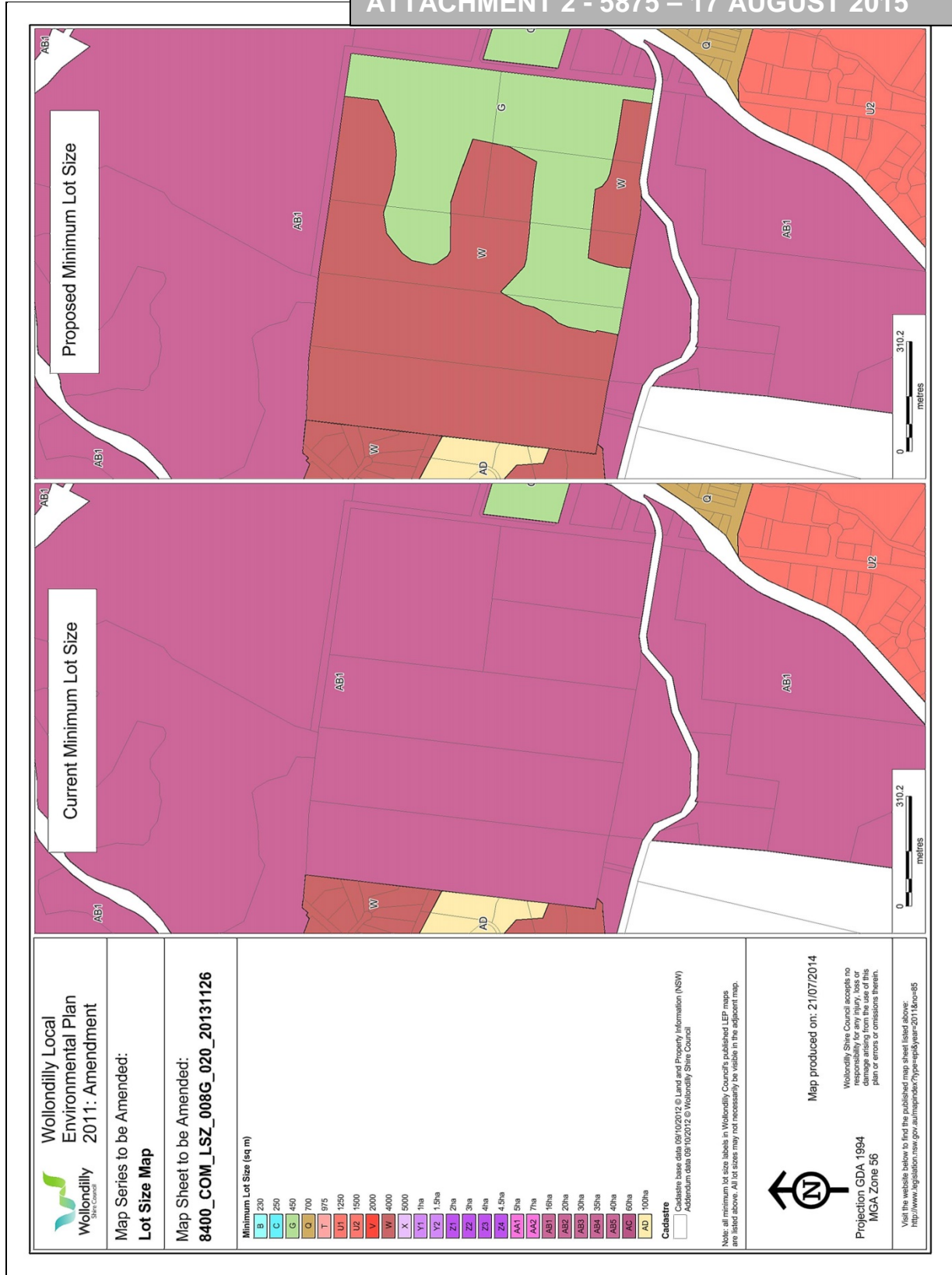
ATTACHMENT 1 - 5875 – 17 AUGUST 2015

Planning & Economy



PE3 – Planning Proposal – Clearview

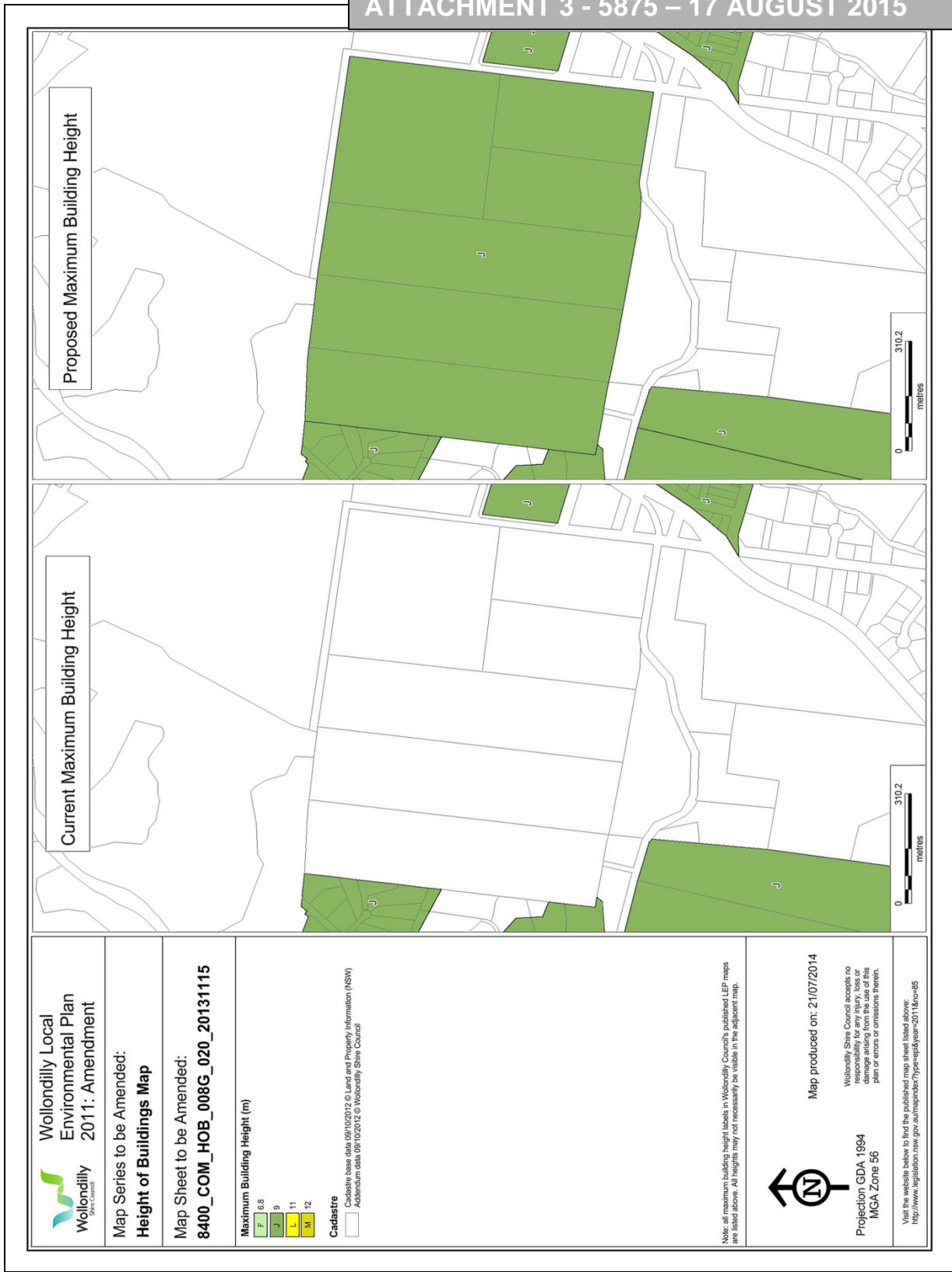
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Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

PE3 – Planning Proposal – Clearview

ATTACHMENT 3 - 5875 – 17 AUGUST 2015

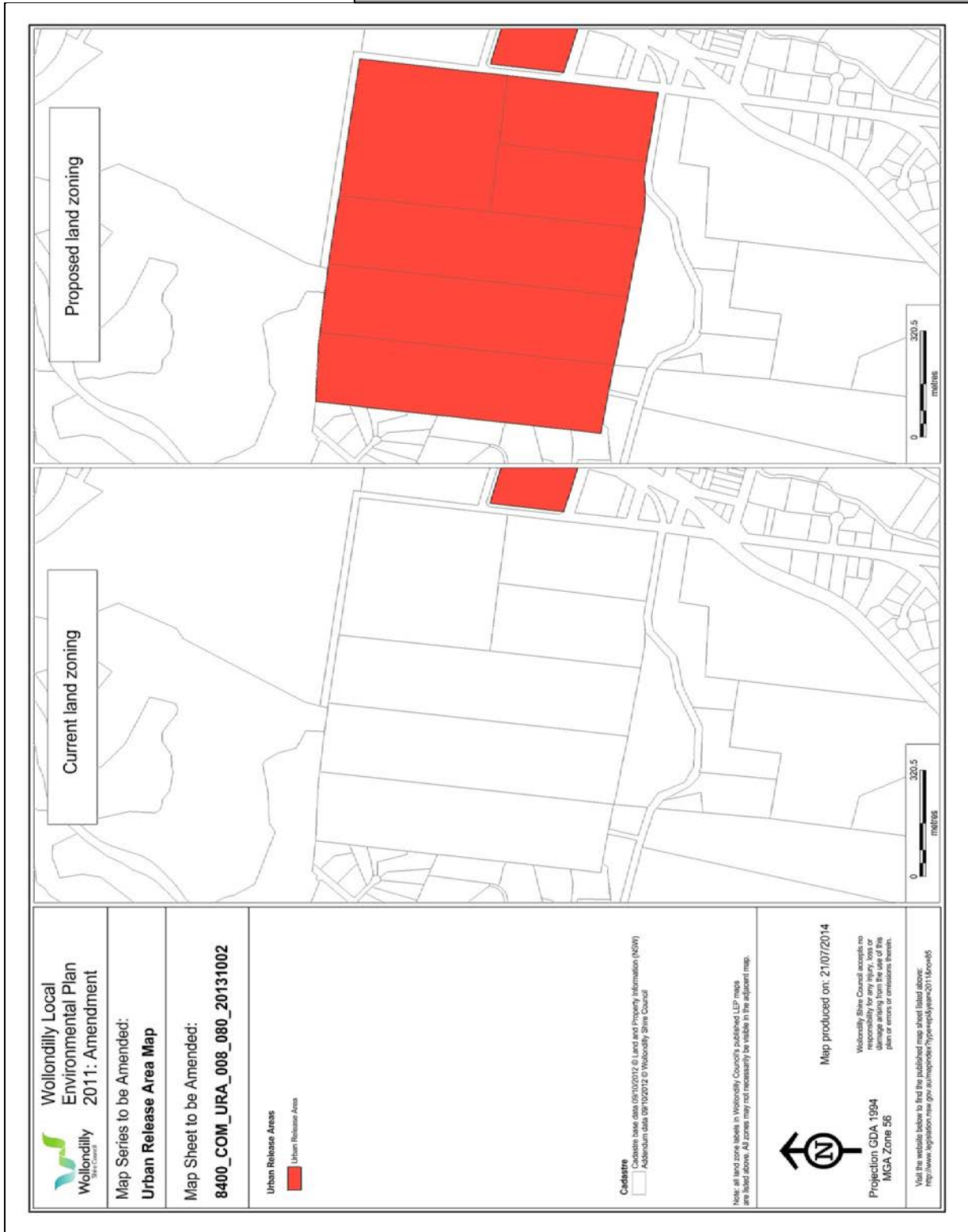


Planning & Economy

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

PE3 – Planning Proposal – Clearview

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Planning & Economy

PE3 – Planning Proposal – Clearview

ATTACHMENT 5 - 5875 – 17 AUGUST 2015

Draft Amendment to Draft Wollondilly Development Control Plan 2015

Volume 3 – Subdivision of Land

Part 4 Controls for Specific Locations

3.10 Clearview

Application

1. This section applies to the land identified on the map below:



Mine Subsidence

Objectives:

- (a) To ensure any potential impacts of mining are minimised for any future development of the site.

Requirements:

1. Dwellings must be constructed in accordance with the most current 'Surface Development Guidelines' available at the time of consideration of any development application for the site which apply to the adjacent mine subsidence district as provided by the Mine Subsidence Board.

Land Contamination

Objectives:

- (a) To ensure remediation measures are undertaken to address any potential contaminants to enable the land to be used for residential purposes.

Note: Potential contaminants were identified on the site at rezoning stage (as part of a 'Limited Preliminary Site Investigation' Report prepared in support of the Clearview Planning Proposal) which identified measures to be undertaken at development assessment stage.

PE3 – Planning Proposal – Clearview

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Requirements:

1. This site is identified as being contaminated for the purposes of State Environmental Planning Policy 55 – Remediation of Land.

Land Instability

Objectives:

- (a) To ensure development is located on land which is not subject to instability, and
- (b) To ensure development is not located on ridgelines.

Requirements:

1. The location of building envelopes for the purposes of a dwelling house must be provided as part of any subdivision application for any allotments located above the 250 AHD contour, as demonstrated by the Building Pad Locations shown on the indicative Concept Plan prepared for the site as part of the Planning Proposal provided below:



Figure 1: Indicative Concept Plan (Urbis 2014)

PE3 – Planning Proposal – Clearview

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Biodiversity

The following requirements apply to all allotments identified as containing Cumberland Plain Woodland on the Vegetation Map.



Figure 3.2. Vegetation Map of the Subject Land

Figure 2: Vegetation Map

Objectives:

- (a) To protect and improve remnant vegetation species identified on the site.
- (b) To maintain Cumberland Plain Woodland trees which are important for biodiversity and landscape character.

Requirements:

1. A Vegetation Conservation Management Plan shall be submitted which details the long-term maintenance and improvement of Cumberland Plain Woodland.
2. The plan shall:
 - a. Detail measures to ensure the CPW is maintained to improve biodiversity outcomes
 - b. consolidate CPW to reduce the edge to area ratio and improve habitat and long term conservation
 - c. ensure dead and hollow trees and stags are protected.
2. A building envelope for dwellings and ancillary structures which is located outside of any required asset protection zones which may impact on native vegetation shall be identified on any allotment of land which includes land identified on the vegetation map.

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- 3. Cumberland Plain Woodland trees identified on the vegetation map cannot be cleared for the purpose of fencing of allotment boundaries or for provision of infrastructure and utilities or driveways.
- 4. A covenant which details the provisions outlined in requirements 1. to 3. shall be registered on the title of all new allotments which are located within an area identified on the vegetation map.

PART 2 – Urban Release Areas

5.4 664, 740 and 760 Thirlmere Way and 25 Star Street, Picton (Clearview Site)

Requirement of LEP	Control(s)
<i>(a) a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,</i>	1. Ensure that the development is generally in accordance with the "Indicative Traffic & Access Concept Plan" prepared by Urbis dated November 2013 that is included in the subdivision chapter of Draft Wollondilly DCP 2015. Proposed roadworks include the construction of Antill Street West and a roundabout at the intersection of Rumker Street and Thirlmere Way and the lowering of Thirlmere Way at the railway underpass. 2. The development may be undertaken in any number of stages.
<i>(b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,</i>	1. The major circulation routes and connections are indicated in the Master Plan prepared by Urbis dated November 2013 that is included in the subdivision chapter of Draft Wollondilly DCP 2015. 2. Primary road access is to be provided from Star Street. Pedestrian and cyclist routes will be provided in accordance with Draft Wollondilly DCP 2015 and include the provision of a pedestrian path along Thirlmere Way underneath the railway bridge.
<i>(c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,</i>	1. Riparian areas shall be vegetated in accordance with the environmental protection provisions under Wollondilly DCP 2015 and the NSW Office of Water <i>Riparian Corridor Guidelines for Waterfront land</i> . 2. Cumberland Plain Woodland is mapped on the Natural Resources Biodiversity map and will be protected through a positive covenant and Vegetation Management Plan. Further details of this are included in the subdivision chapter of Draft Wollondilly DCP 2015. 3. Protection of visually prominent areas with larger lots and location of building envelopes as detailed in the subdivision chapter of Draft Wollondilly DCP 2015.

PE3 – Planning Proposal – Clearview

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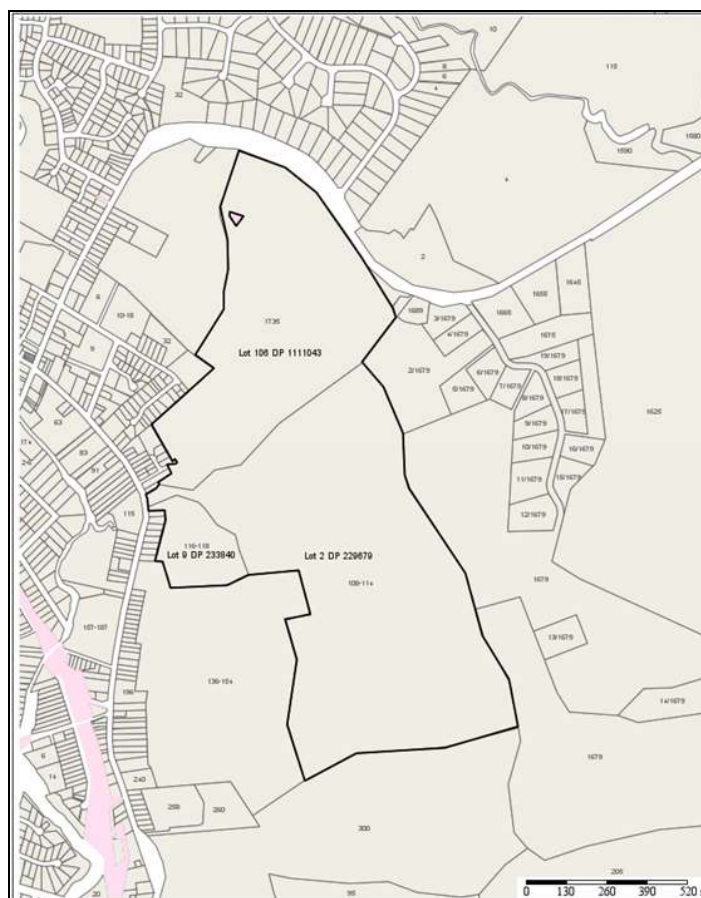
<i>(d) a network of passive and active recreational areas,</i>	The location and area of any required recreational areas will be determined through more detailed planning as part of any future subdivision application.
<i>(e) stormwater and water quality management controls,</i>	The Flood Study and Water Cycle Strategy Overview provided a basis for further detailed planning in accordance with the provisions for stormwater and water quality management in the Draft Wollondilly DCP 2015.
<i>(f) amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,</i>	<u>Bushfire</u> Development is to comply with the most recent version of the NSW Rural Fire Service's Planning for Bushfire Protection. <u>Flooding</u> Development is to comply with the Draft Wollondilly DCP 2015 provisions. <u>Contamination</u> Development is to comply with State Environmental Planning Policy No. 55 – Remediation of Land and the "Land Contamination" provisions in the Clearview site section in the subdivision chapter of Draft Wollondilly DCP 2015.
<i>(g) detailed urban design controls for significant development sites,</i>	The precinct contains no significant development sites.
<i>(h) measures to encourage higher density living around transport, open space and service nodes,</i>	The location of the land is not considered suitable for higher density living.
<i>(i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,</i>	Neighbourhood shops are permitted in the R2 zone but would be subject to other relevant considerations in Draft Wollondilly DCP 2015 and Wollondilly LEP 2011.
<i>(j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.</i>	1. This development is to utilise the existing facilities in Picton. 2. Parking will be accommodated on each individual residential allotment.
<i>(a) measures to protect the water quality in, and the ecological integrity of, any special area in the vicinity of that land,</i>	1. The development shall be provided with an integrated stormwater reticulation and treatment system to achieve a neutral or beneficial impact on the quality of stormwater leaving the site. 2. The site will be connected to the Sydney Water wastewater network.

