



Attachments Booklet

Monday 16 July 2018

GR1, GR2, GR3, GR5, GR6, GR7, IN2, EC2 & EC3

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GR1 Attachments

1. Re-exhibited Draft Planning Agreement and Explanatory Note
2. Letter of offer dated 17 October 2016

Monday 16 July 2018

GR1 – Voluntary Planning Agreement 55-57 Menangle Street,
Picton

Voluntary Planning Agreement

J.T. Consulting Services Pty Ltd
ABN 38 085 620 560

and

Wollondilly Shire Council
ABN 93 723 245 808

Land:

Lot 1 in DP 1005423 (55-57 Menangle Street, Picton)
Lot 11 DP 535032;
Lot 12 DP 536558; and
Lot 13 DP 537192.

Voluntary Planning Agreement

Date

2018

Parties

J.T. Consulting Services Pty Ltd ABN 38 085 620 560 of Centrecorp", Apartment 1705, "Ikon" 81 Macleay Street, Potts Point NSW 2011 (**Developer**)

and

Wollondilly Shire Council ABN 93 723 245 808 of 62-64 Menangle Street, Picton NSW 2571 (**Council**)

Background

- A The Developer is the registered proprietor of Lot 1 in DP 1005423 (**the Developer's Land**).
- B The Council is the registered proprietor of Lot 11 DP 535032, Lot 12 DP 536558 and Lot 13 DP 537192, being the lots which currently comprise St Mary McKillop Lane, and has given its consent to the development of that land.
- C The *Wollondilly Development Control Plan 2016* requires 26 car spaces to be provided. . The car park demand generated by the Development cannot be completely facilitated on the site. The Developer has offered, in lieu of the provision of 19 on-site parking spaces, to make the contributions outlined in this Agreement.
- D The Council has accepted the Developer's offer to make the contributions in accordance with this Agreement.
- E The Council has entered into a s.34 agreement with the Developer under which it agreed to the Court granting Development Consent to the Amended Development Application.
- F The Court granted development consent to the Development Application on 29 November 2016. Condition 2 of the Consent requires the Council and the Developer to enter into this Agreement.

Operative Provisions

1 Interpretation

- 1.1 In this Agreement the following definitions apply:

Act means the *Environmental Planning and Assessment Act 1979*.

Agreement means this Agreement and includes any schedules, annexures and appendices to this Agreement

Approval includes approval, consent, licence, permission or the like.

Authority means the Commonwealth or New South Wales government, a Minister of the Crown, a government department, a public authority established by or under any Act, a council or county council constituted under the *Local Government Act 1993*, or a

person or body exercising functions under any Act including a commission, panel, court, tribunal and the like.

Construction Certificate has the same meaning as in the Act.

Covenant means a public positive covenant under section 88E of the *Conveyancing Act 1919* in the form in Schedule 1 to this Agreement.

Dealing, in relation to the Land, means, without limitation, selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land.

Defects Liability Period means the period of 1 year commencing on the day immediately after a Work is completed for the purposes of this Agreement.

Development means the development of the Land described in the amended Development Application for alterations and additions, new shops and top-shop housing, including works to locally listed heritage items being the Coach House and the bank building located on the Developer's Land.

Development Application means Development Application No 525-05 dated 21 June 2005 including all modifications made by the Council and the Land and Environment Court.

Development Consent has the same meaning as in the Act.

Developer's Land means Lot 1 DP 1005423.

Equipment means any equipment, apparatus, vehicle or other equipment or thing to be used by or on behalf of the Developer in connection with the performance of its obligations under this Agreement.

GST has the same meaning as in the GST Law.

GST Law has the same meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and any other Act or regulation relating to the imposition or administration of the GST.

Land means Lot 1 Deposited Plan 1005423, located at 55-57 Menangle Street, Picton, Lot 11 DP 535032, Lot 12 DP 536558 and Lot 13 DP 537192.

Occupation Certificate has the same meaning as in the Act.

Open Space means part of the Developer's Land designated by the Developer for development and use as public open space, denoted "public open space" on the plan in Schedule 2 to this Agreement.

Party means a party to this Agreement, including their successors and assigns.

Rectification Notice means a notice in writing:

- (a) identifying the nature and extent of a Defect,
- (b) specifying the works or actions that are required to Rectify the Defect,
- (c) specifying the date by which or the period within which the Defect is to be

rectified.

Rectify means rectify, remedy or correct.

Regulation means the Environmental Planning and Assessment Regulation 2000.

Security Amount means the sum of **\$193,224.00** (being 100% of the estimated cost of the Work).

Work means the road works and landscaping works required to be carried out by the Developer under the provisions of this Agreement.

- 1.2 In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:
- (a) Headings are inserted for convenience only and do not affect the interpretation of this Agreement.
 - (b) A reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
 - (c) If the day on which any act, matter or thing is to be done under this Agreement is not a business day, the act, matter or thing must be done on the next business day.
 - (d) A reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.
 - (e) A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
 - (f) A reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
 - (g) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.
 - (h) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
 - (i) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
 - (j) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.

- (k) References to the word 'include' or 'including' are to be construed without limitation.
- (l) A reference to this Agreement includes the agreement recorded in this Agreement.
- (m) A reference to a party to this Agreement includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns.
- (n) Any schedules and attachments form part of this Agreement.
- (o) A reference to a term or expression defined in the Act shall have the meaning given to it by the Act.

2 Planning agreement under the Act

- 2.1 The Parties agree that this Agreement is a planning agreement governed by Subdivision 2 of Division 7.1 of Part 7 of the Act.

3 Application of this Agreement

- 3.1 This Agreement applies to the Land and to the Development.
- 3.2 This Agreement takes effect on the date on which it is entered into by both Parties.
- 3.3 This Agreement ceases to have effect upon the compliance by the Developer with all its obligations under this Agreement.

4 Development Contributions

- 4.1 In lieu of providing 19 car parking spaces as part of the Development, the Developer must make the development contributions described in this Agreement at the time or times and in the manner set out in this Agreement and Schedule 3.

5 Monetary Contribution

- 5.1 Prior to the issue of the Construction Certificate the Applicant must pay \$50,000 to the Council by way of bank cheque or by such other means as agreed by the Council and the Developer.
- 5.2 The Council is to apply the monetary contribution provided by the Applicant under this clause towards the cost of the Council undertaking or commissioning traffic and road safety improvements in the Picton town centre.

6 Covenant for Open Space

- 6.1 Prior to the issue of any Construction Certificate for any part of the Development (other than any Construction Certificate required for landscaping the Open Space area and after completion of that landscaping), the Developer must:
 - (a) provide to the Council a draft Covenant for the Council's approval, generally in the form outlined in Schedule 1; and

- (b) execute and submit to the Council the approved Covenant in registrable form for execution by the Council.
- 6.2 Promptly after receiving the Covenant executed by the Council, the Developer must, at its cost, lodge the Covenant for registration at Land & Property Information and do all things reasonably necessary to procure its registration.
- 6.3 The Developer must, at its cost, maintain and repair the landscaping Work on the Open Space in accordance with:
 - 6.3.1 any reasonable requirements of the Council as notified to the Developer from time to time, and
 - 6.3.2 any relevant other laws governing the provision of public open space.
- 6.4 The Council acknowledges that the Covenant applies in perpetuity, unless otherwise revoked by the Council, commencing from the date of registration of the Covenant.
- 6.5 After issuing of the first Occupation Certificate for the Development, the Developer is to make the Open Space available for use by members of the public.
- 6.6 The Council agrees that the Open Space will not be dedicated to the Council and that the Open Space will remain in the ownership of the owner of the Developer's Land from time to time, subject to registration of the Covenant.

7 Road Works

- 7.1 The Applicant must carry out the works described in Schedule 3 prior to the issue of an Occupation Certificate for the development.
- 7.2 Prior to issue of the Construction Certificate for the Development, the Developer must provide the following documents to the Council for approval in respect of the works described in Schedule 3:
 - (a) Engineering design drawings and supporting information;
 - (b) Schedule of road works;
 - (c) Traffic control plan; and
 - (d) Application for consent to do works under section 138 of the *Roads Act 1993*.
- 7.3 Civil works are to be designed and constructed in accordance with Wollondilly Shire Council's Design & Construction Specifications.
- 7.4 Construction work is to be carried out by contractors who are experienced in road and stormwater drainage, have quality management systems in place and hold business insurance policies covering workers compensation, and public liability. Additional insurance may be required under Section 138 of the *Roads Act 1993* to work on a public road.
- 7.5 For the avoidance of doubt, the Applicant must do all of the works described in Schedule 3 whether or not the cost of doing so may exceed any cost estimate for these works that may have been provided to Council.

8 Carrying out of Work

- 8.1 Without limiting any other provision of this Agreement, any Work that is required to be carried out by the Developer under this Agreement is to be carried out in accordance

with any relevant design or specification specified or approved by the Council, and any relevant Approval and any other applicable law.

- 8.2 The Developer, at its own cost, is to comply with any reasonable direction given to it by the Council to prepare or modify a design or specification relating to a Work that the Developer is required to carry out under this Agreement.

9 Variation to Work

- 9.1 The nature, design or specification of any Work that is required to be carried out by the Developer under this Agreement may be varied by agreement in writing between the Parties, acting reasonably, without the necessity for an amendment to this Agreement
- 9.2 The Council, acting reasonably, may from time to time give a written direction to the Developer requiring it to vary the design or specification of a Work before the Work is carried out in a specified manner and submit the variation to the Council for approval.
- 9.3 The Developer is to comply promptly with a direction referred to in clause 9.2 at its own cost.

10 Access to land by Developer

- 10.1 The Council authorises the Developer to enter, occupy and use land owned or controlled by the Council necessary for the purpose of performing its obligations under this Agreement.
- 10.2 Nothing in this Agreement creates or gives the Developer any estate or interest in any part of the land referred to in clause 10.1.

11 Access to land by Council

- 11.1 The Council may enter any land on which Work is being carried out by the Developer under this Agreement in order to inspect, examine or test the Work, or to remedy any breach by the Developer of its obligations under this Agreement relating to the Work.
- 11.2 The Council is to give the Developer prior reasonable notice before it enters land under clause 11.1.

12 Council's obligations relating to Work

- 12.1 The Council is not to unreasonably delay, hinder or otherwise interfere with the performance by the Developer of its obligations under this Agreement.

13 Protection of people, property & utilities

- 13.1 The Developer is to ensure to the fullest extent reasonably practicable in relation to the performance of its obligations under this Agreement that:
- 13.1.1 all necessary measures are taken to protect people and property,

- 13.1.2 unnecessary interference with the passage of people and vehicles is avoided, and
- 13.1.3 nuisances and unreasonable noise and disturbances are prevented.
- 13.2 Without limiting clause 13.1, the Developer is not to obstruct, interfere with, impair or damage any public road, public footpath, public cycleway or other public thoroughfare, or any pipe, conduit, drain, watercourse or other public utility or service on any land except as authorised in writing by the Council or any relevant Authority.

14 Repair of damage

- 14.1 The Developer is to maintain any Work required to be carried out by the Developer under this Agreement until the Work is completed for the purposes of this Agreement or such later time as agreed between the Parties.
- 14.2 The Developer is to carry out its obligations under clause 14.1 at its own cost and to the satisfaction of the Council.

15 Completion of Work

- 15.1 The Developer is to give the Council written notice of the date on which it will complete the Work required to be carried out under this Agreement.
- 15.2 The Council is to inspect the Work the subject of the notice referred to in clause 15.1 within 14 days of the date specified in the notice for completion of the Work.
- 15.3 Work required to be carried out by the Developer under this Agreement, is completed for the purposes of this Agreement when the Council, acting reasonably, gives a written notice to the Developer to that effect.
- 15.4 If the Council is the owner of the land on which Work the subject of a notice referred to in clause 15.3 is issued, the Council assumes responsibility for the Work upon the issuing of the notice, but if it is not the owner at that time, it assumes that responsibility when it later becomes the owner.
- 15.5 Before the Council gives the Developer a notice referred to in clause 15.3, it may give the Developer a written direction to complete, rectify or repair any specified part of the Work to the reasonable satisfaction of the Council.
- 15.6 The Developer, at its own cost, is to promptly comply with a direction referred to in clause 15.5.

16 Security Amount

- 16.1 Prior to the Construction Certificate being issued, the Developer must pay the Security Amount to the Council by cash, a bank guarantee, bond or other form of security approved by the Council, on terms reasonably acceptable to Council to be held in trust as security for the completion of the Works.
- 16.2 The Council is to deposit the Security Amount in an interest bearing account, payable at call.
- 16.3 Any interest that accrues on the Security Amount will be retained in the account and treated as if part of the Security Amount.

- 16.4 If the Developer does not comply with any of its obligations under this Agreement, including Completion of the Works, the Council may after 14 days' notice :
- (a) remedy any default at the expense of the Developer; and
 - (b) draw down on the Security Amount without notice to the Developer to reimburse the Council for the costs incurred in remedying the Developer's default.
- 16.5 If Completion of the Works occurs to the reasonable satisfaction of the Council, the Security Amount (or the balance thereof) including interest but less any costs or administrative bank fees or charges incurred will be released to the Developer within 5 Business Days of Completion.

17 Rectification of defects

- 17.1 The Council may give the Developer a Rectification Notice during the Defects Liability Period.
- 17.2 The Developer, at its own cost, is to comply with a Rectification Notice according to its terms and to the reasonable satisfaction of the Council.
- 17.3 The Council is to do such things as are reasonably necessary to enable the Developer to comply with a Rectification Notice that has been given to it under clause 17.1

18 Works-As-Executed-Plan

- 18.1 No later than 60 days after Work is completed for the purposes of this Agreement, the Developer is to submit to the Council a full works-as-executed-plan in respect of the Work.
- 18.2 The Works-As-Executed-Plan is to be in accordance with Wollondilly Shire Council's Design & Construction Specifications.
- 18.3 The Developer, being the copyright owner in the plan referred to in clause 18.1, gives the Council a non-exclusive licence to use the copyright in the plans for the purposes of this Agreement or in the exercise of its powers or performance of its statutory duties and functions.

19 Removal of Equipment

- 19.1 When Work on any Council owned or controlled land is completed for the purposes of this Agreement, the Developer, without delay, is to:
- 19.1.1 remove any Equipment from Land and make good any damage or disturbance to the land as a result of that removal, and
 - 19.1.2 leave the land in a neat and tidy state, clean and free of rubbish.

20 Application of s.7.11, 7.12 and 7.24 of the Act to the Development

- 20.1 This Agreement does not exclude the application of s.7.11, 7.12 or 7.24 of the Act to the Development Application.

- 20.2 The benefits in this Agreement are not to be taken into consideration in determining a development contribution under s7.11 of the Act.

21 Dispute Resolution

- 21.1 A dispute or lack of certainty between the Parties is taken to arise in connection with this Agreement or its subject matter if one Party gives another Party a notice in writing specifying the particulars of the dispute.
- 21.2 The Developer must continue to perform its obligations under the Agreement if there is a dispute.
- 21.3 Any dispute between the Parties arising out of this Agreement or its subject matter must first be the subject of mediation by a mediator agreed by the Parties or, if the Parties cannot agree on a mediator within 7 business days, then by a mediator appointed by the Resolution Institute.
- 21.4 The dispute resolution provisions in this Agreement do not prevent any Party from seeking urgent injunctive or declaratory relief.