PE4 – Planning Proposal – Picton East

PE4 **Planning Proposal – Picton East**
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TRIM 6842

Applicant: **Michael Brown Planning Strategies**
Owner: **Mr R L Baxter, Mr A S Wilton and Mrs C L Wilton**



Stage	Completed
Preliminary notification	16 May 2012 to 8 June 2012
Gateway Determination	28 March 2013
Consultation with Public Agencies	9 April 2013 - 3 May 2013
Specialist Studies	To be completed
Public exhibition/community consultation	To be completed
Referred to Minister for Publication	To be completed

PE4 – Planning Proposal – Picton East

EXECUTIVE SUMMARY

- The planning proposal includes parts of Lot 106 DP 1111043, Lot 9 DP 233840 & Lot 2 DP 229679 being No.s 1735 Remembrance Drive, 108-114 and 116-118 Menangle Street, Picton.
- The proponent of this planning proposal is seeking to make changes to the planning proposal which was previously supported by Council at its meeting held on 17 December 2012. This report is attached.
- The proponent is proposing to increase the site to be rezoned, increase medium density land, change the environmentally zoned land and change areas of land for public recreation.
- The current proposal would result in around 200 residential lots while the revised proposal would produce around 312 lots/dwellings according to the concept masterplan or (upto 400 lots/dwellings according to the traffic report submitted with the revised proposal).
- Changes to the planning proposal will require an alteration to the Gateway Determination.
- There are concerns with the proposed changes and accordingly an alteration to the Gateway Determination is not supported.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extend to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
It is recommended that Council not support the proposed changes to the Picton East Planning Proposal.

REPORT

1.1 SITE DESCRIPTION

The current site comprises an area of 27.8 hectares and encompasses portions of three properties Lot 106 DP 1111043, Lot 9 DP 233840 & Lot 2 DP 229679 being No.s 1735 Remembrance Drive, 108-114 and 116-118 Menangle Street, Picton which are located immediately east of Picton Town Centre around Vault Hill. These properties are predominately steep lots that skirt the eastern edge of the site leading down to low cleared hills around Menangle Street and Margaret Street. Small streams flow down from these steeper hills into Reeves Creek which then flows into Stonequarry Creek.

The three properties comprise a total area of 120.771 hectares extending between 270m to 1.75kms south-east of Picton Town Centre. The original planning proposal was reduced in scale by Council at its meeting held on 17 December 2012.

PE4 – Planning Proposal – Picton East

There are two roads leading into the site, Margaret Street and Baxter Lane. The site incorporates the Vault Hill Cemetery, a disused dairy and two houses with ancillary buildings but is otherwise vacant. The site comprises cleared land previously used for dairying and currently used for grazing purposes. Significant stands of vegetation are located along the ridgelines of the outlying hills, along the banks of creeks and on some of the steeper slopes of the lower inner hills. There are also a large number of scattered mature trees throughout the site.

1.2 DESCRIPTION OF REVISED PROPOSAL

The revised planning proposal seeks to increase the area of developable land to around 39 hectares comprising the following land zones and area according to the concept masterplan.

Proposed Zones	Area (gross hectares)
R2 Low Density Residential	24.5
R3 Medium Density Residential	4.3
E3 Environmental Management	0.8
E2 Environmental Conservation	8.1
RE1 Public Open Space	1.9
Total	39.6

The concept masterplan indicates that the mix of around 312 dwellings would be as follows:

- 24 low density houses designed into the landscape of the lower slopes of the ridge (1500sqm to 4,000+sqm)
- 14 houses on large landscaped lots (700+sqm)
- 152 houses on large lots (450+sqm)
- 122 houses on smaller lots, medium density housing and terraces located in the heart of the village (250+sqm)

Note: The reference to 460m² lots as ‘large lots’ is by the proponent, however, these are not ‘large lots’ in the Wollondilly context.

1.3 GATEWAY DETERMINATION

A Gateway Determination was issued in March 2013. The Determination permitted the proposal to proceed. The Gateway Determination granted that the inconsistencies with Section 117 Directions 1.2 Rural Zones are of minor significance and no further approval on these matters is required for the planning proposal to proceed.

PE4 – Planning Proposal – Picton East

CONSULTATION

2.1 CONSULTATION WITH COUNCIL STAFF

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

Manager Infrastructure Planning

The Infrastructure section has raised concerns in relation to the *Slope Stability Assessment* report which highlights that a major portion of the site has land stability issues. The area along the hillside which is proposed to be added to the site is indicated as being unsuitable for residential development and described as having high to very high risk to property, making it very expensive to develop with the work likely to cost more than the value of the property. The report recommends that other areas of the site with low to moderate property risk require further investigation. No assessment of the proposed minimum lot sizes of 450 sqm for low density residential and 250 sqm for medium density residential development has been undertaken. It is considered likely that these relatively small lot sizes are unsuitable due to the slope instability issues. The proposed subdivision layout with a slope stability assessment overlay is required.

The Traffic Study is based on a maximum dwelling yield of 400 dwellings. It has not included consideration of the traffic impact on the intersections of Margaret Street/Colden Street and Menangle Street/Colden Street. The traffic impact from the planning proposal will place an undue amount of pressure on the existing traffic management network.

Manager Environmental Services

The Environmental Services section notes the high proportion of land proposed to be zoned E2 Environmental Conservation along the riparian corridor. This land would be expensive for Council to maintain should it be proposed to dedicate it to Council. If it is proposed to dedicate this land to Council then a maintenance contribution in accordance with the Dedication of Lands Policy and Environmental Protection Zones policy would be required.

Land & Property Panel

A report was submitted to the Land and Property Panel in relation to the proposed land to be zoned RE1 Public Recreation and the E2 Environmental Zone. The land proposed to be zoned RE1 Public Recreation also included additional land to provide access to Vault Hill. The Land and Property Panel made the following determination:

- *The proposal is not consistent with the Open Space Strategy.*
- *Does not align with the intent of the recently approved Special Rate Variation (SRV) for the maintenance of existing infrastructure.*
- *Listing on the acquisition layer can constitute unfunded liability with ongoing maintenance not being funded.*

PE4 – Planning Proposal – Picton East

- *It could be possible (subject to the owners agreement) to negotiate a voluntary planning agreement (VPA) to provide for the dedication of the land to Council at no cost and to secure funding for long term maintenance (long term may include perpetual funding).*
- *The VPA would however need to be considered against other competing priorities for Picton – eg traffic management*
- *Matter to be reconsidered by the Panel if funded through a Voluntary Planning Agreement (VPA).*
- *A VPA could be considered for dedication of the land for perpetual ongoing maintenance.*
- *Competitive priorities for maintenance of the land (e.g. Picton Traffic)*
- *Access is to be confirmed from Margaret Street through Lot 202 DP 1079164.*
- *E2 land is not to be accepted unless the component provides funding arrangements in accordance with Environmental Protection Zones Policy- PLA0035 and other relevant Council policies.*

2.2 REVISED PLANNING PROPOSAL

The revised planning proposal and request for an alteration to the Gateway Determination is not supported for the following reasons:

- The proposed additional area around the hillside is unsuitable for any residential development due to slope instability issues.
- the proposed minimum lot sizes of 450 sqm and 250sqm are considered too small given the slope stability issues across the site and the high level of engineering required to achieve safe, stable land. Additional detail in relation to the proposed lot size in relation to land stability issues is required.
- An area of land under the existing proposal which was proposed to be zoned E3 Environmental Management on the western end of the site is considered too steep to be zoned for low density residential purposes.
- The relatively large area of land required for environmental conservation along the riparian corridor would impose a financial burden on Council if the land was dedicated unless an agreement to provide funding was entered into should this be supported.
- The proposed open space is not required under the Council's Open Space Strategy and would impose a financial burden on Council if placed on the Land Acquisition Reservation Map.
- The proposed additional public recreation land for providing access to Vault Hill is not supported for the same reason as above.
- Land at Lot 202 DP 1079164 which includes the part of Margaret Road to access the site is not owned by the proponent. The availability of access via this route needs to be confirmed by the proponent.

Council's options are:

PE4 – Planning Proposal – Picton East

1. Resolve to support the original Planning Proposal without the proposed RE1 Public Recreation Land and with further information to be provided in relation to the proposed lot sizes and land instability and the availability of access over Lot 2 DP 1079164, Margaret Street, Picton.
2. Resolve to support the revised Planning Proposal as proposed by the applicant. With this option a new Gateway Determination will be required.
3. Resolve not to support the Planning Proposal. With this option there is no further action to be taken on the Planning Proposal other than to inform the applicant, submitters and the DP&I that the Planning Proposal has been terminated. The applicant could choose to submit a new Planning Proposal. There are no appeal rights through the Land and Environment Court against Council' refusal to support the Planning Proposal at this stage of the process.

Option 1 is the recommendation of this report.

2.3 A PLAN FOR GROWING SYDNEY

The Plan has a vision for a city of housing choice with homes that meet our needs and lifestyle and are affordable. It is considered that while housing choice would be provided, it is likely that the high cost of engineering some parts of the site to achieve safe, stable land may negate affordability. The plan highlights the need to ensure that a risk based approach is taken to strategic planning in terms of natural hazards.

2.4 DRAFT SOUTH WEST SUBREGIONAL STRATEGY TO 2031

The planning proposal is located near the town centre of Picton and would meet that objective in this strategy.

2.5 METROPOLITAN PLAN FOR SYDNEY TO 2036

This plan which is now superseded by A Plan for Growing Sydney also aims to achieve affordable housing close to urban centres.

2.6 DRAFT SOUTH WEST SUBREGIONAL STRATEGY

It is considered that the aims of achieving sustainable housing would be difficult to achieve because of the slope instability issues.

2.7 SECTION 117 MINISTERIAL DIRECTIONS

It is considered that the revised planning proposal would not comply with Section 117 direction 4.2 Mine Subsidence and Unstable Land which states that a planning proposal must not permit development on unstable land which has been identified in a study, strategy or other assessment undertaken.

PE4 – Planning Proposal – Picton East

2.8 AMENDMENT TO THE STATE ENVIRONMENTAL PLANNING POLICY (MINING, PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES) (COAL SEAM GAS EXCLUSION ZONES) 2013

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

2.9 WOLLONDILLY GROWTH MANAGEMENT STRATEGY

It is considered that the revised planning proposal will not be consistent with the key policy direction P5.

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.).

Comment: The revised planning proposal is not in accord with the principle of appropriate growth in terms of the geophysical constraints applying to this land.

FINANCIAL IMPLICATIONS

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

All proposals which result in an increased intensity of land use within the Shire shall also lead to increased demand for Council services and facilities over time. Council will need to consider this in the adopted budget and forward estimates.

ATTACHMENTS:

1. Ordinary report to Council Monday December 17 2012
2. Site Plan
3. Revised Planning Proposal
4. Slope stability assessment

RECOMMENDATION

1. That Council not support the revised planning proposal for land at: Lot 106 DP 1111043, Lot 9 DP 233840 & Lot 2 DP 229679 being No.s 1735 Remembrance Drive, 108-114 and 116-118 Menangle Street, Picton as detailed in Attachment 2.
2. That Council not seek an alteration to the Gateway Determination for the revised planning proposal.
3. That the land proposed to be zoned RE1 Public Recreation in the current planning proposal be removed.

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PE4 – Planning Proposal – Picton East

4. That the proponent provide additional information in relation to the proposed lot sizes and subdivision layout in relation to the slope stability assessment and in relation to the availability of access over Lot 2 DP 1079164, Margaret Street, Picton.
5. That the applicant and persons who made submissions regarding the Planning Proposal be notified of Council's decision.

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PE4 – Planning Proposal – Picton East

ATTACHMENT 1 - 6842 – 17 AUGUST 2015

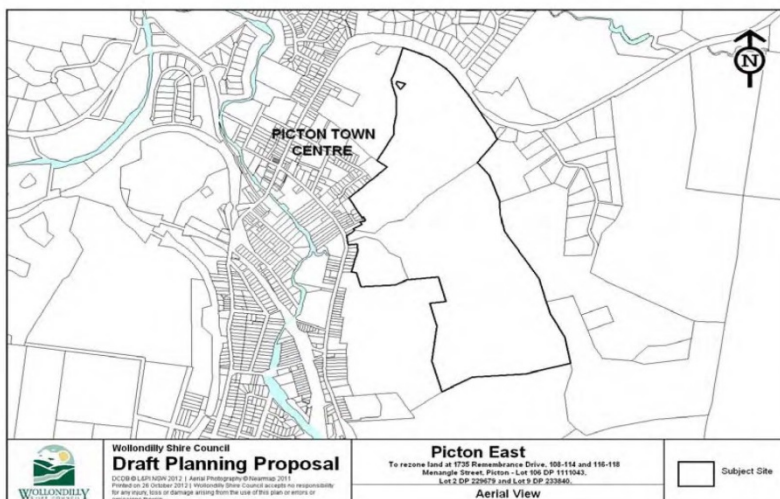
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PE6 **Draft Planning Proposal - Picton East - Remembrance Drive and Menangle Street**
41KCAR TRIM 6842

APPLICANT: Michael Brown
OWNER: LW Baxter and A & C Wilton

REPORT



EXECUTIVE SUMMARY

- Council has received a draft Planning Proposal to rezone land at Picton for residential and rural residential purposes at 1735 Remembrance Drive (Lot 106 DP 1111043), 108-114 Menangle Street (Lot 2 DP 229679) and 116-118 Menangle Street (Lot 9 DP 233840).
- A preliminary assessment of the proposal and the submissions received from community consultation indicated substantial concerns with the proposal so it is proposed to amend the draft Planning Proposal to address these concerns.
- Accordingly this report recommends:
 - That Council support the amended draft Planning Proposal for Picton East at 1735 Remembrance Drive and 108-114 and 116-118 Menangle Street, Picton being Lot 106 DP 1111043, Lot 2 DP 229679 and Lot 9 DP 233840.
 - That the draft Planning Proposal be forwarded to the Minister for Planning & Infrastructure for a Gateway Determination; and
 - That the persons who made submissions regarding the draft Planning Proposal be notified of Council's decision.



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Report of Wollondilly Shire and its Planning and Economy to the Ordinary Meeting of Council held on Monday 17 December 2012

BACKGROUND

Site Description

The site encompasses three properties which are located immediately east of Picton Town Centre straddling land including Vault Hill, between the two major roads leading into Picton, namely Remembrance Drive and Menangle Street. Steep hills skirt the eastern edge of the site leading down to low cleared hills around Menangle Street and Margaret Street. Small streams flow down from these steeper hills into Reeves Creek which then flows into Stonequarry Creek.

The three properties comprise a total area of 120.771 hectares extending between 270m to 1.75kms south-east of Picton Town Centre. Most of the site is within Zone RU2 Rural Landscape except for land including Vault Hill which is within Zone RE1 Public Recreation.

There are two roads leading into the site, Margaret Street and Baxter Lane. The site incorporates the Vault Hill Cemetery, a disused dairy and two houses with ancillary buildings but is otherwise vacant. The site comprises cleared land previously used for dairying and currently used for grazing purposes. Significant stands of vegetation are located along the ridgelines of the outlying hills, along the banks of creeks and on some of the steeper slopes of the lower inner hills. There are also a large number of scattered mature trees throughout the site.

Description of Draft Proposal

The draft proposal aims to provide additional residential land around 270m and up to a distance of around 1.75 kms from Picton Town Centre with rural residential land along the outer hills. Land around the major creek lines is proposed to be conserved and used for public recreation.

The original proposal included land at 136-154 Menangle Street Picton being Lot 12 DP 1126525. The original proposal was amended to exclude this land as it is subject to a current planning proposal which has received a Gateway determination and is proceeding with the undertaking of specialist studies.

CONSULTATION

Consultation with Council Managers and Specialist Staff

Comments on the application were sought from the following Managers and Specialist staff within Council:

- Manager Community Services
- Manager Infrastructure Planning
- Manager Environmental Services
- Manager Development Assessment and Strategic Planning
- Manager Facilities and Recreation.

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Report of Wollondilly Shire and its Planning and Economy to the Ordinary Meeting of Council held on Monday 17 December 2012

The main matters raised by Council staff requiring further investigation are:

- ecology (flora and fauna)
- drainage and stormwater
- flooding
- bushfire hazard
- traffic and transport
- contaminated land investigation
- heritage
- geotechnical
- wastewater management
- open space.

Community Consultation

In accordance with Council's notification policy, initial community consultation has been undertaken. The draft Planning Proposal was published on Council's website in May-June and a letter was sent to residents with a written submission period of 28 days from Wednesday 16 May 2012 until Friday 8 June 2012. At the end of the notification period a total of 20 submissions had been received. A summary of the submissions received are outlined in the table below.