22 Registration

- 22.1 The Parties agree to register this Agreement for the purposes of s.7.6 of the Act.
- 22.2 Not later than 30 days after the date of this Agreement, the Developer is to deliver to the Council in registrable form:
- (a) an instrument requesting registration of this Agreement on the title to the Land duly executed by the Developer, and
 - (b) the written irrevocable consent of each person referred to in s7.6 of the Act to that registration.
- 22.3 The Developer is to do all such other things as are reasonably necessary to enable registration of this Agreement to occur.
- 22.4 The Parties are to do such things as are reasonably necessary to remove any notation relating to this Agreement from the title to the Land once the Developer has completed its obligations under this Agreement to the reasonable satisfaction of the Council or this Agreement is terminated or otherwise comes to an end for any other reason.

23 Enforcement

- 23.1 If any Party fails to perform or fulfil any obligation under this Agreement, a Party not in default may recover upon demand from the Party in default the whole of the money due to the Party not in default and not paid by the Party in default.
- 23.2 If any Party fails to perform or fulfil any obligation under this Agreement relating to the provision of works in kind then the party not in default may recover the value of the works not done.
- 23.3 If the Developer fails to perform or fulfil any obligation under this Agreement relating to the execution and/or registration of the Covenant required by clause 5 or the registration of this Agreement under clause 21 then, for the purpose of executing and registering the Covenant and registering the Agreement, the Developer irrevocably

appoints the General Manager for the time being of the Council to be the Developer's attorney with the right at any time to do everything that in the attorney's reasonable opinion is necessary or expedient to enable the execution and registration of the Covenant and the registration of the Agreement;

- 23.4 Nothing in this clause 23 prevents the Council from exercising any rights it may have at law or in equity in relation to a breach of this Agreement by the Developer, including but not limited to seeking relief in a court of competent jurisdiction.

24 Notices

- 24.1 Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

- a) Delivered or posted to that Party at its address set out below.
- b) Faxed to that Party at its fax number set out below.
- c) Emailed to that Party at its email address set out below.

Council

Attention: General Manager

Address: 62-64 Menangle Street, Picton NSW 2571

Fax Number: 02 4677 2339

Email: council@wollondilly.nsw.gov.au

Developer

Attention: Michael Moloney

Address: "Centrecorp", Apartment 1705, "Ikon" 81 Macleay Street, Potts Point NSW 2011

Email: centrecorp@pacific.net.au

- 24.2 If a Party gives the other party 3 business days' notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faced to the latest address or fax number so notified.
- 24.3 Any notice, consent, application or request is to be treated as given or made at the following time:
- (a) If it is delivered, when it is left at the relevant address.
 - (b) If it is sent by post, on the third business day after it is posted.
 - (c) If it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax

number.

25 Approvals

Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or reasonably withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party.

26 Costs

The Applicant must pay, on demand, the Council's costs (including legal costs) arising out of the negotiation, preparation and execution of this Agreement, to a maximum of \$7,500 (inclusive of GST).

27 Further Acts

Each Party must promptly execute all documents and do all things that the other Party from time to time reasonably requests to effect, perfect or complete this Agreement and all transactions incidental to it.

28 Governing Law and Jurisdiction

This Agreement is governed by the law of New South Wales. The Parties submit to the non-exclusive jurisdiction of its Courts. The Parties will not object to the exercise of jurisdiction by those Courts on any basis.

29 Joint and Individual Liability and Benefits

Except as otherwise set out in this Agreement, any agreement, covenant, representation or warranty under this Agreement by 2 or more persons binds them jointly and each of them individually, and any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

30 No fetter

Nothing in this Agreement shall be construed as requiring the Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

31 Representations and Warranties

The Parties represent and warrant that they have the power to enter into this Agreement and comply with their obligations under this Agreement and that entry into this Agreement will not result in the breach of any law.

32 Severability

If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid but can also be read in a way that makes it legal, enforceable and valid it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid that clause or part is to be treated as removed from this Agreement but the rest of this Agreement is not affected.

33 Modification

No modification of this Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Agreement.

34 Waiver

The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, the other Party. A waiver by a Party is only effective if it is in writing. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

Executed as an Agreement:

Executed by J.T. Consulting Services Pty Ltd in accordance with section 127 of the Corporations Act by its authorised officer:

Signature of sole director and sole secretary

Name

Executed on behalf of Wollondilly Shire Council by its General Manager in the presence of:

Signature of Witness

General Manager

Name of Witness

Name

Schedule 1

POSITIVE COVENANT
New South Wales
Section 88E(3) Conveyancing Act 1919

Leave this space clear. Affix additional pages to the top left-hand corner.

Form: 13PC
 Release: 3-1

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

(A) **TORRENTITLE** Part of 1/1005423, being the part shown in Annexure B

| | | | |
|----------------------|-------------------------|--|-------------|
| (B) LODGED BY | Document Collection Box | Name, Address or DX, Telephone, and Customer Account Number if any | CODE |
| | | Reference: _____ | PC |

(C) **REGISTERED PROPRIETOR** Of the above land
J T Consulting Services Pty Limited ABN 38 085 6.20 560

| | | | |
|---------------------------------------|--|-----------------------------|--|
| (D) LESSEE MORTGAGEE or CHARGE | Of the above land agreeing to be bound by this positive covenant | | |
| | Nature of Interest | Number of Instrument | Name |
| | Lease | AH286654 | Lease to Dee-Ann Horner known as the Coach House, 23 Menangle Street, Picton |

(E) **PRESCRIBED AUTHORITY** Wollondilly Shire Council

(F) The prescribed authority having imposed on the above land a positive covenant in the terms set out in annexure --A hereto applies to have it recorded in the Register and certifies this application correct for the purposes of the Real Property Act 1900.

DATE

(G) Execution by the prescribed authority

I certify that an authorised officer of the prescribed authority who is personally known to me or as to whose identity I am otherwise satisfied signed this application in my presence.

Signature of witness:

Signature of authorised officer:

Name of witness:

Name of authorised officer:

Address of witness:

Position of authorised officer:

(G) Execution by the registered proprietor

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the company named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

Company:

Authority:

Signature of authorised person:

Signature of authorised person:

Name of authorised person:

Name of authorised person:

Office held:

Office held:

(H) Consent of the lessee

The lessee _____ under lease No. AH.286654 _____, agrees to be bound by this positive covenant.

I certify that the above lessee _____ Address of witness: _____ signed this application in my presence.

Signature of witness:

Name of witness:

who is personally known to me or as to whose
identity I am otherwise satisfied

Signature of lessee:

** s117 RPAct requires that you must have known the signatory for more than 12 months or have sighted identifying documentation.*

ALL HANDWRITING MUST BE IN BLOCK CAPITALS

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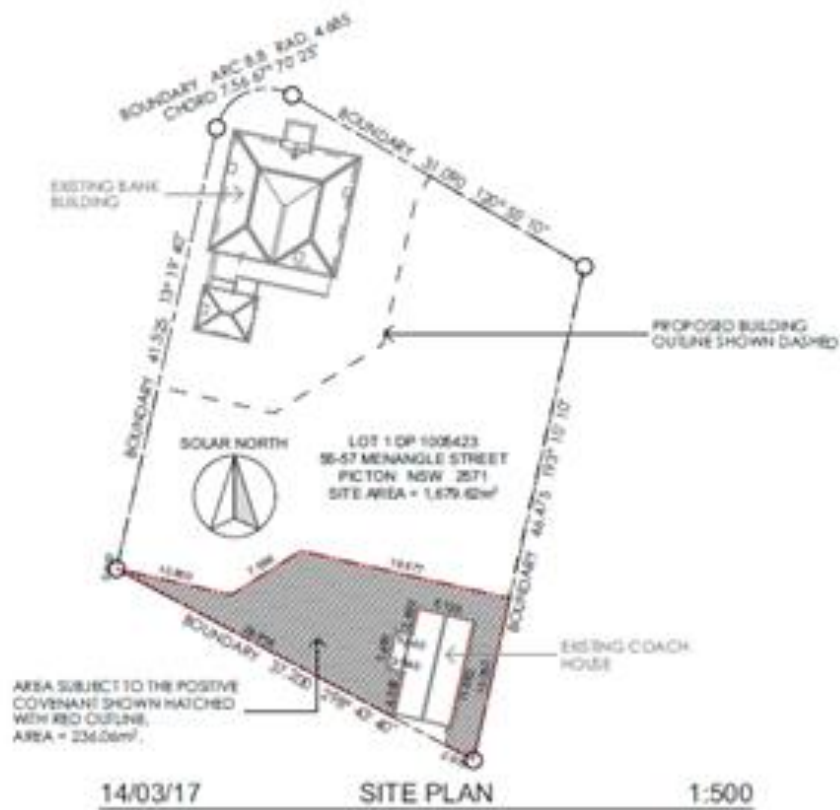
THIS IS ANNEXURE "A" REFERRED TO IN THE POSITIVE COVENANT
BETWEEN J T CONSULTING SERVICES PTY LIMITED AS REGISTERED
PROPRIETOR AND WOLLONDILLY SHIRE COUNCIL AS PRESCRIBED
AUTHORITY
DATED:

1. The Registered Proprietor covenants with the Prescribed Authority:
 - a. to permit the public to access, traverse and use the Land burdened;
 - b. not to construct any building (as defined in section 4 of the Environmental Planning and Assessment Act 1979) on the Land burdened without an approval from the Prescribed Authority;
 - c. to permit the Prescribed Authority, its servants, agents, contractors and invitees, from time to time and upon giving reasonable notice in writing to the Registered Proprietor, to enter upon and inspect the Land burdened to assess the Registered Proprietor's compliance with the terms of this Positive Covenant;
 - d. to effect and keep current at all times a public risk insurance policy, with a reputable Australian insurance office or company, extended to include the interests of the Prescribed Authority, for the amount of not less than \$20,000,000.00 in respect of any single accident or event on the Land burdened;
 - e. to regularly provide to the Prescribed Authority a certificate of currency in respect of the public risk insurance policy required by this Positive Covenant;
 - f. to maintain and repair, at its own cost, the Land burdened so that it is in a condition and state of repair which complies with the requirements of the Prescribed Authority as notified by the Prescribed Authority to the Registered Proprietor from time to time; and
 - g. to use reasonable endeavours to keep the Land burdened free from all rubbish.

SIGNED FOR AND ON BEHALF OF
JT CONSULTING SERVICE PTY LIMITED

SIGNED FOR AND ON BEHALF OF
WOLLONDILLY SHIRE COUNCIL

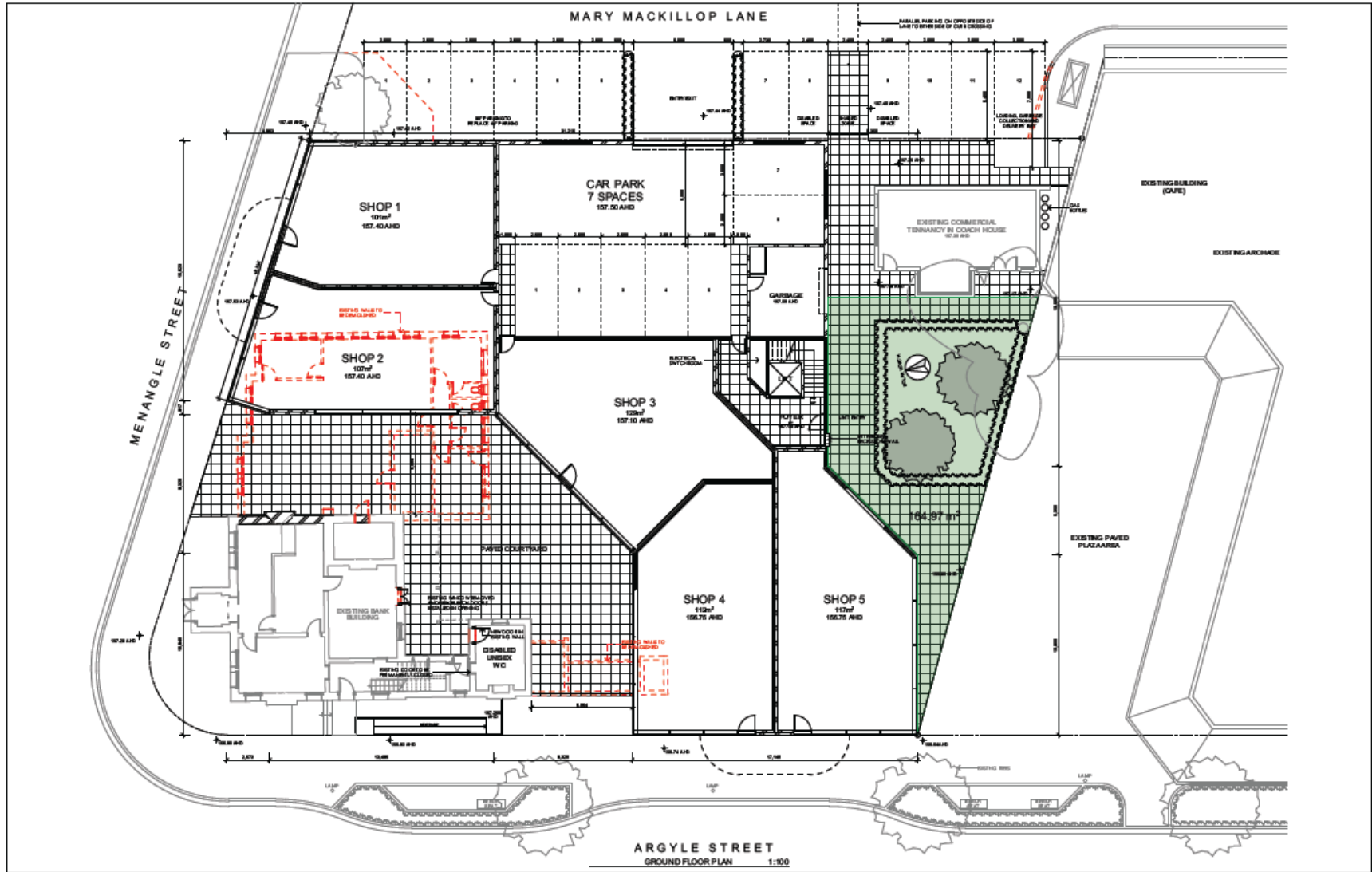
THIS IS ANNEXURE "B" REFERRED TO IN THE POSITIVE COVENANT BETWEEN JT CONSULTING SERVICES PTY LIMITED AS REGISTERED PROPRIETOR AND WOLLONDILLY SHIRE COUNCIL AS PRESCRIBED AUTHORITY
 DATED:




SIGNED FOR AND ON BEHALF OF
 JT CONSULTING SERVICE PTY LIMITED

SIGNED FOR AND ON BEHALF OF
 WOLLONDILLY SHIRE COUNCIL

Schedule 2



| | | | | | | |
|---|--|--|---|--|---|--|
|  <p>Allman Johnston ARCHITECTS po box 49 bowral nsw 2516 www.allmanjohnston.com.au ph: 02 4862 1198 registrar@allmanjohnston.com.au Jim Allman - Registration No. 5135</p> | <ul style="list-style-type: none"> The contractor is to check all dimensions on site & if in doubt, contact the architect for clarification. The noted dimensions in preference to scaled measurements of the drawings. This drawing is to be read in conjunction with all other relevant drawings and specifications. This drawing is subject to copyright. | <p>REV. DATE DETAILS</p> <p>C 15/09/16 DESIGN FOLLOWING SECTION 34 HEARING</p> <p>D 15/09/16 CHANGES TO GARAGE AND PARKING LAYOUT</p> | <p>Client: JT CONSULTING SERVICES</p> <p>Location: LOT 1 DP 1005 423 55-57 MENANGLE STREET PICTON NSW 2571</p> | <p>Project: PROPOSED SHOPS AND SHOP TOP HOUSING</p> <p>Drawn: BH Checked: JA Scale(s): 1:100 Size: A1</p> | <p>Sheet Title: GROUND FLOOR PLAN</p> <p>Job No: 16-1030 Sheet No: DA-A01 Issue: D</p> | |
| | | <p>GROUND FLOOR PLAN 1:100</p> | | | | |
| | | <p>EXISTING BANK BUILDING EXISTING COMMERCIAL TERRACE BY COACH HOUSE EXISTING BUILDING (CAFE) EXISTING ARCHWAY EXISTING PAVED PLAZA AREA</p> | | | | |

Schedule 3

Note: All works to be done in accordance with Wollondilly Council's Design and Construction Specifications

| | |
|---|---|
| 1 | Survey St Mary McKillop Lane to determine existing levels |
| 2 | Draft new survey plan of existing Lane |
| 3 | Carry out soil testing and prepare a geo-technical report |
| 4 | Prepare drawings and specifications for new road design |
| <u>St Mary McKillop Lane Pavement Reconstruction</u> | |
| | Preparation Works |
| 5 | break up and remove portion of existing road kerbing on eastern side of laneway for new pram ramp |
| 6 | break up and remove portion of existing road and kerbing on northern side of laneway near intersection with Menangle Street |
| 7 | break up and remove existing concrete crossover from Menangle Street |
| 8 | Regrade kerb side area for new transition strip for pram ramp (pram ramp elsewhere) |
| 9 | Take down and remove street signs as required |
| <u>New Works</u> | |
| 10 | Regrade the road at the Intersection with Menangle Street |
| 11 | construct concrete pram ramp approx 2m long x 1m wide including making good existing kerbs to match transition strip |
| 12 | Construct new dish drain at base of brick/block wall on western side of Laneway |
| 13 | Reconstruct speed hump |
| 14 | Linemarking |
| 15 | Directional Signage |
| 16 | Supply and Install Wheel stops |
| <u>Reconstruction of the Entry/Exit to Menangle Street</u> | |
| | Preparation Works |
| 17 | break up and remove portion of existing road kerbs |
| 18 | Regrade kerb side area for new transition strip for Entry/Exit to carpark |
| | New Works |
| 19 | Form new vehicle transition strip to Entry/Exit of carpark area |
| 20 | Form raised blister island 5m long on each side of Entry/Exit lane to carpark |
| <u>View Triangle Area</u> | |
| | Preparation |
| 21 | Strip topsoil to a depth of 200mm |

| | |
|----|---|
| 22 | Excavate to reduced levels approx 150mm - 200mm deep and remove from site :[154 m2] |
| | <u>New Works</u> |
| 23 | Install two bench seats to increase the amenity of the area for the public. |
| 24 | Install root barrier at edge of decking to exclude suckers. Root barrier design to be submitted to Council for approval; |
| 25 | Tree to be confirmed s safe prior to are being opened to the public |
| 26 | Tree to be inspected annually for safety |
| 27 | A plan of species to be planted in the garden areas to be submitted to Council for approval. |
| 28 | Construct concrete kerbing as edging to garden |
| 29 | Carry out low level planting in forming hedge or similar |
| 30 | Irrigation to be installed to irrigate garden from a tap to be located on the development site (with the Developer to conduct the maintenance in accordance with clause 5.3) but allowing the Council access to the irrigation system |
| | Works Outside Deck and garden area: |
| 31 | Compact subgrade |
| 32 | Lay 150mm crushed stone sub base course |
| 33 | Lay 150mm road base course |
| 34 | Lay 50mm sand bed |
| 35 | Pave non-garden bed area. Paving to be bedded on concrete sub base with pavers to be submitted to Council for approval. |
| 36 | Compaction test |

Schedule 4

EXPLANATORY NOTE TO VOLUNTARY PLANNING AGREEMENT

Background

On 21 June 2005, the developer lodged Development Application No. 525-05 with Council seeking development consent for alterations, additions, new shops and offices on the land. The development application was amended after lodgement to seek consent for alterations, additions new shops and shop-top housing. The Council refused consent to the application on 17 August 2015. On 12 February 2016 the developer commenced Class 1 proceedings in the Land and Environment Court of NSW seeking review of the Council's decision. As a result of discussions between the Council and the developer within the course of the s.34 conciliation conference which took place in those proceedings the development plans were amended again in October 2016 (**the amended development**). The Court granted consent to the amended development on 29 November 2016. The developer has also offered to enter into this Planning Agreement with the Council in connection with the amended development.

Summary of the objectives, nature and effect of the Planning Agreement

The objective of the Planning Agreement is to record the terms of the offer made by JT Consulting Services Pty Limited and its obligations to provide certain material public benefits in lieu of providing commercial car parking on the development site.

The Planning Agreement will not exclude the application of sections 94, 94A and 94EF of the *Environmental Planning & Assessment Act 1979* to the development.

If the Planning Agreement is entered into between the developer and the Council, the developer will be required to provide the following public benefits:

1. Lodge a Positive Covenant for registration at Land & Property Information over an area of the developer's land requiring it to be available for access and use as public open space in perpetuity;
2. carry out and maintain simple landscaping of that area;
3. carry out various road works on St Mary McKillop Lane; and
4. make a monetary contribution towards traffic and safety improvements in the Picton town centre

Assessment of the merits of the Planning Agreement and impact on the public use

The benefits under the Planning Agreement are as follows:

1. The development generates a requirement for 26 car parking spaces;
2. The developer has provided 7 car parking spaces resulting in a shortfall of 19 spaces.
3. Based on a recently constructed car park in the town centre, the Council estimates it will cost approximately \$18,072.90 to construct each car space required to service the development. The cost of constructing the 19 car spaces which will service the development is estimated to be \$343,385.10.
4. The estimated cost of carrying out upgrade works to St Mary McKillop Lane, beyond those necessary to facilitate the development, and works to the public open space is

approximately \$243,224.00

5. The value of the developer providing a covenant over the unimproved public open space is approximately \$103,106.25;
6. The parties agree that the cost of carrying out the road works (as described in this Agreement), making the monetary contribution required by the Agreement and providing simple landscaping and a covenant over part of the developer's land offsets the cost of constructing the 19 car spaces.
7. Instead of making a monetary contribution to the Council of \$343,385.10 and instead of constructing 19 car spaces on the land as part of the development, the developer has offered to the Council, and the Council has agreed to accept, a partial monetary contribution of \$50,000 (to be applied towards traffic and safety improvements in the Picton town centre) and the carrying out of the road works and landscaping works and provision of the covenant as works in kind.

Identification of how the Planning Agreement promotes the public interest

The Planning Agreement promotes the public interest by providing secure public access to part of the town centre to enhance the social welfare of the community and to provide improved road facilities in the vicinity of the development.

Identification of how the Planning Agreement promotes elements of the Council's Charter under the *Local Government Act 1993*

The Planning Agreement promotes the Council's Charter under section 8 of the *Local Government Act 1993* by providing adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively.

Identification of the planning purpose served by the Planning Agreement and whether the Planning Agreement provides for a reasonable means of achieving that purpose

The planning purpose of the Planning Agreement will serve to enhance the public domain and improvements to the roads serving the town centre.

The Planning Agreement provides for a reasonable means of achieving these purposes.

Identification of whether the Planning Agreement conforms with the Council's capital works program (if any)

The Planning Agreement complies with Council's Capital Works Program in that the design and works will be undertaken by the proponent and the proponent's contractors.

Whether the agreement, amendment or revocation specifies that certain requirements of the agreement must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

The agreement provides that prior to the issue of a construction certificate the applicant is to register a covenant to provide for public access to and use of land in the vicinity of the Coach House.

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Our ref CJT:JSL:3838183
Your ref 160354

17 October 2016

alan.bradbury@ballawyers.com.au

Alan Bradbury
Bradley Allen Love Lawyers
9th Floor Canberra House
40 Marcus Clarke Street
Canberra ACT 2601

Dear Alan

**Offer of a Voluntary Planning Agreement
JT Consulting Services Pty Ltd v Wollondilly Shire Council (LEC Proceedings No. 155728 of 2016)**

1 Introduction

JT Consulting Services Pty Ltd (**JT Consulting**) is the owner of the land described as Lot 1 in Deposited Plan 1005423 otherwise known as 55 – 57 Menangle Street, Picton (**Site**).

Development Application No. D525-05 (**Development Application**) was lodged with Wollondilly Shire Council (**Council**) on 21 June 2005.

The Development Application results in a parking shortfall of 19 car parking spaces.

JT Consulting is prepared to make contributions under a Voluntary Planning Agreement (**VPA**) pursuant to s93F of the *Environmental Planning and Assessment Act 1979* to be prepared in accordance with the Wollondilly Planning Agreements Policy (PLA-037)

2 Offer

Having regard to the calculations set out in our correspondence of 6 October 2016, JT Consulting is prepared to make the following contributions:

- (a) a covenant providing for right of public access over and public use of the 'view triangle' in perpetuity;
- (b) simple landscaping of the view triangle comprising paving, consisting with the existing paved plaza area over the majority of the view triangle area and the retention of a grass area near the existing tree;
- (c) roadworks to St Mary McKillop Lane beyond those required to facilitate the development, including:
 - (i) pavement reconstruction for the full length of the eastern property boundary;
 - (ii) reconstruction of the entry/exit to Menangle Street (to new road standard); and

(iii) concrete dish drain on Menangle Street.

Yours faithfully
THOMSON GEER



Craig Tidemann

Partner

T +61 2 8248 3404

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E ctidemann@tglaw.com.au

cc alice.menyhart@ballawyers.com.au

Encl.

1. Letter to Bradley Allen Love dated 6 October 2016

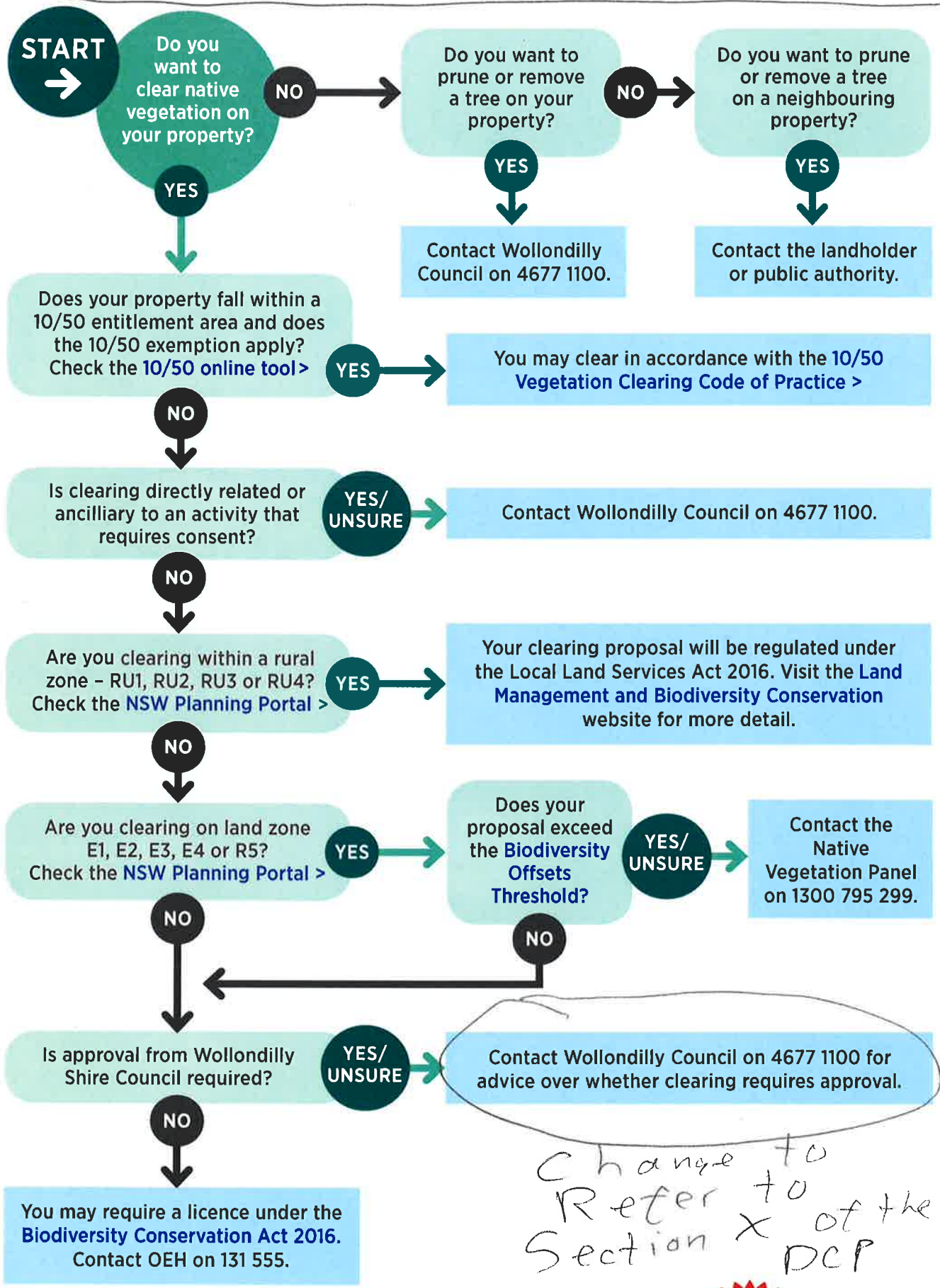
GR2 Attachments

1. Flow chart outlining process and approval pathways for vegetation removal under the proposed reforms.
2. Wollondilly Development Control Plan Volume 1 Part 10 - Tree Removal (current version).
3. Draft amended version of Wollondilly Development Control Plan Volume 1 Part 10 - Tree Removal (version for public exhibition).
4. Specific requirements for clearing of vegetation on a site containing a heritage item or within a heritage conservation area.

Monday 16 July 2018

GR2 – Draft Amendments to Wollondilly Development Control Plan 2016 - Vegetation Removal

Native Vegetation Clearing in Wollondilly Local Government Area*



Change to Refer to Section X of the DCP



PART 10 – Tree removal

10.1 Objectives

The objectives of this part are as follows:

1. Identify trees and other native vegetation for the purpose of clause 5.9(3) of Wollondilly Local Environmental Plan 2011 which states the following:

“(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:

(a) development consent; or

(b) a permit granted by the Council”

2. Identify trees and other native vegetation that:

- may be removed without a permit or development consent
- may be removed with a permit
- may be removed only with development consent

10.2 Interpretation

In this section a reference to removing a tree is a reference to the full range of activities described in Clause 5.9 (3) of Wollondilly Local Environmental Plan, 2011. That is, the ringbarking, cutting down, topping, loping, removing, injuring or wilfully destroying of any tree.