Summary table of submissions received from draft Planning Proposal

Key Issue	Summary of Comments
Landscape Character	<ul style="list-style-type: none"> ▪ Loss of views across Stonequarry Creek and the hills behind Picton ▪ Significant visual impact on the hills surrounding Picton ▪ High visual impact on the current landscape and combined with residential development nearby on Regreme Road will significantly alter the existing rural backdrop ▪ Hills around Picton add to its beauty and are visible from many parts of the town and should be kept clear. ▪ This will result in 'mutilation' of the hills. ▪ The character and setting will be irrevocably changed as the hills will be developed. ▪ Any development beyond existing housing will impinge on hills and rural appearance. ▪ Loss of rural landscape marking the entrance to Picton. ▪ Picton's quaint appearance is based on these hills and is attractive to residents and tourists alike so developers should leave them alone. ▪ Council's goal should be to maintain the rural character. ▪ New homes likely to be visually uncomplimentary to surroundings as there are many examples of homes prominent on ridgelines.
Infrastructure	<ul style="list-style-type: none"> ▪ An increase of around 1400 people would have a

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Key Issue	Summary of Comments
	<p>major impact on Picton infrastructure.</p> <ul style="list-style-type: none"> ▪ Only sufficient infrastructure for 35 large residential lots not for the 450 low density lots which will overwhelm current infrastructure, particularly along Menangle Street. ▪ Development of this magnitude should have all infrastructure improvements well underway or completed before any approvals are considered. ▪ Additional burden on the drainage system which is already unable to cope. ▪ Major strains on existing infrastructure and community services which are at capacity. ▪ There is not sufficient infrastructure to support the size of this proposal. ▪ Picton STP is at or close to capacity. The idea of using private package systems on the hill slopes would be unacceptable as wastewater would end up in backyards. ▪ Need to address stormwater and drainage issues behind houses in Menangle Street. ▪ Picton High School is overcrowded, dirty and dingy and there is nowhere for the school to expand and the government refuses to admit that another school is needed. Not everyone can afford to send their children to Wollondilly Anglican School. ▪ Insufficient infrastructure in terms of roads, public transport and schools.
<p>Traffic & Transport</p>	<ul style="list-style-type: none"> ▪ Will require additional - traffic controls at all access points, parking spaces in Picton town centre and commuter parking at/near Picton railway station. ▪ No indication of transport routes ▪ Current roads inadequate to cater for additional traffic – particularly Menangle Street ▪ Increased traffic flows and population pressure placed on local resources and infrastructure. ▪ Existing traffic congestion will worsen ▪ Poor public transport will need to be improved ▪ The proposal will dramatically increase the volume of traffic and create major traffic concerns particularly on Menangle Street. ▪ Traffic chaos will increase on Menangle Street with two access points and widening is not an option. ▪ The claim that the development will be within easy walking distance is refuted given the extent of housing proposed on hilly country. ▪ There is currently inadequate and minimal public transport which does not accord with requirements in the Sydney Metropolitan Strategy. ▪ Menangle Street has inadequate capacity to cater for additional traffic ▪ Major traffic problems result from closure of Prince Street bridge and freeway diversion through Menangle

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PE4 – Planning Proposal – Picton East

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WOLLONDILLY SHIRE COUNCIL

Report of Wollondilly Shire and its Planning and Economy to the Ordinary Meeting of Council held on Monday 17 December 2012

Key Issue	Summary of Comments
	<p>Street</p> <ul style="list-style-type: none"> The proximity of Victoria Park to the Menangle Street access point will cause traffic conflict when sporting events are held. Need for a range of traffic controls and infrastructure to deal with potential traffic problems. Road maintenance is currently inadequate and will worsen with additional traffic Maintenance of roads is already difficult and more funding will be required.
Geotechnical	<ul style="list-style-type: none"> Inherent instability of the local topography and resulting soil creep. There is a considerable amount of unstable land namely slippage, flooding and mine subsidence. Hills prone to slumps particularly with longwall mining. Instability and slippage are well known and visible. Slippage problems are an issue and controls would be required to ensure hillside lots are safe and will not impact on existing properties. Potential slippage problems and increase risk of natural disaster from overdevelopment of steep hills. <ul style="list-style-type: none"> The site is largely unsuitable for building especially the 16-25% gradients. Razorback Range is unstable and prone to landslips and slippage with development is likely to lead to disaster. Trees are required to stabilise these hills and the few remaining are likely to be cut down for housing and associated development. There are land areas better suited to development at Thirlmere, Bargo, Tahmoor or Wilton.
Flooding	<ul style="list-style-type: none"> The additional proposed development will increase potential flooding over and above the current risk as detailed in the Floodplain Risk Management Plan. Flood plain land has been developed and built up over recent years exacerbating the flood problem. Excessive development will impact on floodplain. Flood and stormwater hazard will increase. Issues with stormwater and flooding from run-off from hills.
Bushfire	<ul style="list-style-type: none"> The area has a high bushfire rating. Ferocity and speed of bushfires requires consideration of bushfire control and escape routes.
Heritage	<ul style="list-style-type: none"> The development is too large and will overshadow the existing historic feel of the town. Picton is one of the most significant examples of agricultural heritage left in NSW. Picton's cultural heritage should not be eroded by such a vast planning proposal. Existing growth has protected the historic part of town. Houses would surround the existing heritage items and conservation area and detract from their

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Key Issue	Summary of Comments
	<p>significance.</p> <ul style="list-style-type: none"> The development would impact on the adjoining heritage conservation area.
Economic	<ul style="list-style-type: none"> Picton could lose its attractiveness for tourists as this large proposal will be a blight on the area. The Picturesque rural scenery is a major drawcard for potential residents and tourists. Picton is the antithesis of Sydney's urban sprawl and tourists are attracted to its hills and rural landscape. The proposal will compromise all the aesthetic aspects and rural landscape of the towns which attracts visitors and residents and give it its rural feel. The proposal will alter the scenic visual amenity of the hills which are attractive for both residents and tourists. The land is supposed to be developed for tourist accommodation. The land is only of "marginal agricultural value" because the land owner has allowed it to become this way. Construction jobs will be short term only. It is not against the public interest for the land to remain in a "residential holding pattern" and there is no reason why the land cannot be maintained with grazing stock for example. Need a vision for a rural village atmosphere that attracts business for retailers for eg. a caravan park. Not enough employment for additional population Loss of agricultural land for Picton and the wider Sydney basin
Biodiversity	<ul style="list-style-type: none"> Impact on Cumberland Woodland remnant habitat for native fauna. Native fauna is under threat. Loss of habitat for protected species of flora and native animals generally many of which are regularly seen. Council's goal should be to protect the Shire's natural environment.
Community Consultation	<ul style="list-style-type: none"> Poor community consultation as the maps have no legend and are extremely difficult to read. Photos in the report are taken from the tops of the hills which gives a false impression of the visual impact. Many of the statements in the proposal are incorrect and there are also omissions. Diagrams in the proposal are difficult to read due to their condensed size and absence of legends.
Planning Policies	<ul style="list-style-type: none"> Picton's essential geographic, geological and innate peculiarities make this development inappropriate. Disagrees with proposed overhead rather than underground power lines.

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Key Issue	Summary of Comments
	<ul style="list-style-type: none"> ▪ Council has spent a large amount of money on the LEP. What is the point of the LEP being changed constantly. ▪ Vision 2025 supported by Councillors indicated that Picton would always remain a rural village with planned, appropriate and minimal growth. ▪ It does not meet the objectives of the GMS which is aimed to ensure that this type of unfettered growth and large development would not threaten the heritage, history and rural aspect of Wollondilly towns such as Picton. ▪ The proposal is for an entire new suburb and is in opposition to 'Vision 2025' which was drawn up to ensure Picton would not become an urban area. ▪ The Growth Management strategy appears to have been ignored – the proposal will adversely affect the heritage, history and rural aspect of Picton. ▪ The proposal does not comply with Council's GMS criteria in relation to visual impact and geotechnical ▪ The proposal does not accord with the targeted strategy in the GMS which refers to land in the immediate vicinity of existing residential land. ▪ Major variation – one third of the village of Picton - to the LEP which took 5 years to prepare ▪ Remaining landowners also likely to seek a variation which result in inappropriate development and poor infrastructure. ▪ The LEP should be revised as an integrated whole to achieve balanced development.
<p>General Planning Concerns</p>	<ul style="list-style-type: none"> ▪ It is probable that should this planning proposal be supported then there will be further proposals. ▪ The development will encourage further development around Picton and further detract from its small town appeal. ▪ Council should ensure that development does not adversely affect property values and safety. ▪ Individual land owners should not change the face of a community in such a profound way ▪ Proposal will completely change Picton from a rural village to an urban sprawl ▪ Cumulative impacts of 27 planned large developments, Xstrata stacks, employment lands and possible airport on quality of air and land and children's health. ▪ The proposal needs to be pared back considerably. ▪ Councillors should ensure that as elected representatives that they keep Picton rural. ▪ Size and scope of the development will adversely affect Picton ▪ It is grossly inappropriate and will forever change the face of the 'Rural Living' held dear by residents, Councillors and Council

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Key Issue	Summary of Comments
	<ul style="list-style-type: none"> ▪ Hope that Council and Councillors will protect and honour that vision. ▪ The proposal does not meet the expectations of the community and is for vested self interest not long term benefit ▪ Will not improve the area and the wider community does not want the development. ▪ A VPA does not equate to improvement of the public domain. ▪ Increase in population pressure will lower the quality of life ▪ Proposal to rezone to medium density but unclear where proposed new zones are located ▪ The target hillsides extend nearly 2 kilometres along Menangle Road and along both main entry points into Picton township. ▪ Subdivisions would extend to the ridge tops all along the valley and development would be near the top.

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Assessment of Draft Planning Proposal

A preliminary assessment of the original draft planning proposal was undertaken with reference to the submissions made by the community and comments from Council staff. As a result of that assessment it was determined that the Planning Proposal would require amendment for the following reasons:

Scale of the Development

The main issue with the original planning proposal as evidenced by community submissions relate to the scale of the development which covered an extensive area to the east of Picton town centre. The proposal for development extending almost two kilometres to the south and almost one kilometre to the east would potentially result in a major change to the rural character of Picton impacting on a large proportion of the existing population. Servicing such a large area with roads and other infrastructure would be expensive. There are also significant concerns regarding bushfire hazard, flooding and drainage, protection of environmentally significant land and geotechnical concerns.

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Cumulative Growth

The cumulative growth from this proposal for around 400 dwellings, when added to those proposals already planned would result in the zoning target for dwellings for Picton, Tahmoor and Thirlmere almost being reached within 2 years of the release of the GMS. This was not envisaged by the GMS which is a longer term approach over 25 years with growth occurring gradually. The planning proposal has not provided evidence of a strong demand for residential land in Picton and there are indications that the current supply is well able to meet demand. When the current planning proposals are realised there may be an oversupply of land with a resultant impact on the local real estate market.

Provision of a significant number of additional dwellings over a relatively short term would also place strain on infrastructure, services, facilities and Council resources. The land is outside the Sydney Water servicing boundary and there are strong indications that Sydney Water would not have the capacity to service the proposed housing with reticulated water and sewer.

Rural-Residential Development

The draft proposal includes a high proportion of rural residential zoned land being divided into relatively small 5000m²-2ha allotments which would potentially impact on the landscape character of the hills around Picton. The proposed rezoning of land for rural residential and large lot residential purposes would also result in the fragmentation of a significant amount of land suitable for larger scale agricultural purposes.

The proposed large lot residential land along Remembrance Driveway is considered to be unsuitable in this location due to the steep slope and the potential issues with wastewater management in addition to being at the entrance to the town of Picton. In addition the proposed access point to this land from this section of Remembrance Driveway would impact on traffic flow and create traffic conflict and is unlikely to be supported by Roads and Maritime Services.

There appears to be limited demand for rural residential land in the Shire with the converse being a demand by many rural-residential land owners to reduce the size of their landholdings due to the difficulty and cost of maintenance. In the longer term there would be pressure for further rezoning of this rural residential land to allow increase subdivision potential.

Topography and Geotechnical

The site is topographically a series of hills and valleys and a significant area of the site is impacted by steep slopes. Further assessment of the suitability of the land within the amended planning proposal site for residential development would be required to determine the most appropriate zone and allotment size for the proposed residential development. Some land in the lower, nearest hills to Picton would need to be maintained in their natural vegetated state due to potential issues with erosion and slip.

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Amended Draft Planning Proposal

It is proposed to amend the proposal to reduce the area of the site subject to rezoning. This would enable a more compact better serviced development and ensure that most of the site remains in larger landholdings suitable for continued agricultural use. This would also result in better environmental outcomes with less fragmentation of environmentally significant land, less rural land use conflict and reduced potential for bushfire hazard impacts for new residents and lower infrastructure servicing costs. An indicative concept zoning plan for a portion of the site is attached (**Attachment 2**) and would be further refined by specialist studies should Council resolve to support the amended draft proposal.

Consultation with Government Departments

If endorsed by Council, consultation will be required with the Department of Planning & Infrastructure (DP&I), the Office of Environment & Heritage (OEH) and other government agencies on the Planning Proposal. It is considered that should the proposal be supported the Gateway Determination will outline the further consultation requirements with the DP&I, OEH and any other relevant government agencies.

Further community consultation

If this draft planning proposal progresses, further community consultation opportunities will occur as part of the preparation and exhibition of a draft local environmental plan in accordance with the new Gateway process. Council has the opportunity to recommend the engagement process and other consultation appropriate for this draft proposal.

RELEVANCE TO COMMUNITY STRATEGIC PLAN OUTCOMES

All draft planning proposals are assessed against the key themes and directions of Council's Community Strategic Plan. It is considered that the amended proposal in principle is capable of delivering outcomes consistent with the CSP, particularly the following:

Outcome – Environment – A community that is surrounded by a built and natural environment that is valued and preserved.

The community of Picton values the surrounding natural environment and would like to ensure that it is preserved and that there is minimal encroachment of the built environment into this land.

Outcome – Economy – A community that is supported through appropriate, sustainable land use.

Development should be largely catered for by existing infrastructure, services and facilities and not impose additional burden on the local economy or the natural environment over the longer term.

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POLICIES & LEGISLATION

Planning Proposals

The draft Planning Proposal has been prepared in accordance with section 55 of the *Environmental Planning and Assessment Act 1979* and relevant Department of Planning & Infrastructure guidelines including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*. The draft Planning Proposal addresses the matters required by the Director-General to be addressed in all Planning Proposals.

The draft Planning Proposal that has been submitted is requesting the rezoning of the subject land. If Council wishes to proceed with the proposal to rezone the land, Council must resolve to support the draft Planning Proposal and to forward it to the Minister for Planning & Infrastructure for a Gateway Determination.

Council's Options/Role

In deciding whether to forward the Planning Proposal on to the Minister for Planning & Infrastructure for a Gateway Determination, Council is effectively endorsing the Planning Proposal in principle and from that point on the Planning Proposal is deemed to be *Council's* Planning Proposal - no longer the applicant's Planning Proposal. Despite the Planning Proposal becoming Council's at that point, the costs of any required studies are to be borne by the applicant.

Council's options are:

1. Resolve to support the draft Planning Proposal as submitted. This option means that the existing Planning Proposal from then on becomes *Council's* Planning Proposal. Council then sends it to the Minister for a Gateway Determination. Unresolved matters are assumed to be capable of resolution through future studies as determined by the Gateway process.
2. Resolve that the Planning Proposal needs to be amended before it can receive Council support and be forwarded to the Minister for a Gateway Determination. As is the case with option 1 above, the Planning Proposal becomes *Council's* and unresolved matters are assumed to be capable of resolution through future studies as determined by the Gateway process.
3. Resolve not to support the Planning Proposal. The applicant could choose to revise/amend their proposal and submit a new application. (Note that there are no appeal rights through the Land and Environment Court against Council's refusal to support a Planning Proposal).

Option 2 is the recommendation of this report.

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Gateway Determination

When a Planning Proposal has been endorsed by Council, it is then forwarded to the Minister for Planning & Infrastructure for a Gateway Determination. The Gateway Determination is a checkpoint for Planning Proposals before significant resources are committed to carrying out technical studies and investigations. It enables Planning Proposals that are not credible or well founded or not in the public interest to be stopped early in the process before resources are committed to detailed studies and investigations, and before government agencies are asked to commit their own resources to carrying out assessments.

At the Gateway Determination, the Minister will decide:

- Whether the proposal is justified on planning grounds
- Whether the Planning Proposal should proceed (with or without variation)
- Whether the Planning Proposal should be resubmitted for any reason (including for further studies or other information, or for the revision of the Planning Proposal)
- The community consultation required
- Any consultation required with State or Commonwealth agencies
- Whether a public hearing by the Planning Assessment Commission or other specified person or body is required
- The timeframes for the various stages of the procedure to make the draft amendment
- Whether the function of making the LEP is to be exercised by the Minister for Planning & Infrastructure or delegated to Council.

Under the new plan making procedures, the Planning Proposal and supporting studies are placed on public exhibition. The written draft local environmental plan amendment (the draft LEP) is prepared by Parliamentary Counsel when the Planning Proposal is finalised, immediately before it is made by the Minister or delegate. The LEP takes effect when it is published on the NSW legislation website.

The ultimate development of the land would then require further approvals through detailed Development Applications.

Wollondilly Local Environmental Plan 2011

The site is currently zoned RU2 Rural Landscape Zone under Wollondilly LEP 2011. The minimum lot size for this area is currently 100 hectares. The three allotments within the subject site are less than 100 hectares in area and therefore have no further potential for subdivision.

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It is proposed to amend the WLEP 2011 in the following manner:

- Amend the Land Zoning Map to allow for zones suited to the site depending on the results of the specialist studies. Indicative zones include R3 Medium Density Residential Zone, R2 Low Density Residential Zone, R1 Public Recreation Zone, E2 Environmental Conservation Zone and E3 Environmental Management Zone, and
- Amend the Lot Size Map to allow for a range of lot sizes depending on the results of the specialist studies and the choice of zones, and
- Amend the Height of Buildings Map to allow for a maximum height of 9 metres for new development.

Additional amendments to the Natural Resources Water and Biodiversity Maps are also likely to be required depending on the outcome of the specialist studies.

Site Specific Development Control Plan (DCP)

Amendments to the Wollondilly Development Control Plan (DCP) may be prepared for the subject land which would include specific site objectives and development controls for the future development of the site and may include a range of design and built form controls, including (but not limited to):

- Building envelopes
- Building setbacks based on the environmental features of the site
- Site landscaping
- Public domain treatments
- Bushfire asset protection zones
- Treatment of the urban /rural/ environmental protection interface
- Urban sensitive water design.

The range of provisions included in the DCP would be informed by specialist studies undertaken to support the proposal and would be reported to Council when prepared.

Alternatively, Council may choose to only apply the existing controls contained within Wollondilly Development Control Plan 2010, Volume 3 – Residential and Tourist Uses.

RELEVANT CONSIDERATIONS

Wollondilly Growth Management Strategy (GMS)

Wollondilly GMS has recently been adopted by Council. Planning Proposals are required to be assessed against the GMS to determine whether they should or should not proceed.

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The GMS sets directions for accommodating growth in the Shire for 25 years. The GMS contains Key Policy Directions which form the overarching growth strategy for Wollondilly. The amended draft planning proposal conforms to the main aim of the GMS which is to provide for housing which is conveniently located near existing towns and villages and which results in consolidated growth reducing infrastructure and facility requirements and supporting services.

The following table sets out the relevant Key Policy Directions within the GMS along with comments relating to the draft proposal:

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.	In its amended form the draft planning proposal is considered to be consistent with the key Policy Directions and Assessment Criteria contained within the GMS.
P2 All land use proposals need to be compatible with the concept and vision of "Rural Living" (defined in Chapter 2 of the GMS)	The amended draft proposal is generally consistent with the concept and vision of 'Rural Living' as it is of a suitable scale, maintains the existing town and landscape character and should be capable of being serviced with minor augmentation of existing infrastructure.
P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.	The amended draft proposal has considered the community response which outlined a range of significant issues with the original draft proposal.
P4 The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.	There have been no such representations regarding this draft proposal and therefore this Key Policy Direction has been satisfied.
P5 Council is committed to the principle of appropriate growth for each of our towns and villages. Each of our settlements has differing characteristics and differing capacities to accommodate different levels and types of growth (due to locational attributes, infrastructure limitations, geophysical constraints, market forces etc.).	The draft proposal represents a logical rezoning of the subject site for low and medium density residential purposes in keeping with adjoining land uses. Land with environmentally significant characteristics is proposed to be zoned for environmental conservation and management purposes. Land is also proposed for open space/recreation purposes but an assessment of the need for additional open space requirements should be undertaken. Within the constraints of the site the proposal is considered appropriate as it will facilitate the provision of an additional range of low and medium density residential land well located in relation to the existing township of Picton. Conservation and enhancement of natural systems is intended. Existing infrastructure is to be utilised and embellished.

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Housing Policies	
P6 Council will plan for adequate housing to accommodate the Shire's natural growth forecast.	The draft proposal contributes toward Council's dwelling target for Picton outlined in the GMS. The Structure Plan for Picton, Tahmoor and Thirlmere includes the subject land as a 'potential residential growth area'.
P8 Council will support the delivery of a mix of housing types to assist housing diversity and affordability so that Wollondilly can better accommodate the housing needs of its different community members and household types.	It is proposed to provide a mix of residential sites to improve housing diversity with the majority of lots being similar in size to surrounding low density allotments in a range of from 450m ² to 700m ² . A small section of medium density sites may be considered and these would have a minimum lot size of 975m ² in conformity with existing medium density zones. Areas proposed for environmental management zones would remain in single lots to improve environmental management outcomes.
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 amended draft proposal is near Picton town centre and could provide low density and some medium density for housing such as villas and townhouses.
P10 Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.	The amended draft planning proposal is located immediately adjacent to the town of Picton and extends a distance of almost 1km from the town centre.
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	The proposal will create short-term employment opportunities through the construction jobs associated with the civil and building works, and will provide stimulus to the local economy by boosting population.
P16 Council will plan for different types of employment lands to be in different locations in recognition of the need to create employment opportunities in different sectors of the economy in appropriate areas.	The site is not proposed to be zoned to facilitate further employment opportunities. Modest opportunities exist for home business and tradesman residency.
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	The amended draft planning proposal would allow for the development of a limited amount of additional residential allotments in the locality which is not likely to adversely burden Council. Developer contributions payable at the development application stage will fund the necessary local infrastructure required to support any future development.