In this section Native Vegetation means:

Any of the following types of indigenous vegetation:

- (a) trees (including any sapling or shrub, or any shrub);
- (b) understorey plants;
- (c) groundcover (being any type of herbaceous vegetation);
- (d) plants occurring in a wetland.

Vegetation is indigenous if it is a species of vegetation, or if it comprises species of vegetation, that existed in the state before European settlement.

In this section a tree is considered to be a tree or shrub which meets one of the following:

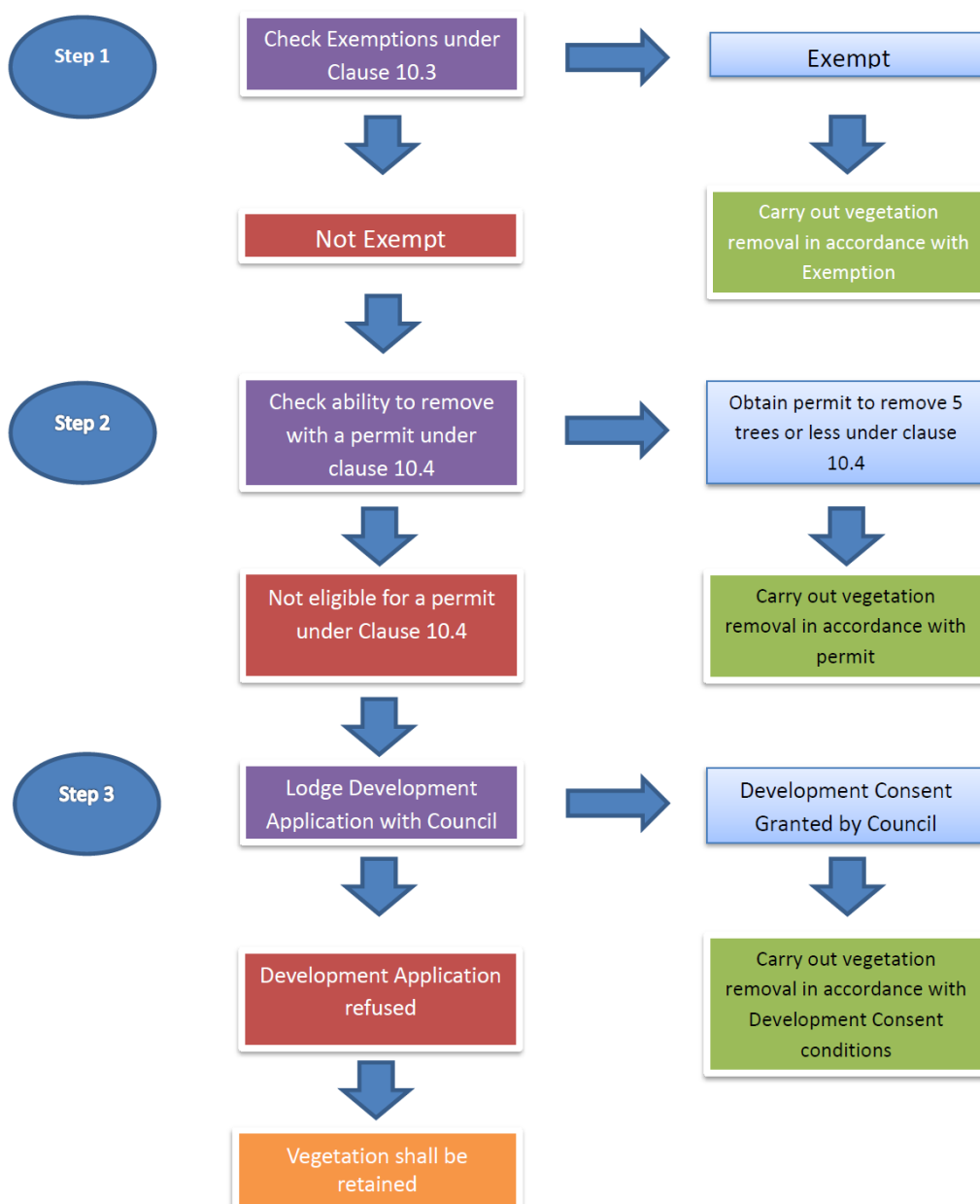
- a) is greater than 3 metres in height; or
- b) The trunk has a circumference of 450mm at 1 metre above ground level; or
- c) has a branch span of greater than 3 metres.

In this section a Development Consent refers to a consent that is issued by Council under the Environmental Planning and Assessment Act, 1979 authorising the removal of more than five trees or 50m² of other native vegetation. A Complying Development Certificate is NOT taken to be a development consent.

In this section a Permit refers to a permit that is issued by Council that authorises the removal of 5 trees or less, or less than 50m² of other native vegetation.

In this section Exempt Tree/Vegetation Removal refers to native vegetation that may be removed without the need for a permit or development consent (or any other approval from Council).

Applicants should refer to the flowchart below in determining the necessary approvals required:



10.3 Trees/other native vegetation that may be removed without consent and without a permit (i.e. exempt)

Any of the following tree removal activities may be carried out without the need to obtain either a tree removal permit or development consent from Council:

1. Removal of a tree or other vegetation species that is a declared noxious weed by the NSW Government under the *Noxious Weeds Act, 1993* or that is a species of tree identified below, regardless of size (unless the tree is listed as a heritage item):
 1. African Olive (*Olea europaea*)
 2. Bamboo (*Phyllostachys spp. bambusa spp, Aundanaria*)
 3. Black locust (*Robinia pseudoacacia spp*)
 4. Box Elder (*Acer negundo*)
 5. Camphor Laurel <20 metres in height only (*Cinnamomum camphora*)
 6. Canary Island Date Palm (*Phoenix canariensis*)
 7. Cassia (*Senna pendula*)
 8. Chinese Celtis (*Celtis sinensis*)
 9. Cocos palm/queen palm (*Syagrus romanzoffiana*)
 10. Leighton's green Pine (*Cupressocyparis x leylandii*)
 11. Cootamundra wattle (*Acacia baileyana*)
 12. Coral Tree (*Erythrina x sykesii*)
 13. Cotoneaster (*Cotoneaster spp.*)
 14. Date Palm (*Phoenix dactylifera*)
 15. Evergreen Alder (*Alnus jorulensis*)
 16. Evergreen Ash (*Fraxinus griffithii*)
 17. Golden wreath wattle (*Acacia saligna*)
 18. Honey Locust (*Gleditsia triacanthos*)
 19. Ice cream bean (*Inga edulis*)
 20. Privet (*Ligustrum spp*)
 21. Oleander (*Nerium oleander*)
 22. Peppercorn (*Schinus spp*)
 23. Radiata Pine <20 metres in height only (*Pinus Radiata*)
 24. Poplar <20 metres in height only (*Populus spp.*)
 25. Queensland Silver Wattle (*Acacia podalyriifolia*)
 26. Rhus (*Toxicodendron succedaneum*)
 27. Rubber Tree (*Ficus elastica*)
 28. Silky Oak (*Grevillea robusta*)
 29. Slash Pine (*Pinus elliotii*)
 30. Sweet Pittosporum (*Pittosporum undulatum*)
 31. Tree Lucern (*Tagasaste Chamaecytisus palmensis*)
 32. Tree of Heaven (*Ailanthus altissima*)
 33. Umbrella Tree (*Schefflera actinophylla*)
 34. Wild Tobacco Tree (*Solanum mauritianum*)
 35. Willow (*Salix spp.*)
 36. Yellow Bells (*Tecoma stans*).
2. Removal of a tree or other form of vegetation that is located within 3 metres of an existing lawfully constructed building or access driveway. (In this control, a tree is to be measured from the external part of the trunk to the building).
3. Removal of a tree or other form of native vegetation that is located within 3 metres of a building or access driveway authorised by a development consent. (In this control a tree is to be measured from the external part of the trunk to the building). For the purposes of this exemption a complying development certificate is NOT a development consent.
4. Removal of any tree or other form of native vegetation that Council is satisfied is dying or dead and is not required as the habitat of native fauna. The owner of the land (or persons acting on their behalf) on

which the tree or vegetation exists must provide to Council written justification, including photographs, from an arborist or other suitably qualified person. Works must not be undertaken until Council has provided written advice that it is satisfied that the tree or vegetation is dying or dead.

5. Removal of a tree or other form of native vegetation that Council is satisfied is a significant imminent risk to human life or property. Works must not be undertaken until Council has provided written advice that it is satisfied that the tree or vegetation poses an immediate danger to people or property.
6. Removal of a tree or other form of vegetation being carried out under the following legislation:
 - a) Action required, or authorised to be carried out under the *Electricity Supply Act 1995*, the *Roads Act, 1993* or the *Surveying and Spatial Information Act 2002*.
 - b) The Clearing of Native Vegetation that is authorised by a development consent or a Property Vegetation Plan under the *Native Vegetation Act, 2003*.
 - c) Functions as required to protect persons from dangers to their safety and health, and to protect property from destruction or damage, arising from floods and storms under the *State Emergency Services Act, 1989*.
 - d) Works for which an order or permit has been issued by the NSW Rural Fire Services under the *Rural Fires Act, 1997*.
 - e) Any removal authorised for removal from the NSW Rural Fire Service 10/50 Vegetation Clearing Code of Practice for NSW.
 - f) Removal carried out in accordance with a license, permit, authority or approval under the *Water Act, 1912* or the *Water Management Act, 2000*.
 - g) Removal for the purpose of the construction, operation and maintenance of infrastructure by Water NSW in the exercise of its land management activities within SP2 zones, including roads, tracks, viewing platforms, signs and recreation facilities.
 - h) Removal on Crown Lands within the meaning of the *Crown Lands Act, 1993* or on crown public roads within the meaning of the *Roads Act, 1993*, where removal is being undertaken or authorised by the Department of Lands.
 - i) Any clearing carried out in accordance with an order under the *Trees (Disputes between Neighbours) Act, 2006* or other like Neighbourhood Dispute legislation.
7. Trees or other form of vegetation to be pruned as part of routine pruning of fruit trees, or commercial horticulture or forestry operations.
8. Amenity Pruning within Australian Standards.

10.4 Trees/other native vegetation that may be removed without development consent but require a permit

1. The Council may issue a permit for the removal of no more than 5 trees provided that:
 - a) The tree does not form part of a heritage site or is within a heritage conservation area, including a Landscape Conservation Area, or that forms part of an aboriginal object or that is within an aboriginal place of heritage significance; and

- b) The retention of the tree is not required by a development consent condition or a section 88B restriction as to user that prohibits tree clearing or removal of the tree in question; and
 - c) The tree has not been identified as containing tree hollows or significant habitat or food source; and
 - d) The tree is not located within a Natural Resources Biodiversity Area or that is within the Natural Resources – Water layer under clauses 7.2 and 7.3 of Wollondilly Local Environmental Plan 2011; and
 - e) Must not form part of a vegetation community which has been identified as an endangered ecological community or threatened ecological community under any Act of legislation.
 - f) Council has not issued a permit to remove trees or other native vegetation under this clause in the previous 2 years for the subject property.
2. The Council may issue a permit for the removal of no greater than 50m² of native vegetation (other than a tree) under this section provided that no permit to remove trees or other native vegetation under this section has been issued in the previous 2 years for the subject property.

Note: Council has the ability to refuse a permit for the removal of no greater than 50m² of native vegetation if the vegetation is affected by controls 1(a) to 1(f) above and Council considers that greater assessment is required. In this regard a development application is required for the vegetation removal.

10.5 Trees/other native vegetation that may be removed only with development consent

1. Any tree or other native vegetation removal which cannot be carried out as exempt development under clause 10.3 of this volume or by obtaining a permit under clause 10.4 of this volume may only be removed with development consent.

Note: In cases where the tree and/or native vegetation removal is required in association with a development requiring consent under Part 4 of the *Environmental Planning and Assessment Act, 1979*, the removal of vegetation will also require consent and may require assessment under part 5A of the Act.

ATTACHMENT 3

**Draft Amended Version of Wollondilly Development Control Plan 2016 Volume 1
– Part 10 Tree removal.**

Draft Amended version for Public Exhibition.

PART 10 – Tree removal

10.1 General

This section applies to vegetation (native and exotic) clearing carried out under the *State Environmental Planning Policy (SEPP) (Vegetation in Non-Rural Areas) 2017*. This SEPP enables Council through its development control plan to identify vegetation on non-rural land that can be removed without the need for a permit and vegetation that can only be removed if a permit is issued by Council. Non-Rural Land is any land not having a rural zone.

This Part of the DCP does not apply to:

- Any vegetation clearance on Rural zoned land. For any clearing on rural zoned land, **Please contact the Native Vegetation Panel.**
- Any vegetation clearance that is directly related or is ancillary to use of land or activity that requires development consent from Council (**Refer to Section 9 Environment Protection of this Development Control Plan for requirements regarding any such clearance**).
- Any removal of native vegetation as defined by Section 60B of the Local Land Services Act 2016 (C <https://www.legislation.nsw.gov.au/#/view/act/2013/51/part5a/div1/sec60b>) that exceeds the biodiversity offsets scheme threshold under the Biodiversity Conservation Act 2016. Any clearance that exceeds the threshold criteria in column 3 below requires approval from the Native Vegetation Panel.

| Minimum Lot Size of the Land (refer to the minimum lot size map within WLEP 2011 to determine the minimum lot size) | Maximum Area of Clearing for which Council can issue a Permit for removal | Area vegetation removal that requires approval from the Native Vegetation Panel |
|---|---|---|
| Less than 1 hectare | Less than 0.25 hectares | 0.25 hectares or more |
| Less than 40 hectares but not less than 1 hectare | Less than 0.5 hectares | 0.5 hectares or more |
| Less than 1000 hectares but not less than 40 hectares | Less than 1 hectare | 1 hectare or more |
| 1000 hectares or more | Less than 2 hectares | 2 hectares or more |

Table 1

- The removal of native vegetation carried out on land directly located on the Sensitive Biodiversity Values Land Map. Vegetation removal on part of a property not covered by this Map and which is below the thresholds in column 3 of table 1 above is subject to the Council Permit approval process and does not require approval from the Native Vegetation Panel. The biodiversity sensitive land values map can be accessed via the following link: <https://www.lmbc.nsw.gov.au/Maps/index.html?viewer=BVMap>

Tree/vegetation removal on Biocertified Land

Note, the proposed removal of native vegetation (as defined by the LLS Act) does not require approval from the Native Vegetation Panel if occurring on land that has been

biocertified even if the site of the proposed clearing is located on the Biodiversity Sensitive Land Map. Any vegetation/tree removal in such areas requires assessment by Council in accordance with Section 10.4 of this Section of the Development Control Plan. There is no biocertified land within the Wollondilly LGA at the time of public exhibition of this revised Tree Section, (Part 10), of the Development Control Plan.