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<i>burdens on Council or the Shire's existing and future community.</i>	Likely state and regional infrastructure demands will be assessed by relevant agencies post Gateway Determination.
P18 <i>Council will encourage sustainable growth which supports our existing towns and villages, and makes the provision of services and infrastructure more efficient and viable – this means a greater emphasis on concentrating new housing in and around our existing population centres.</i>	The amended draft proposal limits the extent of growth which will ensure that the provision of services and infrastructure would be more cost-effective leading to a longer term more sustainable development.
P19 <i>Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.</i>	The amended draft proposal does not contribute toward dispersed population growth as it proposes urban growth adjacent to the urban area.
P20 <i>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.</i>	The amended draft proposal would be likely to contribute around 200 new dwellings and is within one of the key growth areas nominated for population growth. The draft proposal contributes toward Council's dwelling target for Picton identified in the GMS.
Rural and Resource Lands	
P21 <i>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.</i>	Ecologically valuable riparian land is proposed to be conserved by zoning for environmental conservation purposes. Land which contributes to the scenic value of Picton is proposed to be zoned for environmental management purposes. The proposal would not result in any adverse environmental impacts provided the scale of the proposal is reduced as proposed.
P22 <i>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.</i>	Key Policy Direction P22 is not applicable to the draft proposal.

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FINANCIAL IMPLICATIONS

As noted previously in this report, the draft Planning Proposal is deemed to be Council's Planning Proposal once endorsed by Council and forwarded to the Minister. Despite the Planning Proposal becoming Council's at that point, the costs of any required studies are to be borne by the applicant.



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If the Planning Proposal receives a positive Gateway Determination it will proceed to the next stage which involves further investigations into contributions towards infrastructure and facility provision through planning agreements and section 94 contributions.

CONCLUSION

The amended draft proposal is consistent in principle with Council's adopted Growth Management Strategy and it is therefore recommended that the Planning Proposal be forwarded to the Minister for Planning & Infrastructure for a Gateway Determination.

ATTACHMENTS

1. Aerial photo of the site
2. Concept Zoning Map for amended Draft Planning Proposal
3. Draft Zoning Map
4. Draft Lot Size Map

RECOMMENDATION

1. That Council support the amended draft Planning Proposal for the rezoning of land at Picton East at 1735 Remembrance Drive and 108-114 and 116-118 Menangle Street, Picton being Lot 106 DP 1111043, Lot 2 DP 229679 and Lot 9 DP 233840.
2. That the draft Planning Proposal be forwarded to the Minister for Planning & Infrastructure for a Gateway Determination.
3. That the persons who made submissions regarding the draft Planning Proposal be notified of Council's decision.

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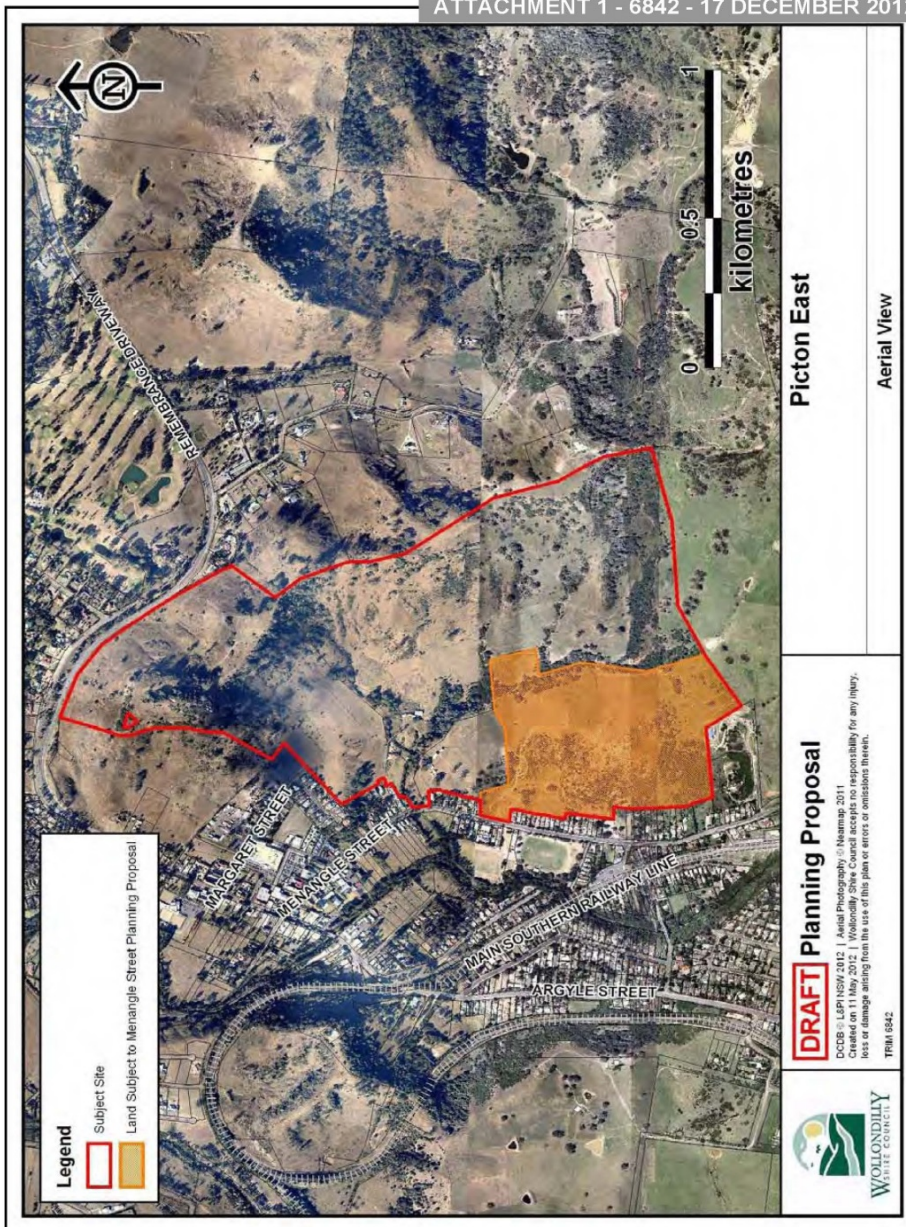
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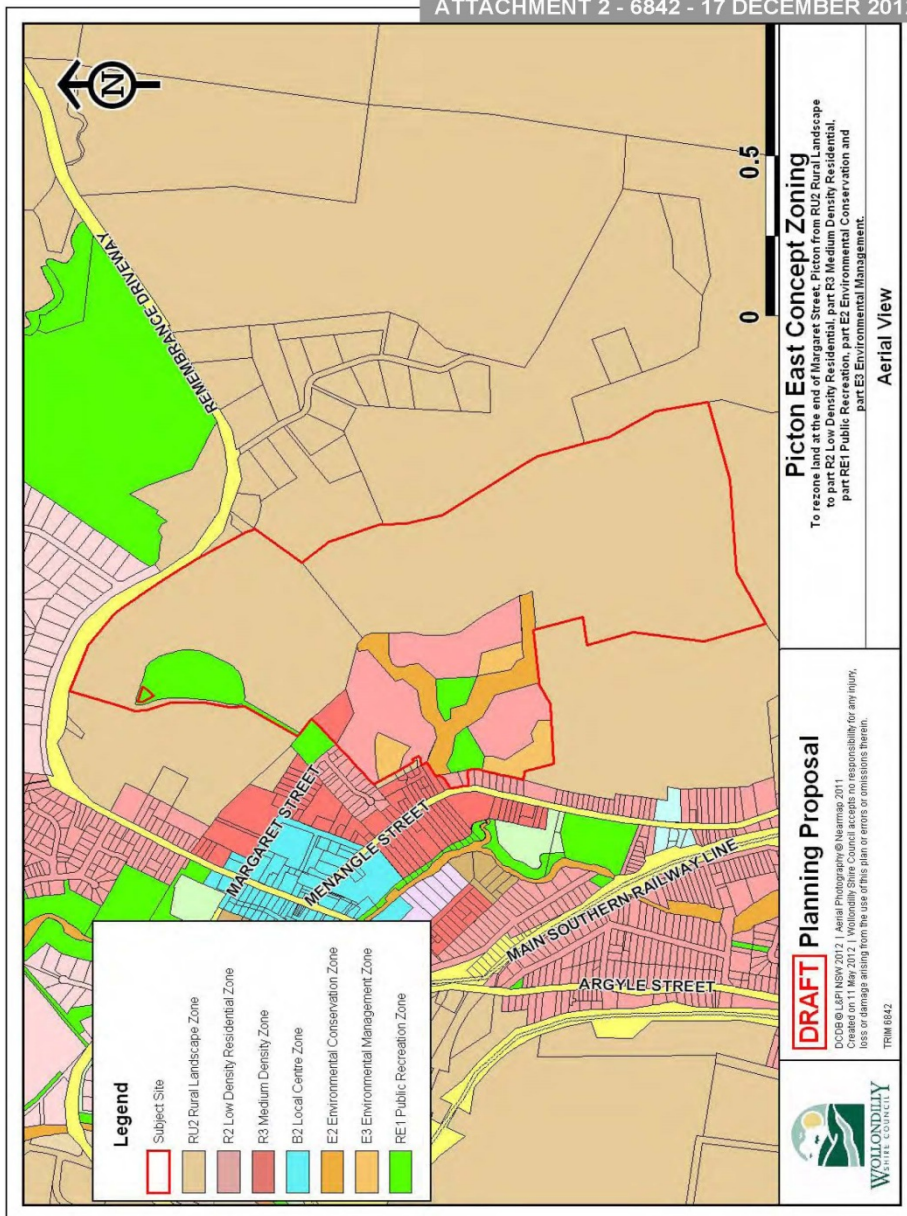
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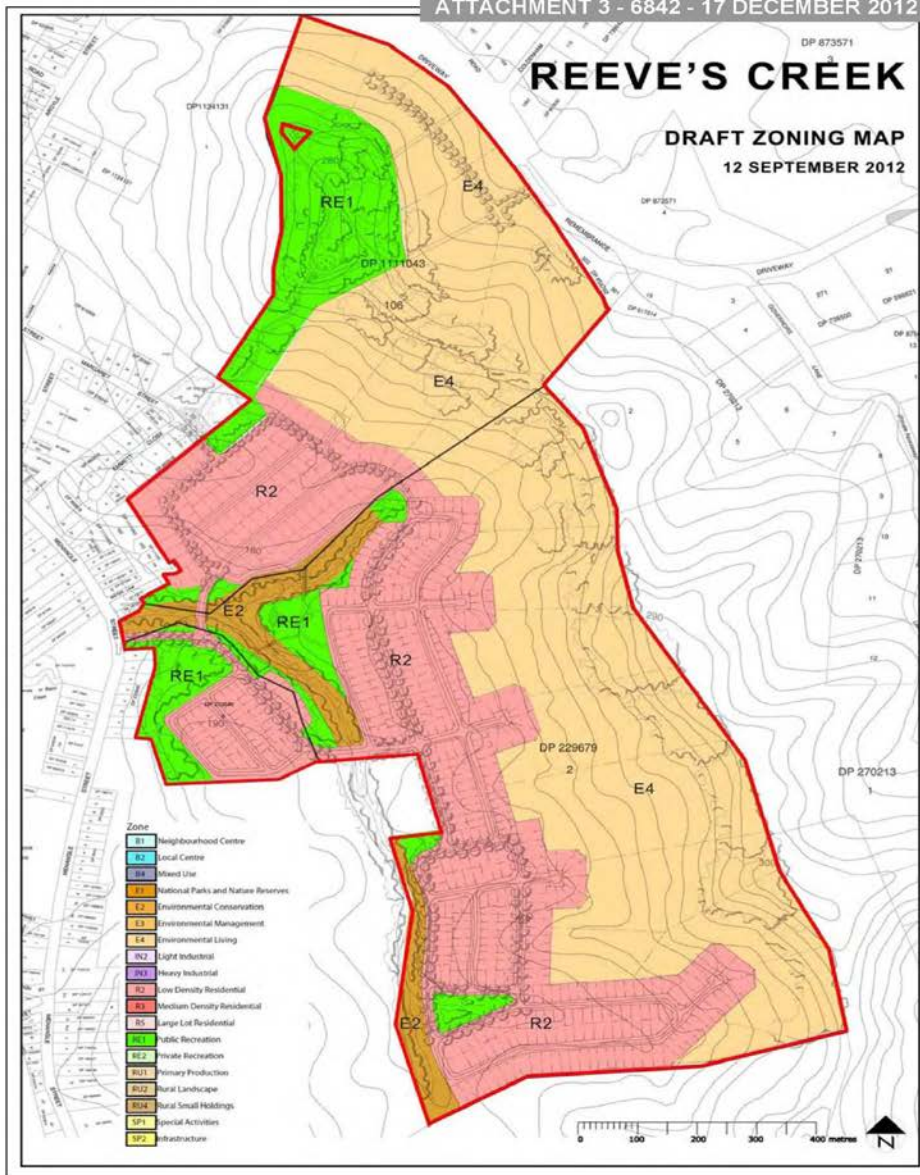
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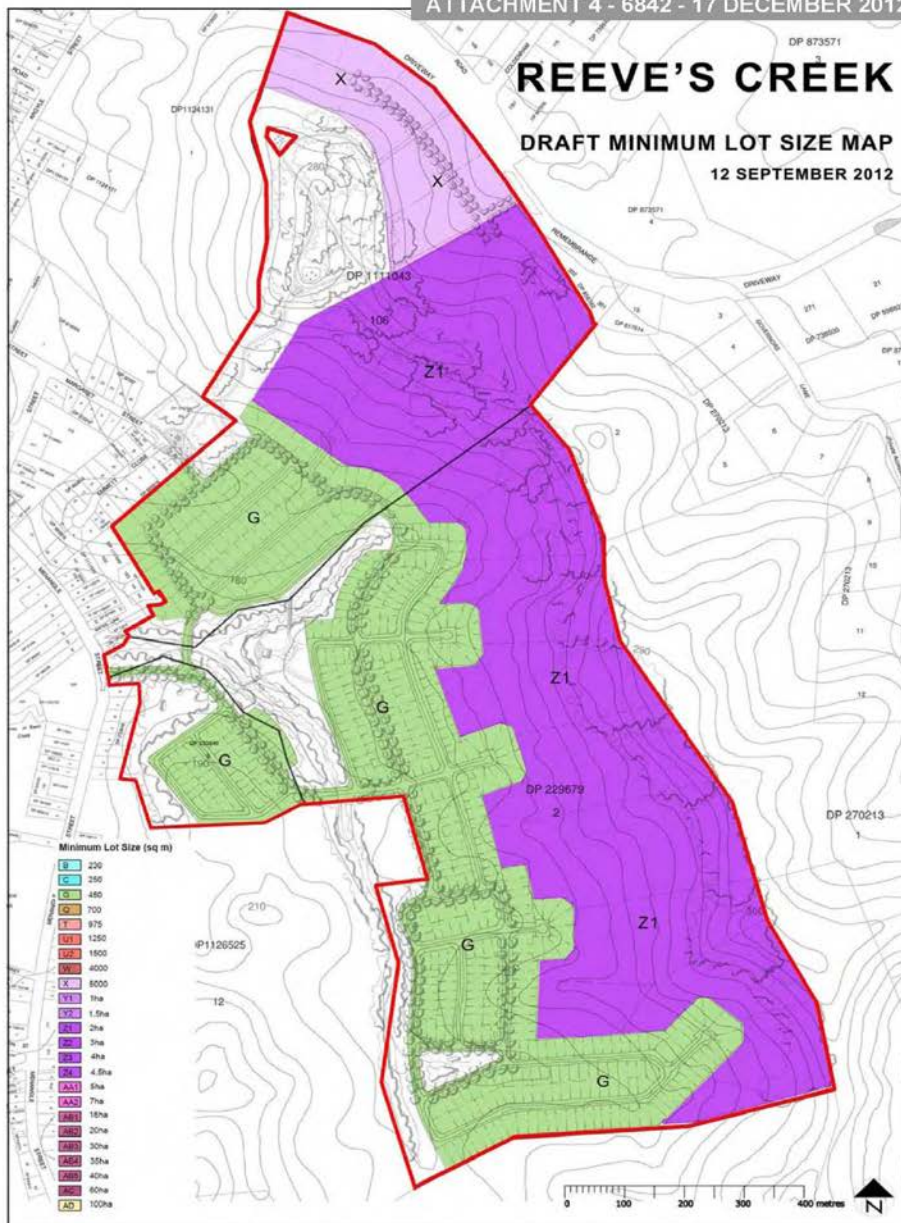
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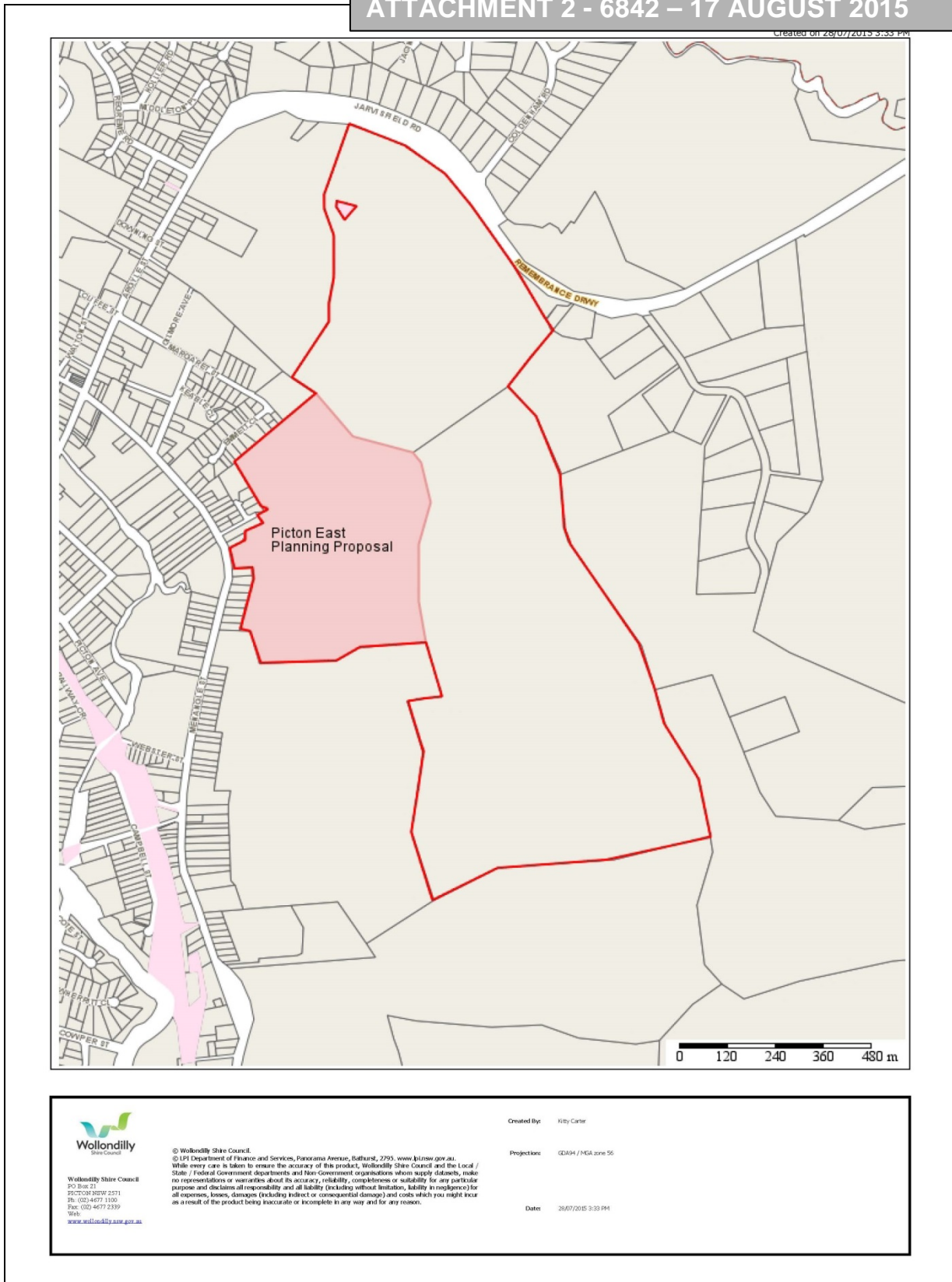
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Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

PE4 – Planning Proposal – Picton East

ATTACHMENT 2 - 6842 – 17 AUGUST 2015

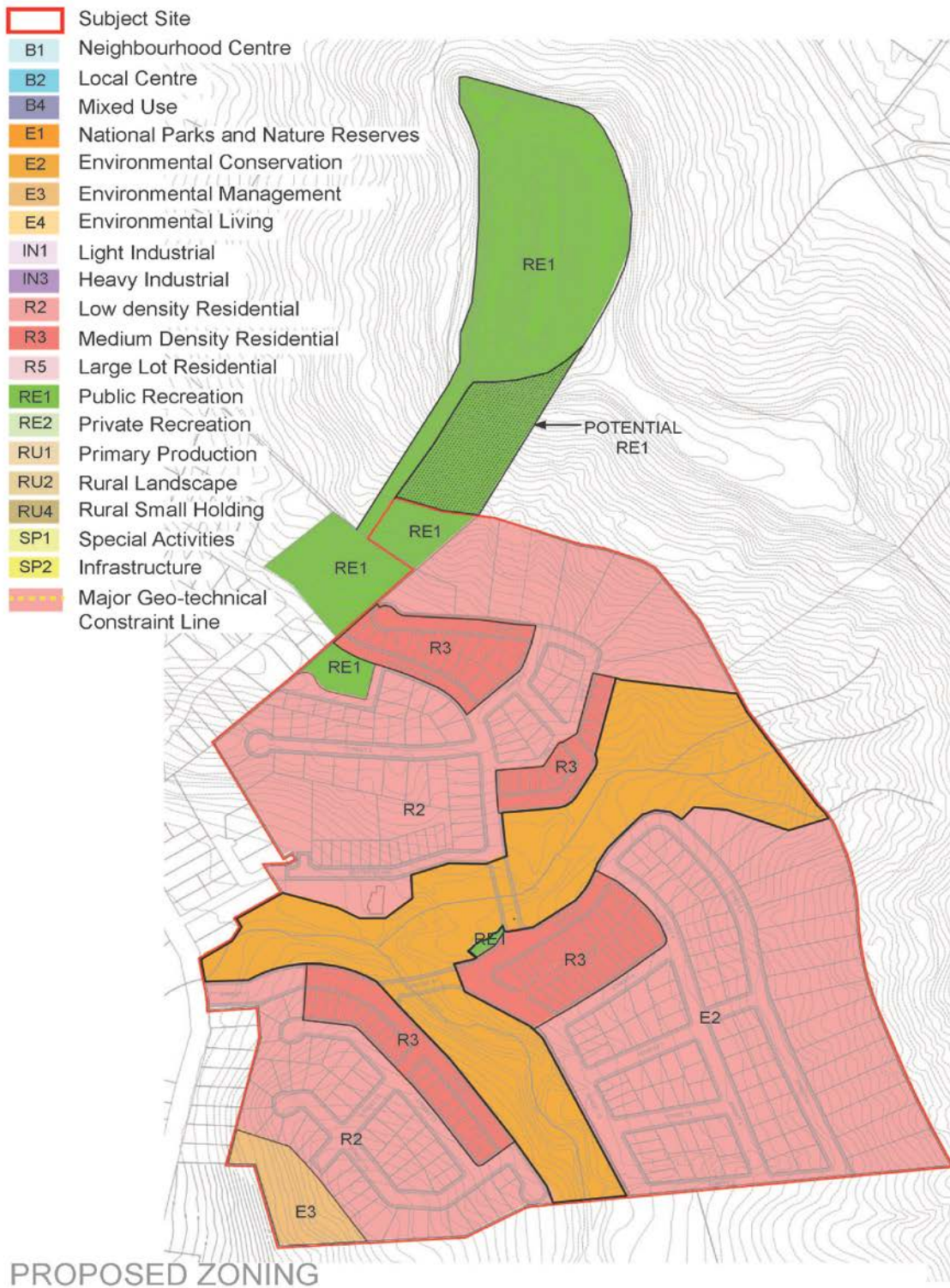


Planning & Economy

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<p>Wollondilly Shire Council PO Box 21 Picton NSW 2571 Ph: (02) 4677 1100 Fax: (02) 4677 2339 Web: www.wollondilly.nsw.gov.au</p>	<p>Projection: GDA94 / MGA zone 56</p>	<p>Date: 28/07/2015 3:33 PM</p>

PE4 – Planning Proposal – Picton East

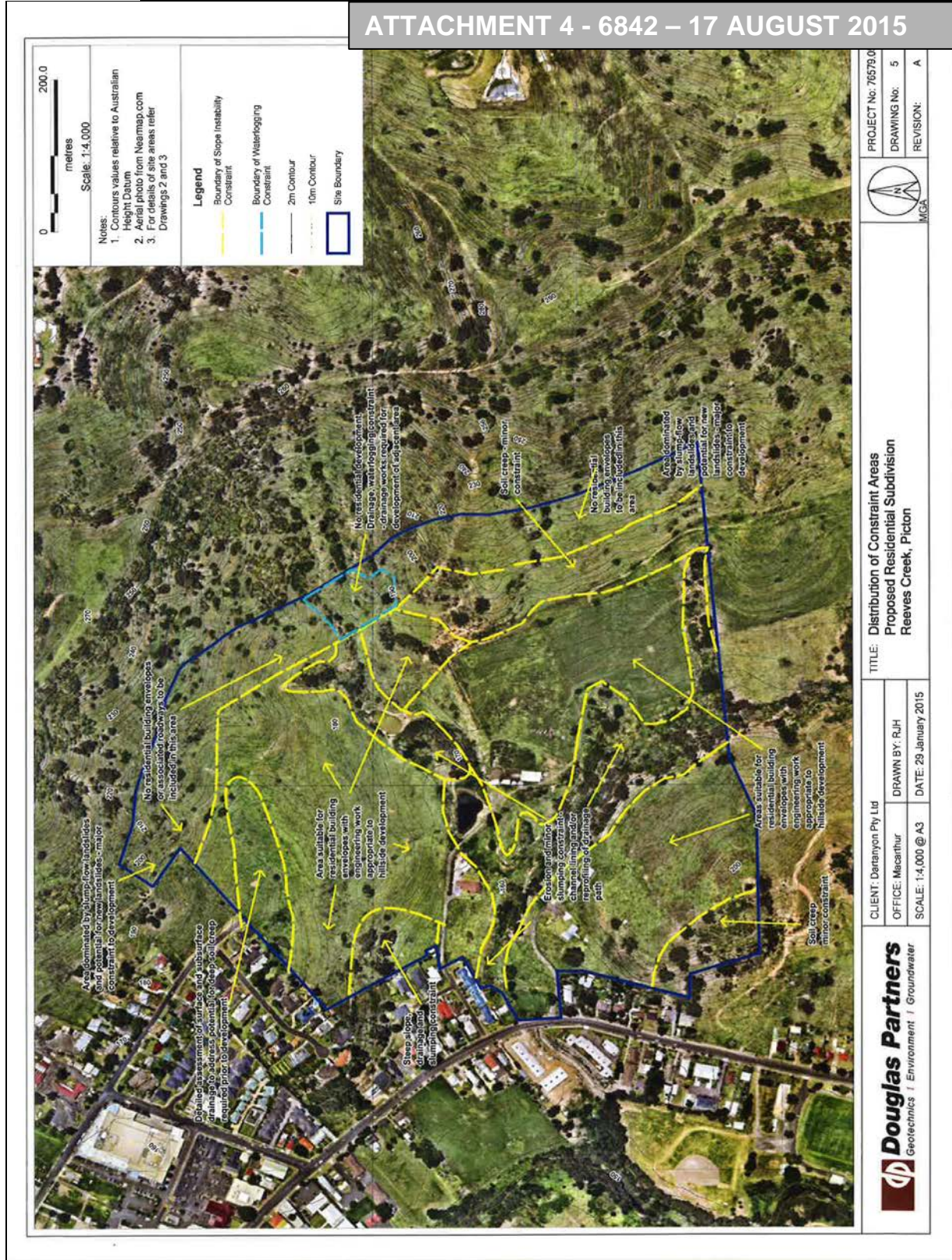
ATTACHMENT 3 - 6842 – 17 AUGUST 2015



Planning & Economy

PE4 – Planning Proposal – Picton East

ATTACHMENT 4 - 6842 – 17 AUGUST 2015



PROJECT No: 70579.0
DRAWING No: 5
REVISION: A

TITLE: Distribution of Constraint Areas
Proposed Residential Subdivision
Reeves Creek, Picton

CLIENT: Detanyon Pty Ltd
OFFICE: Macarthur
SCALE: 1:4,000 @ A3
DRAWN BY: RJH
DATE: 29 January 2015



Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

PE5 – Greater Macarthur Investigation Area – Impact on current Planning Proposals

PE5

Greater Macarthur Investigation Area – Impact on current Planning Proposals

243773

TRIM 3522-2

EXECUTIVE SUMMARY

- At the March 2015 Ordinary Meeting, Council considered a report on the Greater Macarthur Investigation Area and resolved to put all planning proposals in the investigation area on hold.
- This report provides an update on the process being undertaken by the Department of Planning & Environment (Department) to investigate the potential for a new Growth Centre in the Greater Macarthur area.
- It is recommended that Council leave all planning proposals in the Greater Macarthur Investigation Area on hold with a further report to be prepared for the September 2015 Ordinary Meeting outlining the status / findings of the Greater Macarthur Land Capability Study prepared by NSW Department of Planning and Environment.

REPORT

1.1 A PLAN FOR GROWING SYDNEY AND DRAFT GROWTH MANAGEMENT STRATEGY

The Greater Macarthur Urban Release Investigation Area report was due to be completed in July 2015 with public exhibition to follow. This report will identify the land capabilities of the region and infrastructure provisions required to service the area if deemed suitable for urban development.

The Department indicated at a meeting held 17 July 2015 that this report has been completed and is now awaiting cabinet endorsement before being made available to the public. It is anticipated that this should occur in early / mid-August 2015. The Department have been requested to brief Councillors prior to the public release of the report.

The Department will be undertaking a community engagement process following the release of the document and Council has agreed to assist with this process. Council's assistance is anticipated to involve access to the report via Council's website, Bush Telegraph and Mayor's column along with social media sites.

Once the Investigation Area report has been released for public comment a report will be prepared to a future Ordinary Meeting of Council to establish Council's position on the content of the report and Council's submission to the Department. Community members will be strongly urged to make comment on this report as well.

**PE5 – Greater Macarthur Investigation Area – Impact on current
Planning Proposals**

**1.2 PROGRESSION OF PLANNING PROPOSALS WITHIN THE CURRENT ADOPTED
WOLLONDILLY GROWTH MANAGEMENT STRATEGY 2011**

At the March 2015 Ordinary Meeting, Council resolved:

1. *That exhibition of the Draft Growth Management Strategy be delayed until endorsed by the NSW Department of Planning Environment pending the completion of the investigations into a potential Growth Centre in the Macarthur South area.*
2. *That Council endorse our participation in the investigation into a potential new Growth Centre in Macarthur South as requested by the Department of Planning and Environment.*
3. *That it be noted, in relation to the investigation work into the Macarthur South area that Council has yet to establish its position regarding the inclusion or exclusion of certain localities in the potential new Growth Centre.*
4. *That Council's final determination of these planning proposals be deferred until completion of the studies into the Macarthur South investigation area estimated to be six months as per the advice of the Department of Planning.*
5. *That Council commence an independent mediation process that includes key community representatives and further invitations are extended to representatives from the Chamber of Commerce, Appin Scouts, Appin Historical Society, Appin Men's Shed and Sporting Groups. The independent mediator to report on the issues raised by the community as part of the final planning assessment report.*
6. *That the Department of Planning and Environment be requested to undertake community engagement with the residents of Wollondilly to keep them informed of the investigation to ensure transparency in the process.*
7. *That Council advise the Joint Regional Planning Panel of this resolution and suggest that any planning proposal currently being considered by the Panel be deferred pending completion of the investigation study into the Macarthur South area.*
8. *That Council write to the Local Member stressing the importance of the timeframe for undertaking the Macarthur South investigations.*

PE5 – Greater Macarthur Investigation Area – Impact on current Planning Proposals

All planning proposals within the Greater Macarthur Urban Release Investigation Area under assessment by Council have been on hold since March 2015.

This does not include the planning proposal at Station Street, Menangle which is being progressed by the Joint Regional Planning Panel (JRPP) and was exhibited during July 2015. Similarly this does not include the State led planning process for Wilton Junction.

The planning proposals under assessment by Council were to remain on hold until the anticipated release of the Investigation Area report in July 2015. If the report wasn't released in July then a further report was required to deal with their assessment. This report seeks to address whether the assessment of these planning proposals should now proceed.

Council has also received advice from the Department regarding the progress of the planning proposal at Macquariedale Road, Appin. A copy of this advice is provided at Attachment 1.

The Department suggest the planning proposal progress independently of the Greater Macarthur Land Release Investigation, because:

- the planning proposal is at an advanced stage of the plan-making process; and
- the scale and nature of the planning proposal is unlikely to have a significant influence on the outcomes of investigations for the broader Greater Macarthur area.

However, having regard to Community views and expectations, we recommend that it would be more appropriate to maintain our current position pending a further report to Council following the State Government's decision on the Investigation area.

The second point relating to the scale and nature of the Macquariedale Road, Appin Planning Proposal is also equally applicable to two (2) other current planning proposals in Appin located at Brooks Point Road and Appin Bulli Road which are both smaller in scale to the planning proposal at Macquariedale Road.

The following table summarises the various planning proposals in Appin, their scale, assessment status and whether they have been identified as locations for residential growth in the Wollondilly Growth Management Strategy 2011:

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

PE5 – Greater Macarthur Investigation Area – Impact on current Planning Proposals

Planning Proposal	Estimated Lot Yield	Stage	Identified in the GMS 2011 for residential growth?
Macquariedale Road, Appin	280	Public exhibition completed. Further public exhibition required for voluntary planning agreement and submission of biodiversity certification application.	Yes
Brooks Point Road, Appin	228	Preliminary consultation undertaken	Yes
Appin Bulli Road	20	Gateway Determination received	Yes
Appin Vale	4000	Initial assessment not complete	No
North Appin	4000	Initial assessment not complete	No
Brooks Point	3500	Initial assessment not complete	No

Council's options are:

1. Resolve to leave all planning proposals on hold subject to a further report to the September 2015 Ordinary Meeting regarding the outcomes of the Greater Macarthur Investigation.
2. Resolve to allow the assessment of those planning proposals identified in Wollondilly Growth Management Strategy 2011 as 'potential residential growth areas' to proceed. This would apply to planning proposals at Macquariedale Road, Brooks Point Road and Appin Bulli Road.

Given the impending release of the Land Capability Study into the Greater Macarthur Investigation Area, option 1 is recommended.

CONSULTATION

Consultation would occur in accordance with Standard Procedures for Planning Proposals that are progressed.

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

PE5 – Greater Macarthur Investigation Area – Impact on current Planning Proposals

POLICIES & LEGISLATION

Nil

FINANCIAL IMPLICATIONS

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

ATTACHMENTS:

1. Letter from Department advising that the Macquariedale Road, Appin Planning Proposal can progress independently of the Greater Macarthur Land Release Investigation.

RECOMMENDATION

1. That Council leave all planning proposals in the Greater Macarthur Investigation Area on hold.
2. That a further report be prepared to the September 2015 Ordinary Meeting outlining the status / findings of the Greater Macarthur Land Capability Study prepared by NSW Department of Planning and Environment.

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

PE5 – Greater Macarthur Investigation Area – Impact on current Planning Proposals

ATTACHMENT 1 – 3522-2 – 17 AUGUST 2015



Mr Luke Johnson
General Manager
Wollondilly Shire Council
PO Box 2
PICTON NSW 2571

15/08940

Dear Mr Johnson

I refer to the planning proposal for land at Macquariedale Road, Appin (PP_2011_WOLLY_014_00), currently under consideration by Wollondilly Council. The Department of Planning and Environment acknowledges Council's resolution on 16 March 2015 to defer further consideration of this planning proposal until the Department completes its investigation of land release potential at Greater Macarthur.

The Department's investigations at Greater Macarthur are progressing under Action 2.4.2 of *A Plan for Growing Sydney*. The Department will be in a position to present an update of its investigations to the Planning Control Group in June 2015.

I appreciate that Council has been working closely with the proponent to progress this planning proposal over a number of years and that the issues of biodiversity conservation and infrastructure servicing are critically important in considering not just this planning proposal but all land release proposals in the Appin locality. The Department has considered this planning proposal and is of the view that it can progress independently of the Greater Macarthur Land Release Investigation, because:

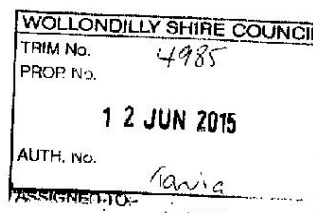
- the planning proposal is at an advanced staged of the plan-making process; and
- the scale and nature of the planning proposal is unlikely to have a significant influence on the outcomes of investigations for the broader Greater Macarthur area.

The Department's Housing Land Release and Metropolitan branches are willing to meet with Council to discuss Council's consideration of this planning proposal and any issues requiring resolution.

Should you have any further enquiries on the Greater Macarthur Land Release Investigation, I have arranged for Paul Robillard, Director, Housing Land Release to assist you. Paul can be contacted on (02) 9860 1512.