10.2 Objectives

The objectives of this part are as follows:

1. To protect areas of native vegetation/trees and heritage items/landscape (European and Indigenous) of recognised high value.
2. To identify vegetation in non-rural areas of the Shire which may be removed without a permit or can only be removed by obtaining a permit from Council, or where applicable, a Biodiversity Conservation Licence issued by the Office of Environment and Heritage.
3. To satisfy the requirements of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* and related requirements of the *Biodiversity Conservation Act 2016* and *Local Land Services Act 2016*.

10.3 Interpretation

Access driveway refers to the approved driveway/s between the road edge and property boundary

Biodiversity Conservation Licence means a licence issued by the Office of Environment and Heritage under Part 2 of the Biodiversity Conservation Act 2016. Note, the issuing of a Permit by Council for vegetation clearance under this Section of the Development Control Plan provides exemptions from requirements within the Biodiversity Conservation Act for a Biodiversity Conservation Licence

Biodiversity Offsets Scheme Threshold means the biodiversity offsets scheme threshold referred to in section 7.4 of the *Biodiversity Conservation Act 2016* and Part 7 of the *Biodiversity Conservation Regulation 2016*.

Dwelling means an approved room or suite of rooms occupied or used or so adapted as to be capable of being occupied or used as a separate domicile.

European Heritage item means an item that is listed in Schedule 5 of Wollondilly Shire Council Local Environmental Plan, 2011.

Exempt Tree/Vegetation Removal means trees or vegetation that may be removed without the need for a permit or approval from the Native Vegetation Panel or in accordance with a Biodiversity Conservation Licence issued by the Office of Environment and Heritage.

Item of Aboriginal Heritage means an item that is registered on the AHIMS Data base.

Native Vegetation as defined in Local Land Services Act Part 5A section 60B

Non-rural area means land the Wollondilly Local Government Area within the following land use zones:

Zone RU5 Village, Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone R4 High Density Residential, Zone R5 Large Lot Residential, Zone B1 Neighbourhood Centre, Zone B2 Local Centre, Zone B3 Commercial Core, Zone B4 Mixed Use, Zone B5 Business Development, Zone B6 Enterprise Corridor, Zone B7 Business Park, Zone B8 Metropolitan Centre, Zone IN1 General Industrial, Zone IN2 Light Industrial, Zone IN3 heavy Industrial, Zone IN4 Working Waterfront, Zone SP1 Special Activities, Zone SP2 Infrastructure, Zone SP3 Tourist, Zone RE1 Public Recreation, Zone RE2 Private recreation, Zone E2 Environmental Conservation, Zone E3 Environmental Management, Zone E4 Environmental Living or Zone W3 Working Waterways.

Sensitive land for the purpose of this Part refers to land which:

- a) Is within 10m of a watercourse over 2m wide, measured from the top of two opposing banks, and includes land between these banks
- b) Has a slope of 30 degrees or greater

Tree is considered to be any woody plant which meets one or more of the following:

- a) Is greater than 4 metres in height; or
- b) has a combined stem diameter of 150mm or more at 1m from the ground; or
- c) has a branch span of greater than 3 metres.

Vegetation means a tree or other vegetation comprised of tree, understorey and groundcover plants, whether or not it is native vegetation, but excluding exotic turf grasses

10.4 Approval Requirements for Vegetation Removal

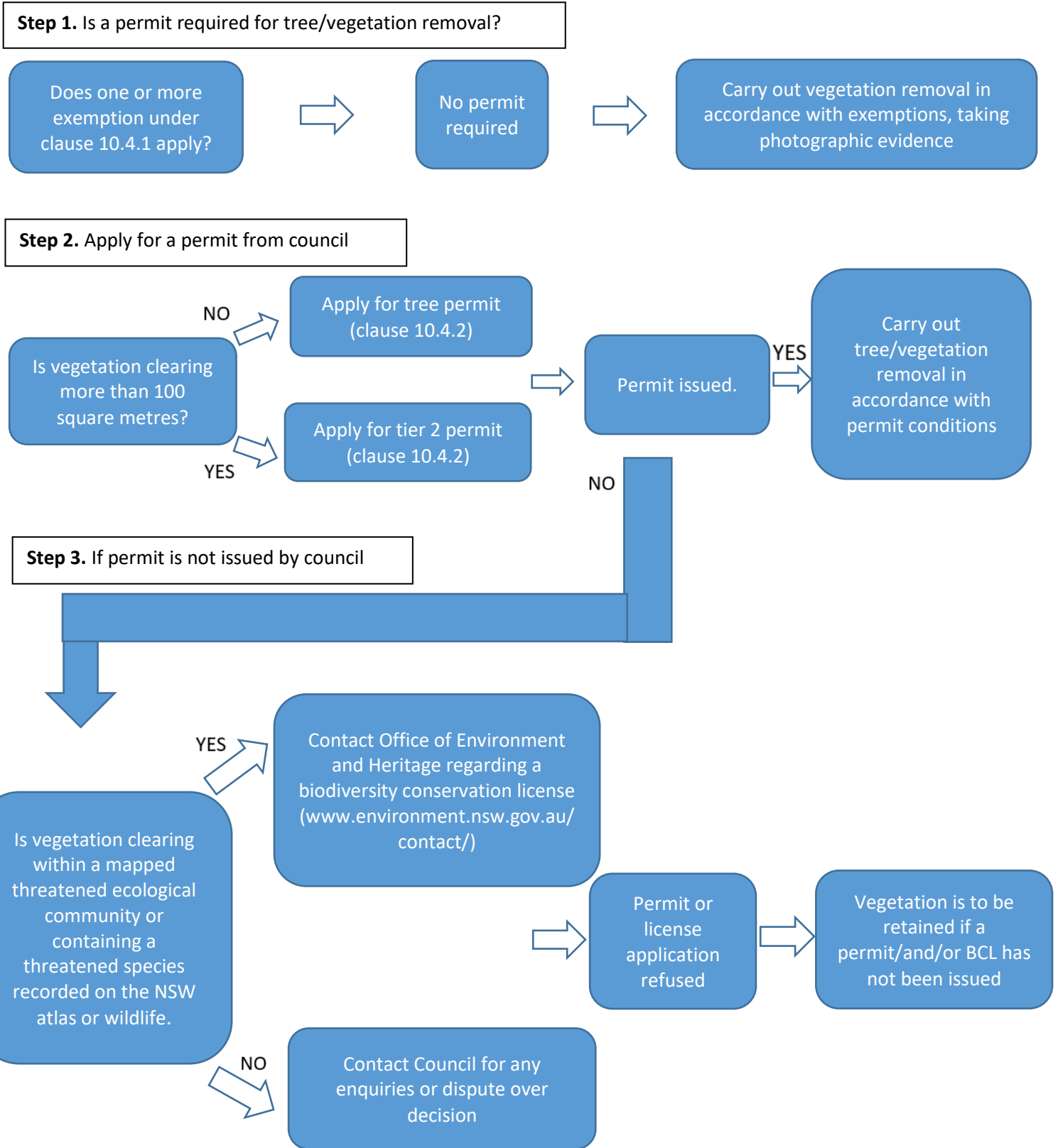
This part identifies vegetation that can be removed without the need for a permit, and vegetation that may only be removed following a permit being issued by Council. If the removal of the vegetation is not exempt, then either a Tier 1 or Tier 2 permit application will be required depending on the level of vegetation proposed to be removed.

Control:

A person must not remove any tree or native vegetation, or any vegetation growing on sensitive land, to which this plan applies unless granted a permit to do so by Council, unless the tree or vegetation is subject to an exemption detailed in 10.4.1:

The process for identifying whether a Tier 1 or Tier 2 permit is required is outlined in the flow chart below (and summarised in Table 2):

This Flow Chart applies to the process in obtaining a Permit from Council



Any person proposing to undertake vegetation removal should refer to the table below to determine whether the removal of the vegetation is exempt (i.e. does not require a permit from Council), or whether a permit is required. The table below should be read in conjunction with the specific exemption requirements for the removal of vegetation under Part 10.4.1 below.

Table 2: Exemption Criteria

| Nature of Vegetation Removal | Land Use zoning of the land where vegetation will be removed | | | | |
|---|---|--|--|--|--|
| | Residential (R2 to R5) | Environment Protection | Commercial | Industrial | Heritage (All Zones) |
| Removal of dead tree(s) not containing hollows | Exempt – take photographic record | Exempt subject to written confirmation from Council. | Exempt – take photographic record | Exempt – take photographic record | Exempt subject to written confirmation from Council. |
| Removal of dead tree(s) containing hollows | Exempt subject to written confirmation from Council. | Exempt subject to written confirmation from Council. | Exempt subject to written confirmation from Council. | Exempt subject to written confirmation from Council. | Exempt subject to written confirmation from Council. |
| Removal of tree(s) that are dying or dangerous | Exempt - subject to written confirmation from Council | Exempt subject to written confirmation from Council. | Exempt subject to written confirmation from Council. | Exempt subject to written confirmation from Council. | Exempt subject to written confirmation from Council. |
| Amenity tree pruning within Australian Standards AS4373-2007 | Exempt | Exempt | Exempt | Exempt | Exempt subject to written confirmation from Council. |
| Removal of a tree that is of a species listed under section 10.2 | Exempt – take photographic record | Exempt – take photographic record | Exempt – take photographic record | Exempt – take photographic record | Exempt subject to written confirmation from Council. |
| Vegetation clearing associated with other development requiring consent eg house, pool, shed, track etc | Development Application Required | Development Application Required | Development Application Required | Development Application Required | Development Application Required |
| Vegetation removal carried out by public | Exempt provided that the removal is authorized by | Exempt provided that the removal is authorized by | Exempt provided that the removal is authorized by | Exempt provided that the removal is authorized by | Exempt provided that the removal is authorized by |

| Nature of Vegetation Removal | Land Use zoning of the land where vegetation will be removed | | | | |
|--|--|--|--|--|--|
| | Residential (R2 to R5) | Environment Protection | Commercial | Industrial | Heritage (All Zones) |
| agencies or emergency service authorities | another EPI. The public authority undertaking the removal may need to carry out their own assessment under Part 5 of the EP&A Act, 1979. | another EPI, the public authority undertaking the removal may need to carry out their own assessment under Part 5 of the EP&A Act, 1979. | another EPI, the public authority undertaking the removal may need to carry out their own assessment under Part 5 of the EP&A Act, 1979. | another EPI, the public authority undertaking the removal may need to carry out their own assessment under Part 5 of the EP&A Act, 1979. | another EPI, the public authority undertaking the removal may need to carry out their own assessment under Part 5 of the EP&A Act, 1979. |
| Removing Weeds listed in endorsed Local and Regional Weed Management Plans | Exempt – take photographic record | Exempt – take photographic record | Exempt – take photographic record | Exempt – take photographic record | Council confirmation required (TR10) |
| Removal of native vegetation up to 100m ² area or 10 trees | Tier 1 Permit required | Tier 1 Permit Required | Tier 1 permit required | Tier 1 Permit required | Tier 1 Permit required |
| Removal of native vegetation greater than 100m ² or 10 trees but less than applicable area threshold as defined in Column 3 of Table 1. | Tier 2 Permit required | Tier 2 Permit required | Tier 2 Permit required | Tier 2 Permit required | Tier 2 Permit required |
| Removal of native vegetation – area greater than applicable area threshold as defined in Column 3 of Table 1. | Native Vegetation Panel approval required | Native Vegetation Panel approval required | Native Vegetation Panel approval required | Native Vegetation Panel approval required | Native Vegetation Panel approval required |
| Removal of native tree(s) or vegetation on land identified on the sensitive | Native Vegetation Panel approval required | Native Vegetation Panel approval required | Native Vegetation Panel approval required | Native Vegetation Panel approval required | Native Vegetation Panel approval required |

| Nature of Vegetation Removal | Land Use zoning of the land where vegetation will be removed | | | | |
|---|---|---|---|---|--|
| | Residential (R2 to R5) | Environment Protection | Commercial | Industrial | Heritage (All Zones) |
| biodiversity land values map | | | | | |
| Removal of exotic vegetation less than 4m tall or 3m wide or 150mm total stem diameter at 1m from ground. | Exempt – take photographic record | Exempt – take photographic record | Exempt – take photographic record | Exempt – take photographic record | Tier 1 Permit required |
| Removal of vegetation greater than 4m tall or 3m wide or 150mm total stem diameter at 1m above ground – up to 100m ² or 10 trees | Tier 1 Permit required | Tier 1 Permit required | Tier 1 Permit required | Tier 1 Permit required | Tier 1 Permit required |
| Removal of vegetation greater than 4m tall or 3m wide or 150mm total stem diameter at 1m above ground – over 100 m ² or 10 trees | Tier 2 Permit required | Tier 2 Permit required | Tier 2 Permit required | Tier 2 Permit required | Tier 2 Permit required |
| Clearing undertaken in accordance with 10/50 code of practice | Exempt – Must read and comply with code. take photographic record | Exempt – Must read and comply with code. take photographic record | Exempt – Must read and comply with code. take photographic record | Exempt – Must read and comply with code. take photographic record | Tier 1 Permit required |
| Clearing undertaken in accordance with Hazard Reduction Certificate issued by Rural Fire Service | Exempt – Provide copy of Hazard Reduction Certificate to Council | Exempt – Provide copy of Hazard Reduction Certificate to Council | Exempt – Provide copy of Hazard Reduction Certificate to Council | Exempt – Provide copy of Hazard Reduction Certificate to Council | Exempt – Provide copy of Hazard Reduction Certificate to Council |

| Nature of Vegetation Removal | Land Use zoning of the land where vegetation will be removed | | | | |
|--|--|--|--|--|--|
| | Residential (R2 to R5) | Environment Protection | Commercial | Industrial | Heritage (All Zones) |
| Clearing approved through Development Consent | No additional Council approval required | No additional Council approval required | No additional Council approval required | No additional Council approval required | No additional Council approval required |
| Clearing carried out in accordance with an order issued by the Land and Environment Court | Exempt | Exempt | Exempt | Exempt | Exempt |
| Clearing of exempt vegetation on sensitive land. | Tier 1 Permit required | Tier 1 Permit required | Tier 1 Permit required | Tier 1 Permit required | Tier 1 Permit required |
| Mechanical clearing of exempt vegetation on slopes greater than 18 degrees. | Tier 1 Permit required | Tier 1 Permit required | Tier 1 Permit required | Tier 1 Permit required | Tier 1 Permit required |
| Clearing in accordance with other legislation listed in section 10.5. a-h of this section. | Exempt provided that the activity is carried out in accordance with an authorisation or exemption under the relevant Act of Legislation. | Exempt provided that the activity is carried out in accordance with an authorisation or exemption under the relevant Act of Legislation. | Exempt provided that the activity is carried out in accordance with an authorisation or exemption under the relevant Act of Legislation. | Exempt provided that the activity is carried out in accordance with an authorisation or exemption under the relevant Act of Legislation. | Exempt provided that the activity is carried out in accordance with an authorisation or exemption under the relevant Act of Legislation. |
| Clearing on rural zoned properties (RU1, RU2, RU4) | Managed by Local Land Services | Managed by Local Land Services | Managed by Local Land Services | Managed by Local Land Services | Managed by Local Land Services |
| Clearing on council land for installation of boundary fence or property entrance – All Zones | Tier 1 Permit required | Tier 1 Permit required | Tier 1 Permit required | Tier 1 Permit required | Tier 1 Permit required |

| <i>Nature of Vegetation Removal</i> | Land Use zoning of the land where vegetation will be removed | | | | |
|--|---|---|---|---|---|
| | Residential (R2 to R5) | Environment Protection | Commercial | Industrial | Heritage (All Zones) |
| Clearing of vegetation planted or protected under a Development Consent condition, remediation order, 88b covenant or conservation agreement | Tier 2 Permit required (However, unlikely to be supported by Council) | Tier 2 Permit required (However, unlikely to be supported by Council) | Tier 2 Permit required (However, unlikely to be supported by Council) | Tier 2 Permit required (However, unlikely to be supported by Council) | Tier 2 Permit required (However, unlikely to be supported by Council) |

10.4.1 Vegetation that maybe removed without a Permit (i.e. exempt)

Any of the following vegetation/tree removal activities may be carried out without the need to obtain a permit from Council:

1. Removal of a tree or any other vegetation that is listed as a priority weed in the Greater Sydney Region Strategic Weed Management Plan, under the Local Land Services Act 2013; or is subject to an approved biosecurity undertaking or direction under the Biosecurity Act 2015; or is listed in a Council approved Local Weed Management Plan; or is a species listed below, regardless of size,

1. African Olive (*Olea European*)
2. Bamboo (*Phyllostachys spp. bambusa spp, Aundanaria*)
3. Black locust (*Robinia pseudoacacia spp*)
4. Blackberry (*Rubus fruticosus*)
5. Box Elder (*Acer negundo*)
6. Camphor Laurel <20 metres in height only (*Cinnamomum camphora*)
7. Canary Island Date Palm (*Phoenix canariensis*)
8. Cassia (*Senna pendula*)
9. Chinese Celtis (*Celtis sinensis*)
10. Cocos palm/queen palm (*Syagrus romanzoffiana*)
11. Leighton's green Pine (*Cupressocyparis x leylandii*)
12. Cootamundra wattle (*Acacia baileyana*)
13. Coral Tree (*Erythrina x sykesii* and *Crista galli*)
14. Cotoneaster (*Cotoneaster spp.*)
15. Date Palm (*Phoenix dactylifera*)
16. Evergreen Alder (*Alnus jorulensis*)
17. Evergreen Ash (*Fraxinus griffithii*)
18. Fire thorn (*Pyracantha hawthorn*)
19. Golden wreath wattle (*Acacia saligna*)
20. Honey Locust (*Gleditsia triacanthos*)
21. Lantana (*Lantana camara*)
22. Oleander (*Nerium oleander*)
23. Peppercorn (*Schinus spp*)
24. Privet (*Ligustrum spp*)
25. Radiata Pine <20 metres in height only (*Pinus Radiata*)
26. Poplar <20 metres in height only (*Populus spp.*)
27. Queensland Silver Wattle (*Acacia podalyriifolia*)
28. Rhus (*Toxicodendron succedaneum*)
29. Robinia (*Robinia pseudoacacia* varieties)
30. Rubber Tree (*Ficus elastica*)
31. Silky Oak (*Grevillea robusta*)
32. Slash Pine (*Pinus elliottii*)
33. Sweet Pittosporum (*Pittosporum undulatum*)
34. Tree Lucern (*Tagasaste Chamaecytisus palmensis*)
35. Tree of Heaven (*Ailanthus altissima*)
36. Umbrella Tree (*Schefflera actinophylla*)
37. Wild Tobacco Tree (*Solanum mauritianum*)
38. Willow (*Salix spp.*)
39. Yellow Bells (*Tecoma stans*).

Note: These above exemptions do not apply to sensitive lands. For clearing of this vegetation on sensitive land a Tier 1 Permit will be required. Mechanical clearing of

this vegetation on slopes greater than 18 degrees will also require a Tier 1 Permit but other clearing methods are permitted without approval.

1. Removal of a tree or other form of vegetation that is located within 3 metres of an existing, lawful dwelling or access driveway unless required to be retained by an issued Development consent or Permit (In this control, a tree is to be measured from the nearest external part of the trunk to the wall of the building or edge of the access driveway).
2. Removal of any tree or other form of native vegetation that Council is satisfied is dying or dead. The tree/native vegetation of this kind which contains tree hollows must only be removed following written confirmation from Council. A report from a qualified arborist confirming that the vegetation is dead or dying may be requested from Council prior to providing such written confirmation.
3. Removal of a tree or other form of native vegetation that Council is satisfied is a significant imminent risk to human life or property. Works must not be undertaken until Council has provided written advice that it is satisfied that the tree or vegetation poses an immediate danger to people or property that cannot be adequately remedied by other means.
4. Any removal of native vegetation as defined by the *Local Land Services Act 2016* which has received approval from the Native Vegetation Panel under Part 4 of the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*.
5. Removal of a tree or other form of vegetation being carried out under the following legislation:
 - a) Action required, or authorised to be carried out under the *Electricity Supply Act 1995*, the *Roads Act, 1993* or the *Surveying and Spatial Information Act 2002*.
 - b) Functions as required to protect persons from dangers to their safety and health, and to protect property from destruction or damage, arising from floods and storms under the *State Emergency Services Act, 1989*.
 - c) Works for which an order or permit has been issued by the NSW Rural Fire Services under the *Rural Fires Act, 1997*.
 - d) Any removal authorised for removal from the NSW Rural Fire Service 10/50 Vegetation Clearing Code of Practice for NSW.
 - f) Removal carried out in accordance with a license, permit, authority or approval under the *Water Act, 1912* or the *Water Management Act, 2000*.
 - g) Removal for the purpose of the construction, operation and maintenance of infrastructure by Water NSW in the exercise of its land management activities within SP2 zones, including roads, tracks, viewing platforms, signs and recreation facilities.
 - h) Removal on Crown Lands within the meaning of the *Crown Lands Act, 1993* or on crown public roads within the meaning of the *Roads Act, 1993*, where removal is being undertaken or authorised by the Department of Lands.

- i) Any clearing carried out in accordance with an order issued by the Land and Environment Court, such as those issued under the Trees (Disputes between Neighbours) Act, 2006
- j) Any removal authorised by a Biodiversity Conservation Licence issued by the NSW Office of Environment and Heritage under the Biodiversity Conservation Act 2016.
- k) Trees or other form of vegetation to be pruned as part of routine pruning of fruit trees, or commercial horticulture or forestry operations.

6. Amenity Pruning in accordance with Australian Standards AS 4373-2007.

10.4.2 Vegetation that requires a permit for removal

Any removal of vegetation identified under this Part of the DCP and does not meet one or more of the exemptions in part 10.1 requires a Permit from Council. A person proposing to clear Native Vegetation will be required to obtain either a Tier 1 or Tier 2 permit from Council prior to removing the vegetation. The two level Permit system has been introduced as a result of potential environmental impacts of vegetation clearance which does not satisfy the biodiversity offset scheme threshold criteria.

Tier 1: Tree /vegetation removal

Tier 1 applies to the clearance of vegetation which does not satisfy exemptions listed in Section 10.4 of this Part of the DCP, which is no greater than 100 square metres in area and where there is 10 trees or less proposed to be removed. It applies to exotic vegetation that is not covered by exemptions listed in Section 10.4.1

A Tier 1 Permit Application is to be submitted to Council for any removal of vegetation that satisfies the above criteria.

Tier 2: Tree removal/vegetation

Tier 2 applies to the clearance of trees and vegetation as defined by this Part of the Development Control Plan and does not satisfy Exemptions listed in Section 10.4 of this Part of the DCP that is:

- Greater than 100 square metres in area or more than 10 trees; or
- Located on land covered by Council's Natural Resources Biodiversity Layer (or equivalent mapping) under Section 7.2 of Council's Local Environmental Plan 2011. *This criteria is included as the Sensitive Biodiversity Values Land Map under the Biodiversity Conservation Act 29016 may not always be consistent with Council mapping.*

Tier 2 vegetation clearance may involve a varying range of impacts based on the intended area of clearing and environmental and heritage values of the site. It is recommended that Council be contacted when proposing to remove native vegetation classified as Tier 2 to obtain requirements for the application. Any removal of vegetation that is authorised by a permit must comply with any conditions imposed on that permit. Failure to comply with all permit conditions invalidated the permit approval and penalties may apply.

10.5 Protection of Heritage (European and Indigenous Items)

Council may refuse to issue a permit application to remove the clearing of vegetation:

- (a) That is, or forms part of a heritage item or that it within a heritage conservation area; or
- (b) That is or forms part of an aboriginal object or that is within an aboriginal place of heritage significance,

Unless the Council is satisfied that the proposed activity:

- a) Is of a minor nature or is for the maintenance of the heritage item, aboriginal object, aboriginal place of heritage significance, or heritage conservation area, and
- b) Would not adversely affect the heritage significance of the heritage item, aboriginal object aboriginal place of heritage significance or heritage conservation area.

Note: Please refer to the exemption table (table 2) above to establish Consent requirements for properties where the vegetation forms part of a heritage item or is within a heritage conservation area.

If the removal of vegetation forms part of a heritage or is within a heritage conservation area, it is recommended that Council be consulted on the information requirements for a permit application. This may include consultation with Council's Heritage Advisory Service.

10.6 Requirements for a Biodiversity Conservation Licence

A Biodiversity Conservation Licence under Part 2 of the **Biodiversity Conservation Act 2016**, may be required if the removal of vegetation is likely to result in:

- harm to an animal that is a threatened species or part of an ecological community;
- picking a plant that is a threatened species or part of an ecological community;
- damage to a habitat of a threatened species or ecological community; or
- damage to a declared area of outstanding biodiversity conservation value

Note, the lodgement of an application to the Office of Environment and Heritage to obtain a Biodiversity Conservation Licence for vegetation clearance listed above provides a potential alternate approach if Council has refused to issue a Permit for the proposed clearance.

A list of threatened species can be viewed in Schedule 1 of the *Biodiversity Conservation Act 2016* and a list of threatened ecological communities can be viewed in Schedule 2 of the *Biodiversity Conservation Act 2016*. The location of observed threatened species can be viewed on the Bionet Section of the website of the NSW Office of Environment and Heritage at <http://www.bionet.nsw.gov.au/>. (Details of the threatened ecological community occurring on the site will be provided with the permit notification).

Section 2.8(1) of the *Biodiversity Conservation Act 2016* states that a Biodiversity Conservation Licence is not required if the “*act (vegetation clearance), was picking plants and was authorised by a permit or other authorisation under an environmental planning instrument made under section 26 (4) of the [Environmental Planning and Assessment Act 1979](#)*”. This Section means that native vegetation removal approved by a Permit issued under this Section of the DCP does not require a Biodiversity Conservation Licence.

Note, there is no protection for prosecution under the *Biodiversity Conservation Act 2016* for vegetation clearance if a permit from Council or a Licence from OEH has not been obtained and the removal of vegetation is likely to result in:

- Harm to an animal that is a threatened species or part of an ecological community;
- Picking a plant that is a threatened species or part of an ecological community;
- Damage to a habitat of a threatened species or ecological community; and/or
- Damage to a declared area of outstanding biodiversity conservation value

Attachment 4: Specific requirements for clearing of vegetation on a site containing a heritage item or within a heritage conservation area.

10.6 Protection of Heritage (European and Indigenous Items)

Council may refuse to issue a permit application to remove the clearing of vegetation:

(a) That is, or forms part of a heritage item or that it within a heritage conservation area; or

(b) That is or forms part of an aboriginal object or that is within an aboriginal place of heritage significance,

Unless the Council is satisfied that the proposed activity:

a) Is of a minor nature or is for the maintenance of the heritage item, aboriginal object, aboriginal place of heritage significance, or heritage conservation area, and

Would not adversely affect the heritage significance of the heritage item, aboriginal object aboriginal place of heritage significance or heritage conservation area.

GR3 Attachments

1. Letter from NSW Government dated 22 May 2018
2. Accelerated LEP Review Program Funding Agreement
3. Accelerated LEP Review and Update Indicative timeline
4. LEP Roadmap; Guidelines for updating Local Environmental Plans to give effect to the District Plans in the Greater Sydney Region

Monday 16 July 2018

GR3 – Local Environmental Plan Review Program & Funding Agreement



Mr Luke Johnson
General Manager
Wollondilly Shire Council
PO Box 21
PICTON NSW 2571

Dear Mr Johnson

I am writing in relation to the NSW Government's Housing Affordability Strategy, *A fair go for first home buyers*, which identified selected local councils to be supported to undertake a review of their local environmental plans (LEPs) within two years to ensure early alignment with the priorities of the Greater Sydney Commission's new District Plans.

As you are aware, the Minister for Planning has announced that Wollondilly Shire Council will be offered funding of up to \$2.5 million, subject to contractual conditions. Please find enclosed a proposed funding agreement outlining the conditions of the grant and a timeline for the review process.

The Department of Planning and Environment and the Greater Sydney Commission will be providing support to all Sydney councils over the next two years. This includes a guide that provides a roadmap to the LEP review program and a series of technical working group meetings, which will commence in early June 2018.

Recognising the strategic importance of this initiative, councils are encouraged to seek a council resolution supporting participation in the review program. The signed agreement should be scanned and returned via email with a tax invoice for \$250,000 by Friday 20 July to denise.king@planning.nsw.gov.au.

The Department looks forward to working with Council to deliver an updated LEP within two years.

Should you have any further questions, please contact Ms Denise King, Program Manager, Office of Housing Coordination, at the Department on 8275 1021.

Yours sincerely

Marcus Ray
Deputy Secretary
Planning Services

22/05/2018
Encl: Proposed funding agreement

ACCELERATED LEP REVIEW PROGRAM FUNDING AGREEMENT

BETWEEN:

| | |
|----------------|--|
| Name | The Crown in right of the State of New South Wales acting through the Department of Planning and Environment (the Department) |
| ABN | 38 755 709 681 |
| Address | 320 Pitt Street, Sydney, New South Wales, 2000 |

AND

| | |
|----------------|------------------------------------|
| Name | Wollondilly Shire Council |
| ABN | 93 723 245 808 |
| Address | 62-64 Menangle St, Picton NSW 2571 |

(the **parties**)

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BACKGROUND

- Up to eighteen councils in the Greater Sydney Region will each receive funding to review and update their local environmental plans within a certain timeframe to align with the priorities in the District Plans released by the Greater Sydney Commission in March 2018 (Project).
- The NSW Government acting through the Department has agreed to provide the Funding Amount to Council to facilitate the carrying out of the Project by Council.
- The objective of this Agreement is to document the agreed outcomes for the Project including Milestones and timing for the payment of the Funding Amount and completion of the Project.
- The Department agrees to provide, and Council agrees to accept, the Funding Amount in accordance with the terms of this Agreement.

OPERATIVE PROVISIONS

1. Definitions and Interpretation

1.1 **Dictionary:** In this Agreement, unless the contrary intention requires:

Acquittal Certificate means a report confirming that the Project has been completed and the actual cost of the Project substantially in the form specified in Attachment 4 of this Agreement.

Acquittal Date means the date specified in Item 6 of the Agreement Details as the Acquittal Date, or another date agreed between the parties in writing.