Yours sincerely


Brendan O'Brien
Executive Director
Infrastructure, Housing and Employment



Department of Planning & Environment
23-33 Bridge Street Sydney NSW 2000 | GPO Box 39 Sydney NSW 2001 | T 02 9228 6111 | F 02 9228 6445 | www.planning.nsw.gov.au

Planning & Economy

PE6 – Companion Animal Off Leash Area at Picton Sports Ground

PE6

Companion Animal Off Leash Area at Picton Sports Ground

223

TRIM 1757

EXECUTIVE SUMMARY

- At the June 2012 Ordinary Meeting, Council resolved that off leash areas be established at the following locations when funds are available:
 - Camden South - Bridgewater Estate
 - Douglas Park – Douglas Park Sportsground
 - The Oaks - Dudley Chesham Sportsground
 - Mount Hunter – Mount Hunter Community Hall Grounds
 - Picton - Botanic Gardens
 - Menangle - Station Street Reserve
 - Wilton – Wilton Recreation Reserve
 - Oakdale - Willis Park
 - Yanderra – Yanderra Community Park

It was also resolved that further consideration for off-leash areas be considered should further development occur in existing villages in particular Appin, Silverdale and Wilton.

- The purpose of this report is to seek a Council resolution for the establishment of a Companion Animal off leash area at the Picton Sports Ground.
- It is recommended:
 - That a Companion Animal off leash area be established at the Picton Sports Ground subject to funding being identified in the September 2015 Quarterly Review.
 - That the current review of the Wollondilly Section 94 Development Contribution Plan 2011 investigate whether funds can be collected for establishment of off leash areas as a form of open space embellishment.

REPORT

Council's resolution at the meeting of June 2012, gave approval for the establishment of off leash areas in a number of townships in the Shire including the establishment of an off leash area at the Picton Botanic Gardens.

PE6 – Companion Animal Off Leash Area at Picton Sports Ground

Initially it was proposed that an off leash area at the Botanic Gardens be established near the tennis court area. This area was further investigated and it has become apparent that due to close proximity of residential areas, the proposed expansion to the Picton Tennis Club Courts and current utilisation of the grounds around the Botanic Gardens, that the location of an off leash area in this vicinity is not a feasible proposal.

At the April 2015 Ordinary Meeting, Council resolved to construct a footbridge off Magnolia Drive leading to the Picton Sport Ground. The location of an off leash area in the vicinity of the footbridge has been investigated and a concept developed (see attached plans). The proposal for an off leash area at the Picton Sports Ground has been presented to the Members of the Companion Animals Committee, who are unanimously supportive of this location.

CONSULTATION

Initial consultation has taken place with:

- Companion Animal Reference Committee
- Council's Rangers and Animal Control Officer
- Council's Recreation and Facilities Officers

Further community consultation is proposed via a letterbox drop, notification on Council's website and facebook page. Feedback can be provided in writing or through Council's on line survey tool.

FINANCIAL IMPLICATIONS

The expenses for this project relate to design works, review of environmental factors, project management, fencing, the provision of water to the site, park furniture and possibly a shelter. The cost of the project is approximately \$40,000.

There is currently \$20,227 in the Animal Management Restricted Cash Account and \$283,000 in the Recreational Restricted Cash Account which could be allocated towards the project.

Council's Section 94 Planner has advised that there is no provision in the Wollondilly Development Contribution Plan 2011 to further fund the project. Additional funding will need to be sourced for the project to proceed.

ATTACHMENTS:

1. Off leash area location - Picton Sports Ground

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday
17 August 2015

PE6 – Companion Animal Off Leash Area at Picton Sports Ground

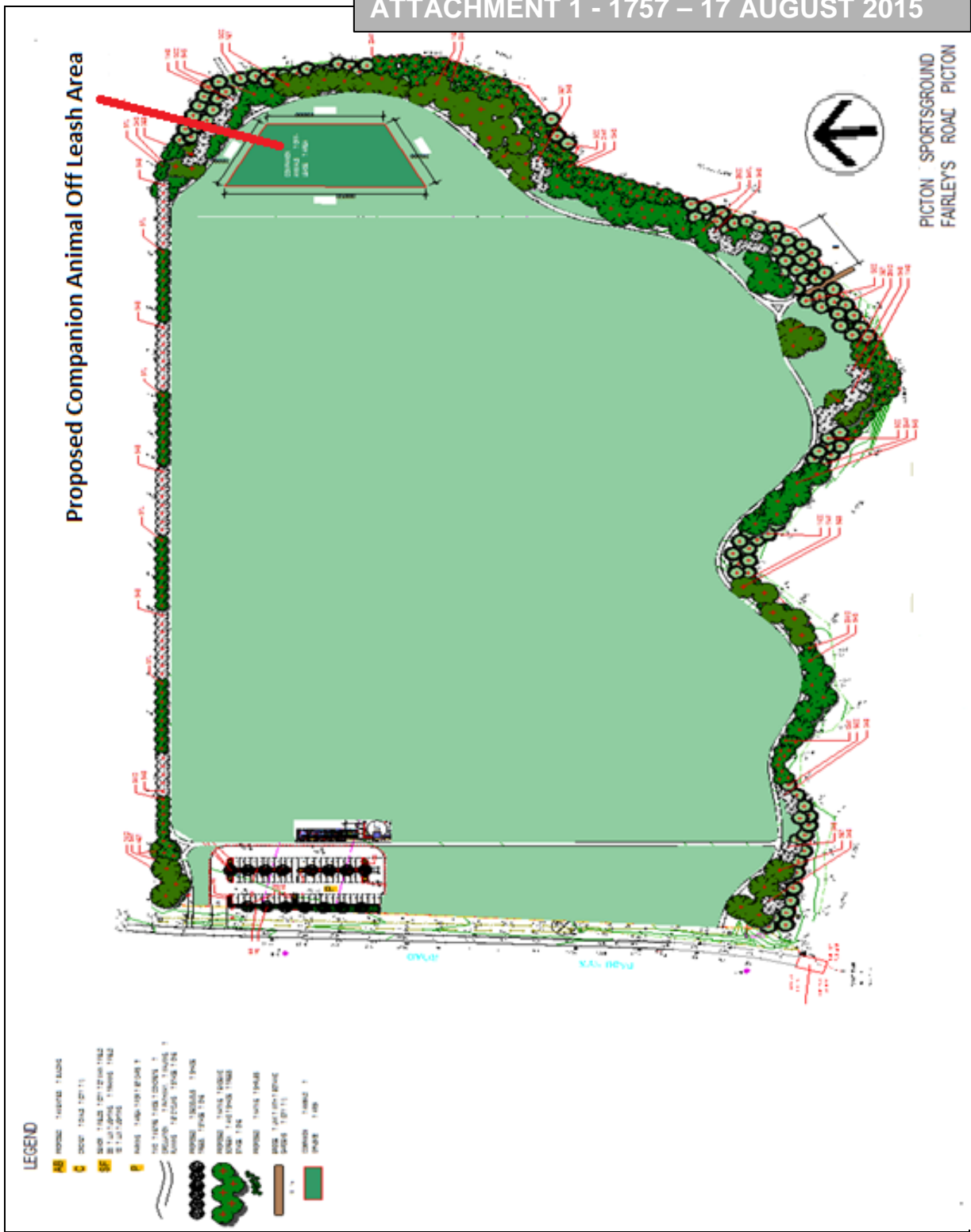
RECOMMENDATION

1. That a Companion Animal off leash area, funded from the Animal Management Restricted Cash Account and Recreational Restricted Cash Account, be established at the Picton Sports Ground.
2. That the current review of the Wollondilly Section 94 Development Contribution Plan 2011 investigate whether funds can be collected for establishment of off leash areas as a form of open space embellishment.

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 August 2015

PE6 – Companion Animal Off Leash Area at Picton Sports Ground

ATTACHMENT 1 - 1757 – 17 AUGUST 2015



Governance

Report of Governance to the Ordinary Meeting of Council held on Monday 17 August 2015

Relevance to Community Strategic Plan

RELEVANCE TO COMMUNITY STRATEGIC PLAN - GOVERNANCE

The reports contained within this section of the agenda outline actions and activities that contribute to the achievement of the outcomes as outlined in your Community Strategic Plan 2033.

GO1 – Notice of Motion Status Report – August 2015

GOVERNANCE

GO1 Notice of Motion Status Report – August 2015

103

TRIM 5253

EXECUTIVE SUMMARY

- At its ordinary meeting of 13 October 2014 Council resolved via a Notice of Motion 'That a permanent position be created in the Business Paper that records the progress of all action taken on all Notices of Motion passed by Council'.
- It is recommended that Council note the current Notice of Motion Status Report.

REPORT

At the Ordinary meeting of 13 October 2014 Council resolved via a Notice of Motion 'That a permanent position be created in the Business Paper that records the progress of all action taken on all Notices of Motion passed by Council'.

Council's Authority Register which is updated following each Council meeting records all resolutions passed by Council. Council staff actioning these resolutions record comments in the register on the progress of each resolution. Information held on each resolved Notice of Motion dating back to the start of 2014 has been extracted from the Authority Register to produce a Notice of Motion Status Report.

CONSULTATION

Consultation with the Manager Governance and members of Council's Executive has been conducted.

FINANCIAL IMPLICATIONS

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

ATTACHMENTS

1. Notice of Motion Status Report will be provided to Councillors under separate cover.

RECOMMENDATION

That Council note the August 2015 Notice of Motion Status Report.

GO2 – Investment of Funds as at 30 June 2015

GO2 Investment of Funds as at 30 June 2015

112

TRIM 1022-2

EXECUTIVE SUMMARY

- This report provides details of Council's invested funds as at 30 June 2015.
- It is recommended that the information and certification in relation to the investment of Council funds as at 30 June 2015 be noted.

REPORT

At its last meeting, the Reserve Bank left the cash rate at 2.00%. In relation to the domestic market, the Board of the Reserve Bank commented that:

"In Australia, the available information suggests that the economy has continued to grow over the past year, but at a rate somewhat below its longer-term average. The rate of unemployment, though elevated, has been little changed recently. Overall, the economy is likely to be operating with a degree of spare capacity for some time yet. With very slow growth in labour costs, inflation is forecast to remain consistent with the target over the next one to two years, even with a lower exchange rate.

In such circumstances, monetary policy needs to be accommodative. Low interest rates are acting to support borrowing and spending. Credit is recording moderate growth overall, with stronger borrowing by businesses and growth in lending to the housing market broadly steady over recent months. Dwelling prices continue to rise strongly in Sydney, though trends have been more varied in a number of other cities. The Bank is working with other regulators to assess and contain risks that may arise from the housing market. In other asset markets, prices for equities and commercial property have been supported by lower long-term interest rates.

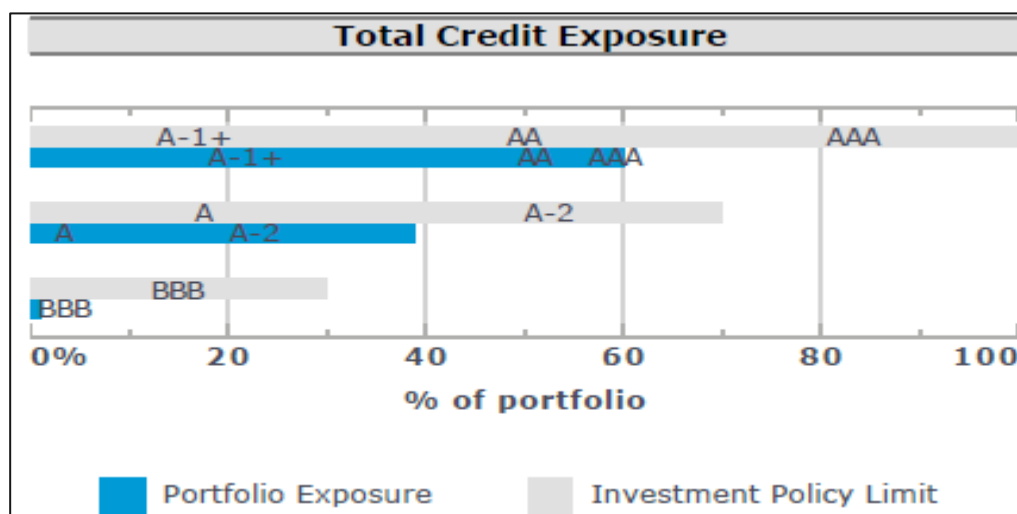
The Australian dollar has declined noticeably against a rising US dollar over the past year, though less so against a basket of currencies. Further depreciation seems both likely and necessary, particularly given the significant declines in key commodity prices.

The Board today judged that leaving the cash rate unchanged was appropriate at this meeting. Information on economic and financial conditions to be received over the period ahead will inform the Board's assessment of the outlook and hence whether the current stance of policy will most effectively foster sustainable growth and inflation consistent with the target. "

GO2 – Investment of Funds as at 30 June 2015

Council will continue to monitor and review the portfolio while liaising with our investment advisors, to ensure that returns are maximised and risk exposure is minimised.

As shown in the following chart, the credit rating on Council's portfolio as at 30 June 2015 is within Council's investment policy limits.



The percentage of Council's investment portfolio invested with each institution as at 30 June 2015 is also in compliance with the limits specified within Council's investment policy, as detailed in the following table.

Parent Group	% used vs Investment Policy Limit
National Australia Bank	92% ✓
Bank of Queensland	79% ✓
Members Equity Bank	42% ✓
Bendigo and Adelaide Bank	34% ✓
Credit Union Australia	22% ✓
Macquarie Group	22% ✓
Westpac Group	17% ✓
Commonwealth Bank of Australia	13% ✓
ANZ Group	6% ✓
Emerald Reverse Mortgage (B Tranche)	6% ✓
Emerald Reverse Mortgage (A Tranche)	4% ✓

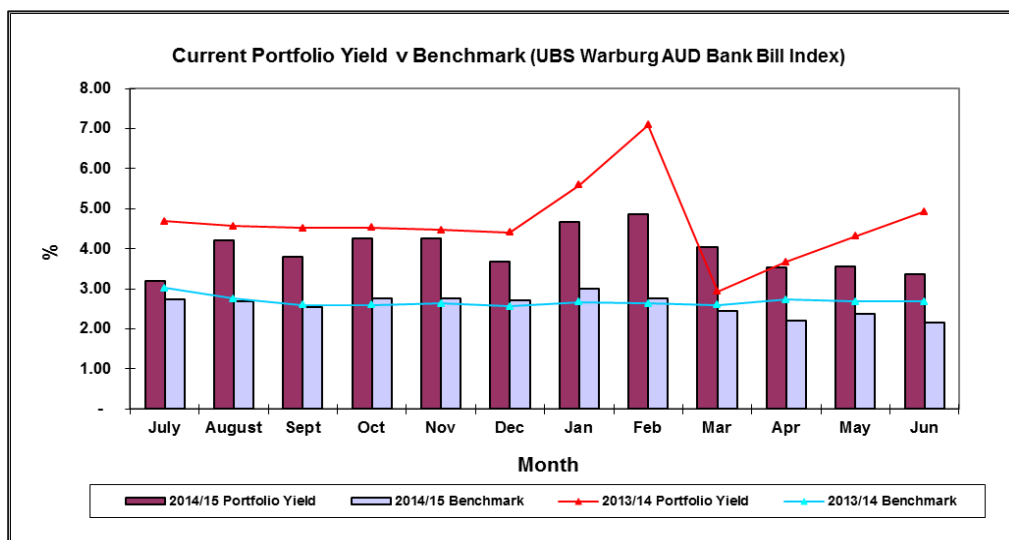
Governance

GO2 – Investment of Funds as at 30 June 2015

The vast majority of Council’s investment portfolio (96%) is invested in deposits / securities with Australian Authorised Deposit taking Institutions (ADI’s). Council has been taking advantage of term deposit “specials” from various institutions without overexposing the portfolio to any one institution.

The marked to market valuations on some of the direct investment products in Council’s portfolio remain at less than the face value of the investment. The marked to market value of these investments is expected to be equal to or greater than the face value by the time they reach their maturity date. Early exit from these products would realise losses.

The following charts compare Council’s portfolio yield with the benchmark UBS Warburg AUD Bank Bills Index rate in each month for 2013/14 and 2014/15.



As shown in the chart above, Council’s portfolio yield has continually exceeded the benchmark UBS Warburg 3 month Bank Bill Index due to the prudent investment of Council’s portfolio. For June 2015, Council’s portfolio yielded 3.56% and returned 2.58% pa for the month, compared to the benchmark’s 2.16% pa return.

Under Reg 212 of the Local Government (General) Regulation 2005, Council’s Responsible Accounting Officer must provide Council each month with a written report setting out details of all money that Council has invested under Section 625 of the Act.

Details of Council’s investment portfolio as at 30 June 2015 are provided in attachment 1.

Governance

GO2 – Investment of Funds as at 30 June 2015

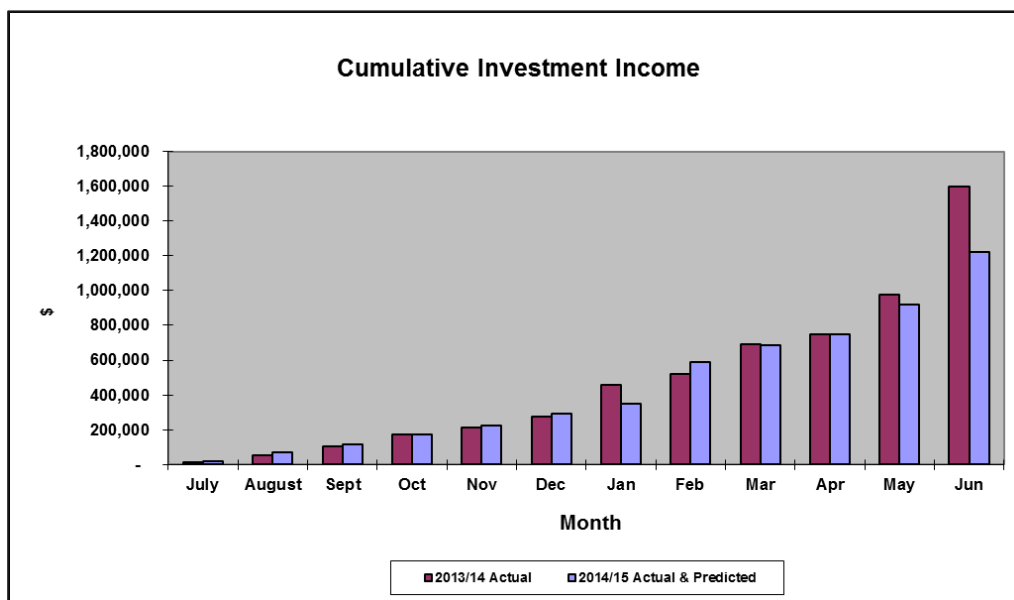
CONSULTATION

Independent advice regarding the investment of Council funds was provided by Prudential Investment Services Corp.

FINANCIAL IMPLICATIONS

Interest earned is allocated to restricted cash and income in accordance with Council’s adopted budget, policy and legislative requirements.

The following chart compares the 2014/15 interest for the year with the prior year’s interest income.



Council’s investment income for 2014/15 is less than the income received for 2013/14 because interest rates on investments have remained low.

CERTIFICATION

I hereby certify that Council’s investments have been made in accordance with Sec 625 of the Local Government Act 1993, Clause 212 of the Local Government (General Regulations) 2005 and Council’s Investment Policy.

Ashley Christie
 Manager Financial Services
 WOLLONDILLY SHIRE COUNCIL

Governance

Report of Governance to the Ordinary Meeting of Council held on Monday 17 August 2015

GO2 – Investment of Funds as at 30 June 2015

ATTACHMENTS:

1. Investments as at 30 June 2015 including reconciliation of invested funds.

RECOMMENDATION

That the information and certification in relation to the investment of Council funds as at 30 June 2015 be noted.

WOLLONDILLY SHIRE COUNCIL

Report of Governance to the Ordinary Meeting of Council held on Monday 17 August 2015

GO2 – Investment of Funds as at 30 June 2015

ATTACHMENT 1 – 1022-2 - 17 AUGUST 2015

INVESTMENTS AS AT 30 June 2015							
Reporting Period:		1-Jun-15		to		30-Jun-15	
Investment Institution	Rating	Face Value 30-Jun-15	Value at 30-Jun-15	% Holding	Interest/ Capital Growth %p.a.	received	Maturity
CASH & CASH PLUS FUNDS							
			(1)				
National Australia Bank							
<i>General Account Balance (for information only. Not included in Total Cash Plus Investments)</i>							
11AM At call	A-1+	3,475,000	3,475,000	7.80%	2.05	9,381	At Call
Term Deposits							
Bank of Queensland (Matured)	A-2			0.00%		308	04-Jun-15
Bank of Queensland (Matured)	A-2			0.00%		292	04-Jun-15
Bank of Queensland (Matured)	A-2			0.00%		1,027	11-Jun-15
National Australia Bank (Matured)	A-1+			0.00%		1,658	18-Jun-15
National Australia Bank	A-1+	1,000,000	1,029,026	2.31%	3.57	2,934	09-Jul-15
Bank of Queensland	A-2	1,000,000	1,017,198	2.28%	3.50	2,877	16-Jul-15
National Australia Bank	A-1+	1,000,000	1,033,637	2.32%	3.65	3,000	18-Aug-15
National Australia Bank	A-1+	1,000,000	1,033,095	2.32%	3.65	3,000	27-Aug-15
National Australia Bank	A-1+	2,000,000	2,065,178	4.64%	3.65	6,000	01-Sep-15
ME Bank	A-2	1,000,000	1,029,794	2.31%	3.55	2,918	17-Sep-15
National Australia Bank	A-1+	1,000,000	1,024,751	2.30%	3.55	2,918	19-Sep-15
ME Bank	A-2	1,250,000	1,286,087	2.89%	3.60	3,699	07-Oct-15
National Australia Bank	A-1+	1,000,000	1,028,548	2.31%	3.55	2,918	21-Oct-15
National Australia Bank	A-1+	500,000	503,299	1.13%	3.55	1,212	11-Nov-15
National Australia Bank	A-1+	1,000,000	1,025,442	2.30%	3.55	2,918	09-Dec-15
National Australia Bank	A-1+	1,000,000	1,024,878	2.30%	3.55	2,918	17-Dec-15
Bank of Queensland	A-2	1,000,000	1,004,342	2.25%	3.00	2,219	07-Jan-16
Rural Bank	A-2	1,000,000	1,021,715	2.29%	3.60	2,959	13-Jan-16
Bank of Queensland	A-2	1,000,000	1,003,655	2.25%	3.00	1,644	20-Jan-16
Bank of Queensland	A-2	3,000,000	3,072,643	6.90%	4.05	9,986	03-Feb-16
National Australia Bank	A-1+	1,000,000	1,018,053	2.28%	3.20	2,630	03-Feb-16
ME Bank	A-2	1,000,000	1,014,474	2.28%	3.20	2,630	18-Feb-16
National Australia Bank	A-1+	500,000	508,039	1.14%	3.15	1,295	25-Feb-16
Rural Bank	A-2	1,000,000	1,011,331	2.27%	3.00	2,466	01-Mar-16
Credit Union Australia (CUA) (Matured)	BBB+	2,000,000	2,023,508	4.54%	3.10	5,096	08-Mar-16
National Australia Bank	A-1+	2,000,000	2,015,391	4.52%	2.93	4,816	27-Apr-16
Westpac Banking Corporation- Local Govt	AA-	1,000,000	1,024,538	2.30%	4.55	3,740	16-May-16
Westpac Banking Corporation- Local Govt	AA-	1,000,000	1,024,470	2.30%	4.55	3,740	17-May-16
Bank of Queensland	A-2	1,000,000	1,001,878	2.25%	2.90	2,145	01-Jun-16
National Australia Bank	A-1+	1,000,000	1,006,561	2.26%	2.95	1,051	15-Jun-16
TOTAL CASH PLUS INVESTMENTS		33,725,000	34,326,533	77.04%		87,013	
Investment Institution	Rating	Face Value 30-Jun-15	Value at 30-Jun-15	% Holding	Interest %p.a.	accrued	Maturity
INVESTMENT SECURITIES							
			(1)				
Corporate Bond							
National Australia Bank	AA-	1,000,000	1,075,783	2.41%	6.00	5,110	15-Feb-17
Zero Coupon Bond							
Commonwealth Bank of Australia	AA-	2,000,000	1,821,220	4.09%	7.17	0	22-Jan-18
Floating Rate Notes							
Members Equity Bank Pty Ltd	BBB+	500,000	504,877	1.13%	3.40	1,396	28-Nov-16
Westpac Banking Corporation	AA-	500,000	512,164	1.15%	3.79	1,556	20-Feb-17
Macquarie Bank	A	1,000,000	1,003,010	2.25%	5.04	4,186	09-Mar-17
Bendigo Bank Senior FRN	A-	1,000,000	1,001,193	2.25%	3.09	2,606	17-Sep-19
ANZ Snr FRN	AA-	1,000,000	1,007,018	2.26%	2.99	2,458	11-Nov-19
Westpac Banking Corporation	AA-	1,000,000	1,011,612	2.27%	3.15	2,585	22-Jan-20
Macquarie Bank	A	1,000,000	1,002,481	2.25%	3.25	2,676	03-Mar-20
Mortgage Backed Securities							
Emerald Reverse Mortgage Series 2007-1 Class B	AA	1,000,000	645,917	1.45%	2.79	2,289	21-Jul-27
Emerald Reverse Mortgage Series 2006-1 Class A	AAA	737,518	644,147	1.45%	2.58	1,564	22-Aug-22
Total-Other Investments		10,737,518	10,229,421	22.96%		26,425	
Current Portfolio Yield					3.37		
TOTAL CASH & INVESTMENT SECURITIES		\$44,462,518	\$44,555,953	100%		\$113,438	
Benchmark (90 day UBSA Bank Bill Index)					2.16		
Maximum Permitted Institution Holding = 45%							

Governance

GO2 – Investment of Funds as at 30 June 2015

ATTACHMENT 1 – 1022-2 - 17 AUGUST 2015

Summary of Investment Holdings by Investment Type as at 30 June 2015

	Face Value (\$)	Current Value (\$)	Current Yield (%)
Bonds	3,000,000.00	2,897,002.75	6.7795
Cash	3,475,000.00	3,475,000.00	2.0500
Floating Rate Note	6,000,000.00	6,042,353.69	3.5170
Mortgage Backed Securities	1,737,517.95	1,290,064.16	2.6980
Term Deposit	30,250,000.00	30,851,532.69	3.4754
	44,462,517.95	44,555,953.30	3.5621

GO3 – Policy Classification Review

GO3 Policy Classification Review

238

TRIM 1693

EXECUTIVE SUMMARY

- The purpose of this report is to advise Council of the proposed changes to the current policy framework.
- It is recommended that Council adopt a new policy framework and Policy Register that incorporates a distinction between Council Policy and Administrative Protocol.
- Additionally a Register of "Policy Positions" is proposed.

REPORT

Council has ninety seven (97) policies and codes which have been developed to provide boundaries and guidelines for the achievement of Wollondilly Shire Council's strategic and operational direction, giving consideration to statutory, best practice and quality requirements.

COUNCIL POLICY

Typically policies and codes which must be adopted by Council are those that are legislated and others identified as "Local Policy".

Examples of legislated policies and codes are:

- Code of Conduct
- Councillor Fees, Expenses and Facilities
- Investment
- Code of Meeting Practice
- Complaint Handling
- Unreasonable Complainant Conduct

'Local Policy' as defined in the Local Government Act 1993 (LGA) is policy concerning approvals and orders. Approvals may be taken to be activities which involve the use of or installation at:

- Structures or places of public entertainment
- Water supply, sewerage and stormwater drainage work
- Management of Waste
- Community Land
- Public Roads

The Office of Local Government also regard as best practice, policy that may affect or could have an effect on the community as a whole or impact on a specific sector, to be 'Local Policy'.

GO3 – Policy Classification Review

ADMINISTRATIVE PROTOCOL

Administrative Protocol is determined as follows:

1. Is related to day-to-day operational issues
2. Concerns staff - who are under the direction of the General Manager
3. The General Manager has authority to deal with matters as per s.377 of the LGA

PROPOSAL

A review of Council's policy register was carried out and as a result it is proposed that Wollondilly Shire Council Policies be placed into two (2) separate categories. These are:

- Council Policy / Code
- Administrative Protocol

The advantages of having Administrative Protocol include:

- Efficiency for advertising (exhibition)
- Efficient turn-around for updates and reviews
- Matters generally speaking are related to staff who are under the direction of the General Manager.

CONSULTATION

A peer review of other Councils' policies was undertaken and consultation with officers at Liverpool City Council and Wollongong City Council were held in preparation of this report.

These issues were also workshopped with Councillors on Monday 22 June 2015.

FINANCIAL IMPLICATIONS

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

ATTACHMENTS:

List of policies which have been entered into Council's register as either Council Policies or Administrative Protocols.

GO3 – Policy Classification Review

RECOMMENDATION

1. That Council adopt a new policy framework and Policy Register that incorporates a distinction between Council Policy and Administrative Protocol.
2. That additionally a Register of “Policy Positions” is proposed.

GO3 – Policy Classification Review

ATTACHMENT 1 - 1693 – 17 AUGUST 2015

Council Policy

Directorate	Department	Title
General Manager	Employee Relations	Corruption Prevention & Fraud Control
Executive Director CS&CS	Finance	Borrowing
Executive Director CS&CS	Governance	Complaint Handling
Executive Director CS&CS	Communications	Corporate Sponsorship
Executive Director CS&CS	Governance	Councillor Fees, Expenses & Facilities
Executive Director CS&CS	Finance	Debt Recovery
Director Infrastructure & Environment	Environment	Exemption from Payment of Garbage Rates
Executive Director CS&CS	Community Services	Flying of the Australian National & Aboriginal Flags
Executive Director CS&CS	Governance	Gifts & Benefits
Executive Director CS&CS	Finance	Hardship
Executive Director CS&CS	Finance	Investment
Executive Director CS&CS	Finance	Overdraft
Executive Director CS&CS	Governance	Probity - Dealings with Council Owned Land
Executive Director CS&CS	Finance	Refund of Waste Charges
Executive Director CS&CS	Governance	Unreasonable Complaint Conduct
Executive Director CS&CS	Governance	Code of Conduct
Executive Director CS&CS	Governance	Code of Meeting Practice
Executive Director CS&CS	Governance	Corporate Property
Executive Director CS&CS	Facilities & Recreation	Reduction or Wavier of Council Fees & Charges
Director Infrastructure & Environment	Infrastructure	Strategic Asset Management
Director Infrastructure & Environment	Facilities & Recreation	Upgrading a Council Hall
Director Planning	Compliance	Applications Under the Liquor Act
Director Infrastructure & Environment	Infrastructure	Contributions to Kerb, Gutter and Footpaths
Director Planning	Land Use Planning	Compliance
Director Planning	Land Use Planning	Council and Delegated Determination of Development Applications
Director Infrastructure & Environment	Works	Property Entrances
Director Infrastructure & Environment	Infrastructure	Commercial Use of Public Footpaths & Roadside Verges
Director Infrastructure & Environment	Infrastructure	Fences on Road Reservation - Road Reconstruction
Director Planning	Land Use Planning	Hoardings
Director Infrastructure & Environment	Works	Nature Strips
Director Infrastructure & Environment	Infrastructure	Requirements for Works Affecting Watercourses
Director Infrastructure & Environment	Infrastructure	Road Closures

GO3 – Policy Classification Review

ATTACHMENT 1 - 1693 – 17 AUGUST 2015

Council Policy

Directorate	Department	Title
Executive Director CS&CS	Governance	Road Naming
Executive Director CS&CS	Governance	Street Numbering
Director Infrastructure & Environment	Infrastructure	Street Signs - Commercial, Directional & Business Directional
Director Planning	Land Use Planning	Dedication of Land
Director Infrastructure & Environment	Infrastructure	Parking
Director Infrastructure & Environment	Facilities & Recreation	Use of Public Open Space by Commercial Fitness Groups & Personal Trainers
Executive Director CS&CS	Communications	Advertising

Governance

GO3 – Policy Classification Review

ATTACHMENT 1 - 1693 – 17 AUGUST 2015

Administrative Protocol

DIRECTORATE	DEPARTMENT	TITLE
Executive Director CS&CS	Governance	Access to Information
Director Planning	Compliance	Backyard Burning
Executive Director CS&CS	Community Services	Charitable Activities
Executive Director CS&CS	Community Services	Child Protection (Keep Them Safe)
Executive Director CS&CS	Community Services	Childrens Health & Safety
General Manager	Employee Relations	Christmas/New Year Closure
Director Infrastructure Management	Facilities & Recreation	Clothing Bin Collections
Executive Director CS&CS	Community Services	Collaborative Partnerships with Families and Communities
Executive Director CS&CS	Community Services	Community Bus
Executive Director CS&CS	Community Services	Community Engagement
Executive Director CS&CS	Information Technology	Disposal of IT Equipment
Executive Director CS&CS	Community Services	Educational Program and Practice
Executive Director CS&CS	Governance	Election Signs in Public Places
General Manager	Employee Relations	Employment and Retention of Quality Staff
Director Planning	Land Use Planning	Environmental Protection Zones
General Manager	Employee Relations	Equal Employment Opportunity
Director Infrastructure Management	Infrastructure	Filming Rights
Director Planning	Land Use Planning	Gas Scare Gun Operation
General Manager	Employee Relations	Gathering of Information
Director Infrastructure Management	Works	Guidelines for Tendering
General Manager	Employee Relations	Harassment
General Manager	Employee Relations	Illegal Drug and Alcohol
Executive Director CS&CS	Information Technology	Information Technology Acceptable Usage
Executive Director CS&CS	Governance	Internal Reporting
General Manager	Employee Relations	Interstate & Overseas Travel

GO3 – Policy Classification Review

ATTACHMENT 1 - 1693 – 17 AUGUST 2015

Administrative Protocol

DIRECTORATE	DEPARTMENT	TITLE
Executive Director CS&CS	Communications	Media Liaison
Director Infrastructure Management	Works	Motor Vehicles
General Manager	Employee Relations	Noise Management
Director Infrastructure Management	Environment	Noxious Weed Control
Director Planning	Land Use Planning	On-site Sewage Management System and Greywater Re-use
Director Infrastructure Management	Facilities & Recreation	Outdoor Smoke Free Areas
General Manager	Employee Relations	Pay Administration System
Director Infrastructure Management	Environment	Phosphorous Action
Executive Director CS&CS	Community Services	Physical Environment
Director Infrastructure Management	Facilities & Recreation	Project Management - Works by Volunteers & Committees on Council Properties
Director Infrastructure Management	Works	Property Entrances
General Manager	Employee Relations	Provisions for Employee Leave
Executive Director CS&CS	Communications	Public Relations
Executive Director CS&CS	Finance	Purchasing
Executive Director CS&CS	Information Technology	Records / Information Management
Executive Director CS&CS	Community Services	Relationships with Children
Director Infrastructure Management	Works	Restorations
General Manager	Employee Relations	Risk Management
Executive Director CS&CS	Community Services	Role of Community Services
General Manager	Employee Relations	Staff - Attendance at Meetings of Council and Committees
General Manager	Employee Relations	Staff - Claim for Court Expenses
General Manager	Employee Relations	Staff - Employment of Trainees / Apprentices
General Manager	Employee Relations	Staff - Loss of Personal Property
General Manager	Employee Relations	Staff - Retirement / Resignation Gratuities

GO3 – Policy Classification Review

ATTACHMENT 1 - 1693 – 17 AUGUST 2015

Administrative Protocol

DIRECTORATE	DEPARTMENT	TITLE
Executive Director CS&CS	Community Services	Staffing Arrangements
General Manager	Employee Relations	Sun Protection in the Workplace
Director Infrastructure Management	Environment	Sustainable Environmental Management
Director Infrastructure Management	Environment	Tree Risk Management
Director Infrastructure Management	Environment	Wollondilly Cemeteries
General Manager	Employee Relations	Work Health and Safety
Executive Director CS&CS	Community Services	Young People in the Library
Executive Director CS&CS	Community Services	Leadership and Service Management
General Manager	Employee Relations	Staff - Traffic Regulations

GO4 – Councillor Attendance at Conferences and 2015 Local Government Conference Voting Delegates

GO4 **Councillor Attendance at Conferences and 2015 Local Government Conference Voting Delegates**
234777 TRIM 3207-8

EXECUTIVE SUMMARY

- In accordance with Councils Councillor Fees, Expenses and Facilities Policy, permission is sought for Councillor attendance at various conferences and events.
- Council's voting delegates for the 2015 Local Government NSW Conference are required to be determined by 18 September 2015.
- It is recommended that Council determine Councillor representation at the conferences and events listed.

REPORT

Councillor attendance at conferences and events is encouraged as they provide opportunities for the elected members to assist their understanding of local government matters and to enable enhanced decision making in the best interests of the community.

The Councillor Fees, Expenses and Facilities Policy states the following:

- 4.11 Councillors must submit a request in writing to attend any conference or event other than the Local Government NSW Conference and the National General Assembly of Local Government, prior to registration. The submission should outline the benefits to Council.
- 4.12 Permission to attend conferences or events must be granted by Council at an official meeting of Council.

The table below details conferences expected to be held in the upcoming 12 months and includes the interest expressed by Councillors. The Local Government NSW (LGNSW) Conference and the National General Assembly of Local Government, although not requiring approval under Council's Policy, have been included to formalise the attendees and determine voting delegates as required.

Governance

GO4 – Councillor Attendance at Conferences and 2015 Local Government Conference Voting Delegates

CONFERENCE	DATE	VENUE	COUNCILLOR DELEGATE/INTEREST
National Growth Areas Alliance Congress (NGAA)	12 November 2015	Liverpool NSW	Cr Hannan
LGNSW Annual Conference	11-13 October 2015	Rosehill NSW	Col Mitchell Benn Banasik Hilton Gibbs Simon Landow Luke Johnson-tentative Kate Terry – tentative Judith Hannan – tentative Michael Banasik - tentative
Australian Local Government Women’s Association (NSW) Conference	10-12 March 2016	Gunnedah	Cr Hannan Cr Terry
National General Assembly of Local Government (NGA)	June 2016	Canberra	Mayor
Peri Urban Conference	TBA	Unknown	Cr Terry

The capacity to authorise additional attendance due to unforeseen circumstances is provided for in clause 4.13 of the Councillor Fees, Expenses and Facilities Policy.

The LGNSW conference is the annual policy-making event for NSW councils. Council has three (3) voting entitlements under the conference rules and is required to submit the names of our nominated voting delegates to LGNSW by Monday 18 September 2015.

Governance

GO4 – Councillor Attendance at Conferences and 2015 Local Government Conference Voting Delegates

This year the LGNSW deadline for nominations closes prior to Council's Ordinary Meeting scheduled for 21 September 2015. Traditionally two of the voting delegates have been the Mayor and Deputy Mayor, and these will not be determined until after the Mayoral and Deputy Mayoral elections which are held at the 21 September meeting. Local Government NSW has confirmed that they will not accept nominations by position and that nominations will not be accepted after their closing date. However they have advised that Council can nominate three delegates and in accordance with the Associations rules (rule 34) substitute the name(s) of our delegates at any time.