Agreement means this agreement including all the attachments.

Agreement Date means the date of the Agreement.

Agreement Details means Attachment 1 to this Agreement.

Approved Auditor is a person who is:

- registered as a company auditor under the *Corporations Act 2011* (Cth), or a member of the Institute of Chartered Accountants in Australia, or of CPA Australia or the National Institute of Accountants; and
- not a principal, member, shareholder, officer or employee of Council.

Audited Financial Statements means an organisation's accounts audited by an approved auditor in compliance with Australian Auditing Standards and Australian Accounting Standards.

Australian Accounting Standards means the standards of that name maintained by the Australian Accounting Standards Board created by section 226 of the *Australian Securities and Investments Commission Act 2001* (Cth).

Australian Auditing Standards means the standards prepared by the Auditing Standards Board of Australia and maintained by the Auditing and Assurance Standards Board created by section 227A of the *Australian Securities and Investments Commission Act 2001* (Cth) or its international equivalent as determined by that Act.

Budget means a budget for the purposes of undertaking the Project and/or performing obligations under this Agreement.

Business Day means the day which is not a Saturday, Sunday or public holiday in Sydney, NSW.

Claim means any cost, expense, loss, damage, claim, action, proceeding or other liability (whether in contract, tort or otherwise), however arising and includes legal costs.

Completion Date means the date which Council must complete each Milestone as set out in Item 5 of the Agreement Details.

Confidential Information means any information and all other knowledge at any time disclosed (whether in writing or orally) to a party, or acquired by a party which:

- is by its nature confidential;
- is designated, or marked, or stipulated as confidential; or
- the party knows or ought to know is confidential;

but does not include information which:

- is or becomes public knowledge other than by breach of this Agreement;
- is in a party’s lawful possession without restriction in relation to disclosure before the date or receipt of the information from another party or a third party;
- has been developed or acquired by a party independently of this Agreement;
- is ascertainable through independent enquiries;
- maybe or is required to be disclosed pursuant to Premier’s Memorandum No. 2007-01 Public Disclosure of Information arising from NSW Government Tenders and Contracts dated 8 January 2007, as amended or updated from time to time; or
- is required to be disclosed pursuant to law, regulation, legal process or by a regulatory authority.

Conflict of Interest means an actual or perceived conflict between a person's public duty and their private or personal interest.

District Plan means each District Plan published in March 2018 by the GSC.

EP&A Act means the *Environmental Planning and Assessment Act 1979* (NSW) (as amended from time to time).

Existing Material means all Material in existence prior to the commencement of this Agreement:

- incorporated in;
- supplied with, or as part of; or
- required to be supplied with, or as part of,

the Project Material.

Funding Amount means the funding amount specified in Item 3 of the Agreement Details.

Gateway determination means a determination made by the GSC in accordance with section 3.34 of EP&A Act.

GIPA Act means the *Government Information (Public Access) Act 2009* (NSW) (as amended from time to time).

Greater Sydney Region has the same meaning it has in the *Greater Sydney Commission Act 2015* (NSW).

GSC means the Greater Sydney Commission.

| | |
|---------|--|
| Council | |
|---------|--|

GST Law means *A New Tax System (Goods & Services Tax) Act 1999* (Cth), related legislation and any delegated legislation made pursuant to such legislation.

Intellectual Property Rights includes all copyright (including rights in relation to recordings and broadcasts), all rights in relation to inventions (including patent rights), registered and unregistered trademarks (including service marks), registered designs, and all other rights resulting from intellectual activity in the literary or artistic fields whether registered or not and whether existing in Australia or not and created at any time.

Local environmental plan or LEP has the same meaning as in the EP&A Act.

LSPS means a local strategic planning statement prepared by Council in accordance with section 3.9 of EP&A Act.

Material includes documents, equipment, software, goods, information and data stored by any means including all copies and extracts of the same.

Milestone means the stages at which Council will complete key parts of the Project as set out in Item 5 of the Agreement Details.

Moral Rights means the right of integrity of authorship (that is, not to have a work subjected to derogatory treatment), the right of attribution of authorship of a work, and the right not to have authorship of a work falsely attributed as defined in the *Copyright Act 1968* (Cth).

Payment means that part of the Funding Amount released for the Project on satisfaction of each Milestone in Item 5 of the Agreement Details.

Personal Information has the same meaning as in the *Privacy and Personal Information Protection Act 1998* (NSW).

Planning proposal has the same meaning as in the EP&A Act.

Project means the project and/or associated activities described in Item 4 of the Agreement Details.

Project Material means all Material:

- brought into existence for the purpose of performing obligations under this Agreement;
- incorporated in, supplied or required to be supplied along with the Material brought into existence for the purpose of performing obligations under this Agreement; or
- copied or derived from Material referred to in this definition above.

Project Plan includes information about the Budget, activities to be undertaken in connection with the Project and timeframe for the delivery of same, in a format specified by the Department. This may include, but is not limited to studies undertaken to inform the nature of the Project.

Project Report includes information about the Project and timeframe to be provided to the Department, usually in a specified format (Attachment 3 to this Agreement). This may include, but is not limited to, financial and statistical information as well as details on the progress and/or outcomes of the Project.

Records includes documents, information and data stored by any means and all copies and extracts of the same relating to the Funding Amount or the Project.

Representative means the Department's representative or Council's representative identified in Item 1 of the Agreement Details, as the context requires.

Special Conditions means the particular requirements specified at Item 2 of the Agreement Details.

Tax Invoice Requirements means Attachment 2 of this Agreement.

Term means the duration of this Agreement, beginning on the Agreement Date and ending on the Acquittal Date.

Unexpended Funding means the Funding Amount paid to Council, or any part of the Funding Amount, that is unspent on the completion of the Project and includes any part of the Funding Amount that is committed but unspent.

Variation Form means Attachment 5 to this Agreement.

Variation means changing an aspect of the Project including changes to the Project Plan, the Milestones or the Budget. Variations must be submitted using a Variation Form and approved by the Department.

1.2 **Interpretation:** Except where the context otherwise requires:

- (a) a singular number includes a reference to a plural number and vice versa;
- (b) a gender includes a reference to the other genders and each of them;
- (c) any person or company will mean and include the legal personal representative, successor in title, and permitted assigns of such person or company as the circumstances may require;
- (d) words and expressions importing natural persons include partnerships, bodies corporate, associations and governmental and local authorities and agents;
- (e) any organisations, associations, societies, groups or bodies will, in the event of them ceasing to exist or being reconstituted, renamed or replaced or if the powers or functions of any of them are transferred to any other entity, body or group, refer respectively to any such entity, body or group, established or constituted in lieu thereof or succeeding to similar powers or functions;
- (f) statutes, regulations, ordinances or by-laws will be deemed for all purposes to be extended to include a reference to all statutes, regulations, ordinances or by-laws amending, consolidating or replacing same from time to time;
- (g) a month will be construed as a reference to a calendar month;
- (h) "includes" and "including" mean by way of example but without limitation;
- (i) monetary references are references to Australian currency;
- (j) where any time limit is pursuant to this Agreement falls on a Saturday, Sunday or public holiday in the State of New South Wales then that time limit will be deemed to have expired on the next Business Day;
- (k) where the parties are comprised of more than one person, each of the parties obligations will bind those persons jointly and severally and will be enforceable against them jointly and severally;
- (l) the headings used in this Agreement are for convenience only and will not affect the interpretation of this Agreement;
- (m) no rule of construction operates to the detriment of a party only because that party was responsible for the preparation of this Agreement or any part of it;
- (n) this Agreement is binding when the first party executes the Agreement; and
- (o) where there occurs a reference to the doing of anything by the Department including giving any notice, consent, direction or waiver, this may be done by any officer we duly authorise.

2. Term

2.1 This Agreement commences on the Agreement Date and will continue for the Term.

2.2 This Agreement may be extended at the sole discretion of the Department for a period and on such amended terms as agreed between the parties in writing.

2.3 Council must:

- (a) commence the Project no later than the Project Commencement Date specified in Item 4 of the Agreement Details; and
- (b) complete the Project no later than the Project Completion Date specified in Item 4 of the Agreement Details.

3. Provision of Funding Amount

3.1 Funding Amount

- (a) The Department will provide up to a maximum of the Funding Amount to Council for the Project. The Funding Amount will be paid to Council by instalments as specified in Item 5 of the Agreement Details, and subject to the terms of this Agreement.
- (b) Council agrees to receive the Funding Amount in accordance with, and subject to the terms of, this Agreement.

3.2 **Timing of payment:** The Department will provide Payment for Milestone 1 on the Agreement Date. Prior to the Department making any subsequent Payments in accordance with clause 3, Council must provide to the Department a request for Payment with:

- (a) a valid tax invoice (including itemisation of the GST component) in accordance with the Tax Invoice Requirements for the relevant portion of the Funding Amount requested; and
- (b) a Project Report which has been prepared not more than 2 months before the date of request for Payment by Council. On request by the Department, Council must also provide additional supporting documentation relating to the Project.

3.3 **Use of Total Funding Amount:** Council must only use the Funding Amount for the Project.

3.4 **Project Costs**

Council acknowledges and agrees that the Funding Amount for the Project is the maximum amount to be paid towards the carrying out of the Project and that Council:

- (a) is responsible for any costs that may be incurred at any time that exceed the Funding Amount for the Project (whether or not Council expected to incur such costs); and
- (b) must procure any additional funding above the Funding Amount that is necessary to carry out the Project as described in this Agreement in order to ensure the Project is delivered in accordance with the terms of this Agreement.

3.5 **Right to withhold funding**

The Department may withhold all or part of the Funding Amount if the Department determines that Council:

- (a) has not carried out the Project (or achieved any of the Milestones) in accordance with this Agreement;
- (b) has failed to meet any reporting requirements under this Agreement;

- (c) has not spent the Funding Amount in accordance with this Agreement; or
- (d) has breached any other term of this Agreement.

For the avoidance of doubt, if the Department withholds any part of the Funding Amount, Council must continue to perform its obligations under this Agreement.

3.6 Repayment of Funding

Without limiting the Department’s rights under this Agreement, the Department may by notice in writing recover some or all of the Funding Amount from Council (as a debt due and payable on demand) in any of the circumstances set out below:

- (a) Council is paid more than the Funding Amount;
- (b) Council has incorrectly claimed a Payment of some or all of the Funding Amount;
- (c) Council abandons the Project (whether or not the Department has terminated the Agreement in accordance with clause 19) and does not resume performance of the Project within 10 Business Days after receiving notice requiring it to do so;
- (d) any part of the Funding Amount is unspent at the expiry of the Term; or
- (e) Council has not spent the Funding Amount in accordance with this Agreement.

3.7 Right to recall Funding Amount: Without limiting the Department’s rights under this Agreement, if:

- (a) Council breaches this Agreement and Council fails to remedy that breach within a reasonable time following receipt of a written request from the Department; or
- (b) the Department terminates this Agreement under clause 19,

the Department may, by notice in writing, require the refund of the Funding Amount (or any part of it).

3.8 If the Department exercises its rights in accordance with clause 3.6 or clause 3.7, Council must repay or refund:

- (a) the full amount of the Funding Amount; or
- (b) the part of the Funding Amount,

as specified in the notice within 20 Business Days after the date of the notice.

3.9 If any dispute arises regarding the refund of the Funding Amount, the parties must attempt to resolve the dispute in accordance with clause 21 (Dispute Resolution).

3.10 The Department making any Payment under this Agreement does not constitute an admission that the performance of any part of the Project is in conformity with this Agreement and no Payment will be deemed to release Council from its obligations under this Agreement.

4. Bank Account

4.1 To process and record all Payments, Council must maintain either:

- (a) a separate account at a financial institution used solely in connection with the Funding, or

| | |
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| Council | |
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- (b) an existing general account at a financial institution where adequate internal financial controls are in place for the identification of the Payments,

which is an authorised deposit-taking institution, located in New South Wales, including a bank, credit union or building society ('bank account').

4.2 Any interest earned on the Payments held in a bank account must be used solely for the purpose of the Project.

4.3 If the Project and its implementation is delayed for any reason, the Payments already made under this Agreement in respect of the Project must be held in the bank account until:

- (a) they are applied solely for the purpose of the Project, or
- (b) they are required to be repaid or refunded to the Department in accordance with the terms of this Agreement.

4.4 Without limiting Council's obligations under this Agreement, Council must, on request from the Department, provide evidence of the separate financial controls in place in relation to the Funding Amount, including bank statements if required by the Department.

5. Conduct of the Project and Milestones

5.1 Council must:

- (a) as soon as practicable after the Agreement Date, prepare a Project Plan and provide the Project Plan to the Department for the Department's review and approval. Council must make any amendments to the Project Plan reasonably required by the Department. Once the Project Plan has been approved by the Department, Council authorises the Department to insert the approved Completion Dates in Item 5 of the Agreement Details;
- (b) carry out the Project:
 - (i) lawfully, diligently, efficiently, safely, using all proper care and to a high professional standard;
 - (ii) in accordance with the terms and conditions of this Agreement and any Variation approved by the Department from time to time;
 - (iii) in accordance with all laws, policies, guidelines and reasonable directions from the Department or GSC;
 - (iv) in accordance with the Project Plan agreed to between the parties in writing and approved by the Department; and
 - (v) in accordance with any Special Conditions, and
- (c) ensure that all personnel, contractors, subcontractors or project partners employed or engaged by Council to work in connection with any part of the Project comply with the requirements in this clause.

5.2 Council must complete, to the satisfaction of the Department:

- (a) each Milestone; and
 - (b) each obligation or requirement imposed by each Milestone,
- on or before the date specified for the completion of that Milestone.

6. Project Reporting

- 6.1 In addition to the requirement under clause 3.2(b), Council must provide a Project Report to the Department every 3 months during the Term. Council must provide the Project Reports to the Department regardless of Council's progress in carrying out the Project.
- 6.2 Each Project Report must be in the format set out in Attachment 3 to this Agreement and must address the matters specified, including the extent to which (and the times at which) Milestones have been completed, and whether the relevant outputs or outcomes in the table in Item 5 have been realised. Any major changes to the Project and any major issues arising out of the Project must be outlined in the Project Report.
- 6.3 Each Project Report must be endorsed by Council's representative identified in Item 1 of the Agreement Details before being provided to the Department.
- 6.4 Council must, within 10 Business Days after a request, provide the Department with any additional Project Report or Records the Department requires.
- 6.5 Council must participate in any survey or feedback request made by the Department, whether during or after the actual completion of the Project, including any:
- (a) confirmation questionnaire regarding the benefits of assistance received from the Department;
 - (b) independent survey of the Department's service levels and the effectiveness of assistance provided; and
 - (c) the Department's survey of Project outcomes.