Given the circumstances it is proposed that Council nominate three voting delegates and that the names be substituted accordingly following the Mayoral and Deputy Mayoral Election in accordance with rule 34. Further that any change to the third voting delegate nominated be determined at a subsequent Councillor Workshop if required.

Council will be submitting five (5) motions for discussion. They are as follows:

Restoration of the indexation of Financial Assistance Grants

That all Councils acknowledge the importance of the Federal Government's Financial Assistance Grants in providing services and infrastructure for the benefit of the community and support ALGA, LGSA National and LGNSW in advocating for an early restoration of the indexation of Financial Assistance Grants.

Concerns about the non-indexation of the Minister for Planning's cap on developer contributions

That the Association write to the Minister for Planning and Environment requesting that the Section 94 contribution caps be indexed from the date of their introduction (September 2010), in order to:

- recognise the increases in land and construction costs for infrastructure since the commencement of the cap
- maintain Councils' ability to provide services and infrastructure through Section 94 funding for their growing populations
- maintain the integrity of Councils' Section 94 Plans.

WIFI Spots

That Council's continue to work with all stakeholders to investigate and explore opportunities to implement public Wifi infrastructure.

GO4 – Councillor Attendance at Conferences and 2015 Local Government Conference Voting Delegates

Department of Health’s proposal to cease the Inborn Errors of Metabolism (IEM) Food Grant

That the Association lobby our Federal and State Members of Parliament for the reinstatement of the IEM (Inborn Error of Metabolism) Food Grant.

The Shenhua Watermark Mine

Background

The Watermark Open Cut Coal Mine was initially lodged with the NSW Department of Planning and Environment by the proponent (Shenhua) in October 2012. The site of the coal mine is within the boundaries of the Strategic Regional Land Use Plan for the New England North West Region of NSW as part of the overall Strategic Regional Land Use Policy.

The Mine Application was investigated by a Planning and Assessment Commission (PAC) in October 2014. The Application was subsequently approved by a separate PAC in January 2015. The Determination Report issued by this PAC concludes *“that after seeking expert advice on the potential groundwater impacts, and as the proposal does not intrude onto the black plains; the Commission is satisfied that this mine would not preclude the continuation of significant agricultural production occurring on the black soil plains”*.

The Application was also referred to the Commonwealth Independent Expert Scientific Committee in accordance with the Water Trigger’ embedded within the *Environment Protection and Biodiversity Conservation Act 1999* in February 2015 at the Approval Stage. This advice provided in April 2015 provided a number of recommendations regarding collection and monitoring of baseline data and assessment of potential impacts to water sources. The Project received approval from the Commonwealth Department of Environment on 4 July 2015. The Project requires the issuing of a Production Licence from the NSW Division of Trade and Investment prior to commencement of operations.

Councils Position

Council resolved to make comment regarding the approval as it once again indicated that the State and Federal Governments were placing a high priority on the exploitation of mining resources despite the unknown and potentially catastrophic impacts that this mine may have on the local community and environment, including underground aquifers. This has been an experience within Wollondilly LGA on a number of occasions regarding mining approvals in the past. Council feels that the economic benefits of all mining proposals should be considered on equally with social and environmental outcomes.

GO4 – Councillor Attendance at Conferences and 2015 Local Government Conference Voting Delegates

CONSULTATION

All Councillors were advised of expected conferences and events. Consultation with Local Government NSW, Manager Governance and members of Councils Executive staff was undertaken.

FINANCIAL IMPLICATIONS

Funding has been allocated and is available under the councillor expenses component of the Local Democracy budget.

ATTACHMENTS:

Nil.

RECOMMENDATION

1. That Council approve the Councillor representation at the listed conferences and events.
2. That the names of three voting delegates for the LGNSW Conference be provided to LGNSW.
3. That the names of the voting delegates be substituted under conference rules following the outcome of the Council elections to the newly elected Mayor and Deputy Mayor and the third councillor delegate be determined at a subsequent Councillor Workshop as required.

Community

Report of Community to the Ordinary Meeting of Council held on Monday 17 August 2015

Relevance to Community Strategic Plan

RELEVANCE TO COMMUNITY STRATEGIC PLAN - COMMUNITY

The reports contained within this section of the agenda outline actions and activities that contribute to the achievement of the outcomes as outlined in your Community Strategic Plan 2033.

CO1- 2015 Community Grants

COMMUNITY

CO1

2015 Community Grants

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TRIM 6300-5

EXECUTIVE SUMMARY

- The purpose of this report is to provide recommendation to Council for funding allocation of the 2015 Community Grants, Annual Mayoral School Citizenships Awards and Annual Community Hall Rates Subsidies.
- It is recommended:-
 - That Council fund 33 Community Grant applications for a total value of \$52,648 as detailed in this report.
 - That Council fund 18 local schools at \$200 each for the Mayoral School Citizenship Award at a total of \$3,600 as detailed in this report.
 - That Council fund 4 Community Hall Rates Subsidies for a total of \$5,988.84 as detailed in this report.

REPORT

Applications for the 2015 Community Grants opened on Monday 1 May 2015, closing Friday 29 May 2015. This report provides an overview of the Community Grants Program and of the grants received.

Council received \$85,651 worth of funding applications with a pool of \$38,000 available. Funding of \$14,648 was drawn upon from the community grant reserve to enable partial funding of some applications.

Community

CO1- 2015 Community Grants

**2015 Community Grants
Community Grant Summary**

2015 Community Grants Assistance Summary of Applications Received					
CATEGORIES	2015 funding Round				
	Applications Received	Funding Requested	Applications Recommended	Funding Recommended	Budget Allocation
Community Projects	29	\$ 74,935	21	\$ 44,168	\$ 15,000
Cultural Events	5	\$ 5,744	4	\$ 3,994	\$ 10,000
Capital Equipment	7	\$ 3,482	6	\$ 2,986	\$ 5,000
Sustainability	1	\$ 500	1	\$ 500	\$ 3,000
Leisure / Recreation	2	\$ 1,000	2	\$ 1,000	\$ 5,000
Total Applications	44	\$ 85,661		\$ 52,648	\$ 38,000
FUNDS AVAILABLE					
	Management Plan 2015/16				\$ 38,000
	Funds in Reserve				\$14,648
	Total Funds available				\$ 52,648
	Funding Recommended				\$ 52,648

There are 5 grant categories in this round of funding:

*** Recommended Community Projects - maximum grant \$3,000**

Projects that help local communities to build skills, identify opportunities and / or undertake actions for the social benefit of community members.

Organisation	Project	Funding Recommended
His House Care Inc.	Marriage Enrichment Course	\$1,000
Community Links Wollondilly	Food Pantry Project	\$1,100
Campbelltown UnitingCare Focus on Families	Nurturing Dilly Babes	\$2,980

Community

CO1- 2015 Community Grants

Organisation	Project	Funding Recommended
The Oaks Chamber of Commerce	The Oaks Christmas Festival	\$3,000
Southern Tablelands Arts	Bee Aware	\$3,000
The Oaks Historical Society	Her War Exhibition & Boys from Burraborang Exhibition	\$3,000
Community Links Wollondilly	World Day of Remembrance for Road Traffic Victims	\$1,000
Community Links Wollondilly	Tutor Links	\$1,500
Community Links Wollondilly	2016 Women's Day Celebrations	\$1,000
Tahmoor Uniting Community Garden	Permaculture Principles Course	\$3,000
Community Links Wollondilly	CLW Cancer Support	\$3,000
Tahmoor & District Chamber of Commerce	Tahmoor 100 year Historic Walk	\$3,000
Wollondilly Resilience Network Inc.	Seasonal Preserving Workshop Series	\$2,600
Wollondilly Anglican Parish	Wellness Retreat	\$900
Warragamba Silverdale Neighbourhood Centre	DamFest	\$1,500
Picton Thirlmere Bargo RSL Sub Branch	The Kangaroo March	\$3,000
Tharawal Local Aboriginal Land Council	Couridjah Homework Space	\$1,500
UnitingCare NSW ACT	Wollondilly Festival of Fun	\$677

Community

CO1- 2015 Community Grants

Organisation	Project	Funding Recommended
UnitingCare NSW ACT	The Happy Hello Expo	\$1,489
Wollondilly Anglican Cares	Meals for Families in Crisis	\$2,922
Winga Myamly Reconciliation Group	Appin Massacre 200 th Anniversary Memorial Brochure	\$3,000
		\$44,168

***Recommended Art & Culture Events maximum grant \$1,000**

Events that foster the Shire's cultural identity or that provide an accessible, diverse range of community art and cultural opportunities.

Wollondilly Arts Group	Meet the Makers Art Exhibition	\$994
Community Links Wollondilly	Koolkuna Workshops	\$1,000
Warragamba Hobby Hut	Handcrafted Heritage and Memories	\$1,000
Community Links Wollondilly	Art Trak	\$1,000
		\$3,994

***Recommended Sustainability Projects - maximum grant \$500**

Projects that support the local environment and assist in making Wollondilly a more sustainable place to live.

Wollondilly Resilience Network Inc.	Sustainability Film Series	\$500
		\$500

***Recommended Leisure & Recreation - maximum grant \$500**

Activities that provide access to physical and social pursuits to support a healthy and active community.

CO1- 2015 Community Grants

His House Inc.	Children's Play Equipment	\$500
Tahmoor Sports	Installation of Security System	\$500
Picton & District Historical and Family History Society Inc.	All in One Printer/Scanner/Copier	\$497
Oakdale Men's Shed	Lunch Room Insulation	\$500
Buxton Community Association	Masport Mulch & Catch Mower	\$500
Warragamba Preschool Inc.	Brother CM110 Scan & Cut	\$489
		\$2,986

***Recommended Capital Equipment - maximum grant \$500**

Purchases of small capital equipment items to support community organisation activities.

Warragamba Silverdale Neighbourhood Centre	Tennis Camp	\$500
Miniature Budgerigar Society of Australasia Southern Districts Branch	Colour Budgerigar Show and Bird Display	\$500
		\$1,000
	TOTAL GRANTS	\$52,648.00

2015 Mayoral School Citizenship Awards

School Citizenship Award	Amount
Appin Public School	\$200
Bargo Public School	\$200
Buxton Public School	\$200

CO1- 2015 Community Grants

School Citizenship Award	Amount
Cawdor Public School	\$200
Douglas Park Public School	\$200
Mount Hunter Public School	\$200
Oakdale Public School	\$200
Picton Public School	\$200
Picton High School	\$200
St Anthony's Primary School	\$200
Tahmoor Public School	\$200
The Oaks Public School	\$200
Thirlmere Public School	\$200
Warragamba Public School	\$200
Wilton Public School	\$200
Wollondilly Anglican College Primary	\$200
Wollondilly Anglican College Secondary	\$200
Yanderra Public School	\$200
TOTAL	\$3,600.00

2015 Community Hall Rates Subsidy

Community Hall Rates Subsidy	Amount
1 Mason St, Thirlmere – Thirlmere Returned Serviceman's League	\$1,788.59
1984 Silverdale Rd, Silverdale – Warragamba Silverdale Neighbourhood Centre Inc	\$1,146.50
4 Station St, Menangle – Menangle Community Associate Inc	\$1,094.00

CO1- 2015 Community Grants

22 West Parade, Buxton – Buxton School of Arts Hall	\$1,959.75
	\$5,988.84

All applications have been assessed against the eligibility criteria as adopted by Council in November 2013 under the Financial Assistance Framework.

Council's Community Grants Program is provided by Council under Section 356 of the NSW Local Government Act.

CONSULTATION

Prior to the opening of the 2015 Community Grants Funding Round promotion was undertaken through Bush Telegraph, Media press releases, Radio Interview/s, Website and Facebook. Three information sessions were held where potential applicants were able to gain information about eligibility, process, requirements and timeframes.

The Team Leader Community Projects and Events was contactable during the opening of the funding round to respond to enquiries.

All applications were submitted electronically.

FINANCIAL IMPLICATIONS

Funding has been allocated and is available under the 2015/16 Operational Budget, Financial Assistance Program - Community Grants including \$13,648 from Community Grant Restricted Cash Reserve.

ATTACHMENTS:

Nil.

RECOMMENDATION

1. That Council fund 33 Community Grant applications for a total value of \$52,648.
2. That Council fund 18 local schools at \$200 each for the Mayoral School Citizenship Award at a total of \$3,600.
3. That Council fund 4 Community Hall Rates Subsidies for a total of \$5,988.84.

Infrastructure

Report of Infrastructure to the Ordinary Meeting of Council held on Monday 17 August 2015

Relevance to the Community Strategic Plan

RELEVANCE TO COMMUNITY STRATEGIC PLAN - INFRASTRUCTURE

The reports contained within this section of the agenda outline actions and activities that contribute to the achievement of the outcomes as outlined in your Community Strategic Plan 2033.

IN2 – Roads to Recovery Funding

INFRASTRUCTURE

IN1

Roads to Recovery Funding

178

TRIM 1811

EXECUTIVE SUMMARY

- The purpose of this report is to inform Council regarding an increase in funding allocated under the Australian Government Roads to Recovery Programme
- It is recommended to increase the Major Roads & Bridges Works Program by \$516,322 in 2015/16 in line with this increased allocation

REPORT

The objective of Roads to Recovery is to contribute to the Infrastructure Investment Programme through supporting maintenance of the nation's local road infrastructure asset, which facilitates greater access for Australians and improved safety, economic and social outcomes.

From 2014-15 to 2018-19 the Australian Government will provide \$3.2 billion under the Roads to Recovery programme, to be distributed to Australia's local councils, state and territory Governments responsible for local roads in the unincorporated areas (where there are no councils) and the Indian Ocean Territories.

Roads to Recovery allocations for the councils in each jurisdiction have been determined on the basis of the recommendations of the Local Government Grants Commissions in each state and the Northern Territory for the roads component of the Financial Assistance Grants. This is the same methodology as was used for this purpose in previous Roads to Recovery programmes.

As announced on 23 June 2015, Councils across Australia will receive an extra \$1.105 billion over the next two years. Wollondilly Shire Council has been allocated an additional \$512,322 to a total of \$1,721,513 for 2015/16.

It is proposed to allocate the funds to the Roads and Bridges Works Program, over and above what was approved in the 2015/16 Operational Plan, to road projects that will improve safety, economic and social outcomes.

CONSULTATION

Nil

Report of Infrastructure to the Ordinary Meeting of Council held on Monday 17 August 2015

IN2 – Roads to Recovery Funding

FINANCIAL IMPLICATIONS

Funding has been allocated to the Major Roads and Bridges Works Program

ATTACHMENTS

Nil

RECOMMENDATION

That Council seek to increase the Major Roads & Bridges Works Program by \$516,322 in 2015/16 in line with this allocation.

NOTICE OF MOTION/RESCISSION

Notice of Motion/Rescission to the Ordinary Meeting of Council held on Monday 17 August 2015

NOTICE OF MOTION/RESCISSION

TRIM 6416-5

RES1 Rescission Motion No. 1 submitted by Cr Ray Law on 20 July 2015 regarding a Popularly Elected Mayor

RESCISSION MOTION

That Council rescind the resolution of the Ordinary Meeting held on 20 July 2015 regarding the decision relating to the Popularly Elected Mayor.

RESOLUTION

120/2015

- 1. That Council holds a constitutional referendum at the 2016 Local Government elections to determine the basis on which the Mayor attains office.**
- 2. That Council's question to be put to the referendum is prepared based on reducing the number of Councillors to 7.**

ALTERNATE MOTION

1. That Council holds a constitutional referendum at the 2016 Local Government Elections to determine the basis on which the Mayor attains office.
2. That Council's question to be put to the referendum is prepared based on increasing the number of wards to four keeping the number of Councillors at 9.

Notice of Motion/Rescission to the Ordinary Meeting of Council held on Monday 17 August 2015



NOTICE OF RESCISSION MOTION

NOTICE OF ALTERNATIVE MOTION

COUNCILLOR NAME: RAY LAW

RESCISSION MOTION
That Minute number..... Or the decision in respect of Item number G.03..... of the Ordinary Meeting of Council held on 22.1.7...../15..... be rescinded.

MATTER
The Rescission Motion relates to the following subject matter:
Popularly Elected Mayor

DEFINITION
A rescission motion
is a motion to withdraw formally or alter a Council resolution.
Councils are able to change their decisions by way of a later decision. A motion to rescind or alter a resolution is the usual means of changing a council resolution. To make sure that council's intention is clear, it is considered **best practice** to expressly state that a later resolution is to replace an earlier one. In this way, the public, council staff and subsequent councillors can understand and act with certainty on council decisions.

HOW CAN A RESCISSION MOTION BE LODGED?
Section 372(4) of the Local Government Act (the Act) provides that:
(4) A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negatived by the council, must be signed by 3 councillors if less than 3 months has elapsed since the resolution was passed, or the motion was negatived, as the case may be.

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Web: www.wollondilly.nsw.gov.au

TRIM 827
Last Revised: 22/02/13

Notice of Motion/Rescission



Notice of Motion/Rescission to the Ordinary Meeting of Council held on Monday 17 August 2015

WHEN MUST A RESCISSION MOTION BE LODGED?

Section 372 of the Act contains two (2) time restrictions on the lodging of rescission motions. The first, in section 372(1) requires notice of a rescission motion to be given in accordance with Council's Meeting Code. The second in section 372(5) stops a similar motion being brought within three (3) months after a rescission motion has been defeated.

In accordance with Council's Code of Meeting Practice (the Code) a motion to rescind a resolution must, if not given at the meeting at which the resolution is carried, in accordance with clause 9 of the Code, be lodged with the General Manager by 11.00am the day following the meeting in which the resolution was carried.

LIMITS ON WHEN OR HOW OFTEN A RESCISSION MOTION CAN BE REVISITED

Section 372(5) of the Act prescribes that to 'rescind' or undo an earlier resolution can only be lost *once* before a three (3) month ban is placed on any councillor 'bringing forward' another motion to the same effect.

'Brought forward' means moved at a council or committee meeting. It is possible for notice of the motion to be given (but not for the motion to be moved) before the expiry of the three (3) month period referred to in section 372(5) of the Act.

CAN A RESOLUTION GRANTING DEVELOPMENT CONSENT BE RESCINDED?

Under section 83 of the *Environmental Planning and Assessment Act 1979* development consent has effect from the date endorsed on the written notification (subject to any appeal action). It would be possible for a council to rescind a resolution giving consent if the applicant has not been formally advised of the consent. Once the applicant has been formally advised of council's decision, there may be issues of compensation to the applicant if consent is later rescinded.

SIGNATURES

This rescission motion is supported by:

COUNCILLOR NAME	SIGNATURE	DATE
1. <u>ROY LARK</u>		<u>20.7.15</u>
2. <u>KATE TERRY</u>		<u>20-7-15</u>
3. <u>JUDITH HANNAH</u>		<u>20.7.15</u>

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WOLLONDILLY SHIRE COUNCIL

Notice of Motion/Rescission to the Ordinary Meeting of Council held on Monday 17 August 2015

NOTICE OF ALTERNATIVE MOTION

In accordance with clause 29 of the Code, an alternative motion must be lodged with the General Manager by noon Friday or three (3) calendar days prior to the day of the Ordinary Meeting of Council.

THAT: Decision relating to Populchly elected mayor be rescinded

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QUESTIONS FOR NEXT MEETING

Questions for Next Meeting to the Ordinary Meeting of Council held on Monday
17 August 2015

QUESTIONS FOR NEXT MEETING