7. Project Review and Evaluation

- 7.1 Council must make and keep full and accurate records of the Project including progress against the Milestones, the use of the Funding Amount, the purchase of any assets (if applicable under this Agreement) and the creation of Intellectual Property Rights in the Project (**Records**) and must retain such Records for a minimum of 7 years after expiry or termination of this Agreement.
- 7.2 The Department may at its expense during (or after) the Term in its discretion conduct audits of invoices and reports that Council has submitted to the Department pursuant to this Agreement, or any Records.
- 7.3 The Department may, at Council's cost, appoint an Approved Auditor to conduct audits under this Agreement.
- 7.4 The Department is entitled to audit the quantum of the Funding Amount expended upon the Project and for that purpose Council:
- (a) will permit reasonable access to and the copying of Council's financial and other records by any appropriate person duly authorised by the Department;
 - (b) will answer all reasonable enquiries by any person duly authorised by the Department; and
 - (c) will provide reasonable assistance to any person duly authorised by the Department in the conduct of the audit or inspection.
- 7.5 Council must if required provide the Auditor-General of NSW with access to accounting records and documentation in respect of Funding Amount provided under this Agreement.

7.6 Council's representative identified in Item 1 of the Agreement Details must keep the Department up-to-date on all matters relevant to this Agreement and must communicate with the Department's representative as required on a regular basis.

7.7 Council must give the Department further information or Records within 10 Business Days after a request, or explanations as reasonably required, before the Department accepts Council's information, explanations or significant variations.

8. Project Finalisation

8.1 Council must provide to the Department within 3 months after the actual completion of the Project, an Acquittal Certificate in the format set out in Attachment 4 to this Agreement.

8.2 The Acquittal Certificate must be endorsed by Council's representative identified in Item 1 of the Agreement before being provided to the Department.

9. Project Responsibility

9.1 Council acknowledges and agrees that it is solely responsible for delivery and completion of the Project within the terms and conditions of this Agreement.

9.2 Council remains fully responsible for the performance of the Project if Council subcontracts the performance of any part of the Project. Council must ensure that all contractors, subcontractors or project partners (if any) have appropriate skills, qualifications and experience, and hold the appropriate licences and insurances, for the work they have been engaged to perform.

9.3 Council must ensure that it, and any organisation or person engaged to carry out work, adhere to all regulatory requirements associated with carrying out the Project.

9.4 Neither NSW Government nor the Department accept any responsibility or liability for works carried out and bear no responsibility for the Project.

10. Acknowledgement and Publicity

10.1 Council must acknowledge the Funding Amount received from the Department for the Project in accordance with the NSW Government's Funding Acknowledgement Guidelines for Councils of NSW Government infrastructure grants (available at https://www.dpc.nsw.gov.au/about/publications/grants_administration/funding_acknowledgement_guidelines).

10.2 Council must, unless the Department agrees otherwise, use the NSW Government's Waratah logo as set out at <https://sc.dpc.nsw.gov.au/resources/branding/> in conjunction with all acknowledgements of NSW Government support in accordance with the Funding Acknowledgement Guidelines.

10.3 If the Department advises Council that Commonwealth Government funding forms part of the Funding Amount, then Council must, acknowledge the portion of Commonwealth funding in accordance with any requirements specified by the Department.

10.4 Council must provide the Department with at least 15 Business Days' notice of any proposed announcements, launches or public events relating to the Project, and provide an opportunity for a representative of the NSW Government to attend and speak at the launch or event.

10.5 The Department may, in its sole discretion, issue public communications on the Project, the purpose of the Project, identity of Council and the Funding Amount to Council. Where practicable to do so, the Department will give notice of such communications and their content to Council.

10.6 If the Department determines that the Project (or any part of it) is not consistent with the purposes for which Council was funded, and the Department gives Council written notice of this, Council must promptly remove the Department's acknowledgement and logo from all programs,

promotional material and other printed or electronic material and publications relating to the Project.

11. GST

- 11.1 The parties acknowledge and agree that the provision of the Funding Amount by the Department to Council is not consideration for a supply for GST purposes. The Department is not liable to pay to Council an amount equal to GST payable on the supply (**GST Amount**) in addition to the Funding Amount.
- 11.2 Despite clause 11.1, if the provision of the Funding Amount is determined to be a taxable supply liable for GST, Council acknowledges and agrees that the Funding Amount is inclusive of GST and will not be increased by the amount of Council's GST liability. Council will pay any GST Amount on the supply and will not seek reimbursement from the Department or request it to attend to payments of the GST Amount.
- 11.3 Council acknowledges that it will be liable for GST on the supply of goods and services acquired with the Funding Amount. Council will pay that GST Amount and will not seek reimbursement from the Department or request it to attend the payment of that GST Amount.
- 11.4 Subject to this clause, Council warrants that it is registered for GST purposes as at the date of this Agreement and will continue to be so for the Term.
- 11.5 Subject to this clause, any invoice rendered by Council in connection with a supply under this Agreement must conform to the requirements for a tax invoice under the GST Law as set out in the Tax Invoice Requirements.

12. Compliance with law

- 12.1 Council agrees:
- (a) to comply with all applicable standards, laws, regulations policies and statements for the Project;
 - (b) not to do anything that would cause the Department to breach its obligations under any legislation.
- 12.2 Council must hold all rights, permissions, approvals and consents required to conduct the Project and otherwise fulfil its obligations under this Agreement.
- 12.3 Council must, within 5 Business Days after receiving a written request from the Department, provide the Department with immediate access to information that the Department advises Council is required to be disclosed in accordance with the Department's obligations under the GIPA Act.

13. Indemnity and release

- 13.1 Council must at all times indemnify and keep indemnified, hold harmless and defend the Department, the Crown in right of the State of New South Wales and its officers, employees and agents (**those indemnified**) from and against any liability or loss (including reasonable legal costs and expenses), which is suffered or incurred by, or made against, any of those indemnified arising directly or indirectly from any Claim by any person as a result of or in connection with any of the following:
- (a) a breach of this Agreement by Council;
 - (b) any unlawful, wrongful, wilful or negligent act or omission of Council, or the officers, employees, agents, contractors, subcontractors or volunteers of Council, in connection with this Agreement; or

- (c) any act or omission by Council, Council's employees, contractors or subcontractors in connection with this Agreement that is in infringement of any Intellectual Property, or privacy rights of the Department or any third party.
- 13.2 The liability of Council to indemnify those indemnified under this Agreement will be reduced proportionally to the extent that any unlawful, wrongful, wilful or negligent act or omission of those indemnified caused or contributed to the liability or loss.
- 13.3 The indemnity contained in this clause is a continuing obligation of Council separate and independent of any other responsibility of Council and will continue beyond the Term.
- 13.4 Council agrees to release and discharge those indemnified from any action, proceedings, Claim or demand which, but for this provision, might be brought against or made upon those indemnified.

14. Insurance

- 14.1 Council must take out and maintain during the Term all appropriate insurance policies including, but not limited to:
- (a) workers compensation insurance as required by law (or personal income protection insurance in the instance of Council being a business) for all employees involved in the delivery of the Project.
 - (b) public liability insurance to the value of not less than \$20 million in respect of each and every occurrence and unlimited in the aggregate for any one period of cover.
 - (c) insurance over all assets used in connection with the Project funded or partly funded by the Funding Amount, for their full replacement value.
- 14.2 On request by the Department, Council must provide a copy of valid and current certificates of currency for the insurance and/or a warranty from its insurer that the policy extends to the Department and covers potential liability arising under this Agreement.
- 14.3 Council must not do, permit or suffer any act, matter or thing or omission whereby the policy referred to in this clause may be vitiated, rendered void or voidable.

15. Intellectual property

- 15.1 Council owns the Intellectual Property Rights in all Project Material, subject to clause 15.2. Nothing in this clause affects the ownership of any Intellectual Property Rights in any Existing Materials.
- 15.2 Council grants, and must arrange for any relevant third party to grant, to the Department and the GSC, without cost, a perpetual, irrevocable, worldwide, non-exclusive licence (including a right of sublicense) to use the Intellectual Property Rights in the Project Material for the Specified Acts (as defined in clause 15.3).
- 15.3 For the purposes of clause 15, the 'Specified Acts' means any of the following classes or types of acts or omissions by or on behalf of the Department:
- (a) using, reproducing, communicating (including communicating to the public), modifying or adapting all or any part of the Project Material, with or without attribution of authorship;
 - (b) supplementing the Project Materials with any other Material;
 - (c) using the Project Materials in a different context to that originally envisaged.
- 15.4 The Department grants Council a perpetual, irrevocable, worldwide non-exclusive licence to use the Department's Existing Material (including copying it and supplying it to others), but only for

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| Council | |
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the purposes of this Agreement. Council uses any of the Department's Existing Material at its own risk.

15.5 Council must ensure that it has obtained all relevant Moral Rights consents in writing in connection with the Project Material and licences under clause 15.2. The consents must cover acts done before or after the date of the consent, and whether done by the Department or by someone claiming under or through the Department. On request by the Department, Council must provide the Department with the original of the consent.

15.6 On request by the Department, Council must bring into existence, sign or otherwise deal with any document which is considered necessary or desirable to give effect to this clause 15.

16. **Confidentiality**

16.1 **Obligation to keep confidential:** Each party must keep the Confidential Information of each other party in confidence and not disclose the Confidential Information to any person without the other party's prior written consent, subject to clauses 16.2 and 16.3.

16.2 **Limited Disclosure:** A party may disclose the Confidential Information of another party to their personnel and legal and professional advisors provided they ensure that the such persons:

- (a) keep the Confidential Information confidential; and
- (b) do not use the Confidential Information except for the purposes of this Agreement.

16.3 Council acknowledges that the Department may disclose certain information in relation to the Agreement (including Confidential Information), in accordance with the Department's obligations under the GIPA Act including making certain information about the Agreement publicly available in any disclosure log of contracts that the Department is required to maintain under the GIPA Act.

17. **Privacy**

17.1 Council will:

- (a) ensure that Personal Information that is provided by the Department or collected by Council under or in connection with this Agreement is used only for the purposes of this Agreement and is protected against loss, authorised access, use modification and disclosure, or against other misuse;
- (b) not disclose any Personal Information without the prior written consent of:
 - (i) the individual to whom the Personal Information relates; or
 - (ii) the Department,unless otherwise required or authorised by law;
- (c) comply with the Information Protection Principles applying to NSW public sector agencies under the *Privacy and Personal Information Protection Act 1998* (NSW) when doing any act or engaging in any practice in relation to Personal Information as if Council were an agency directly subject to that Act; and
- (d) include equivalent requirements regarding Personal Information (including this clause 18) in any subcontract entered into for conducting the Project under this Agreement.

18. **Variation**

18.1 Written agreement between the parties must be obtained for any variation to:

- (a) this Agreement; and

(b) any of the matters outlined in the attachments to this Agreement.

18.2 A variation under clause 18.1(b) must be made in accordance with the Variation Form (Attachment 5 to this Agreement) or any other variation document required by the Department in its reasonable discretion.

19. **Ending this Agreement**

19.1 **Termination for default:** The Department may terminate this Agreement immediately by notice in writing to Council if any of the following occur:

- (a) Council breaches any of its obligations under this Agreement and the Department considers that the breach cannot be rectified or Council has failed to remedy a breach of this Agreement within 10 Business Days of receiving a Notice to Remedy from the Department;
- (b) Council varies the Project without the Department's written approval;
- (c) Council fails to satisfactorily meet the Milestones or deliver the Project or the Department considers that the Project is no longer viable;
- (d) Council acts in a manner that will cause damage to the Department's reputation;
- (e) Council does not use the expertise, skill, diligence and care in carrying out the Project, as outlined in this Agreement, to be expected from an experienced provider of activities of this nature;
- (f) Council is not properly certified or accredited to undertake the Project, as outlined in this Agreement; or
- (g) Council does not lawfully carry out the Project, as outlined in this Agreement, in a timely manner.

19.2 The Department is not liable to pay Council any compensation or costs if this Agreement is terminated in accordance with clause 19 and Council irrevocably and unconditionally releases the Department, the Crown in right of the State of New South Wales and their officers, employees and agents in respect of such termination.

20. **Obligations when this Agreement ends**

20.1 **Rights and remedies not prejudiced:** Any termination of this Agreement by the Department is without prejudice to any accrued rights or remedies of the Department.

20.2 **Survival:** Clauses 7 (Project Review and Evaluation), 13 (Indemnity and release), 14 (Insurance) 15 (Intellectual Property), 16 (Confidentiality), 17 (Privacy) and this clause 20 (Obligations when this Agreement ends) and any other clause of this Agreement which by its nature should survive termination will survive termination, expiry or repudiation of this Agreement.

21. **Dispute Resolution**

21.1 The parties must attempt to settle any dispute in relation to this Agreement in accordance with the following provisions, before resorting to court proceedings or other dispute resolution process.

- (a) A party claiming that a dispute has arisen must notify the other party in writing giving details of the dispute (Dispute Notice) in accordance with the requirements of clause 21.
- (b) Following receipt of a Dispute Notice, each party must refer the Dispute to a senior representative, who:

- (i) does not have prior direct involvement in the Dispute; and
 - (ii) has authority to negotiate and settle the Dispute.
- (c) If the dispute is not resolved within 14 Business Days or within such further period as the parties agree in writing, from the date the Dispute Notice is received by the party to whom the Dispute Notice is given, the party which gave the Dispute Notice under clause 21.1(a) must refer the dispute to the Australian Disputes Centre Limited (ADC) for resolution in accordance with the mediation rules of the ADC.
- (d) If the dispute is not resolved within 28 Business Days (or such other period as agreed to in writing between the parties) after appointment of the mediator, or if no mediator is appointed within 28 days of the referral of the dispute to mediation, the parties may pursue any other procedure available at law for the resolution of the dispute.
- (e) Each party must pay its own costs of complying with this clause 21 and split the costs of the mediator evenly.
- (f) Nothing in this clause 21 (Dispute Resolution) will prevent either party from seeking urgent interlocutory relief.

22. Notices

22.1 **Change of contact details:** The parties must inform each other within seven (7) days of any changes to its contact details set out in Item 1 of the Agreement Details.

22.2 **Notice Requirements:** A notice under this Agreement must be:

- (a) in writing, directed to the Representative of the other party as set out in Item 1 of the Agreement Details; and
- (b) forwarded to the address, facsimile number or the email address of that Representative as set out in Item 1 of the Agreement Details.

22.3 **When a notice is served:** A notice under this Agreement will be deemed to be served:

- (a) in the case of delivery in person – when delivered to Council’s address for service and a signature received as evidence of delivery;
- (b) in the case of delivery by post – on the day which is within four (4) Business Days after the date of posting;
- (c) in the case of delivery by facsimile – at the time of dispatch if the sender receives a transmission report which confirms that the facsimile was sent in its entirety to the facsimile number of Council; or
- (d) in the case of delivery by email – at the time sent, unless the sender is notified, by a system or person involved in the delivery of the email, that the email was not successfully sent.

22.4 **Delivery late in the day:** Notwithstanding clause 22 (Notices), if delivery or receipt of a Notice is on a day which is not a Business Day or is after 5pm on a Business Day, then it will be deemed to have been received on the next Business Day in that place.

23. General

23.1 **Entire agreement:** This Agreement constitutes the entire agreement and understanding between the parties as to the subject matter of this Agreement. Any prior arrangements, representations or undertakings as to the subject matter of this Agreement are superseded.

- 23.2 **Non-waiver:** A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or a further exercise of that or another right, power or remedy. A waiver of right, power or remedy must be in writing and signed by the party giving the waiver.
- 23.3 **Conflict of interest:** Council warrants that at the date of this Agreement, no Conflict of Interest exists or is likely to arise in relation to execution of this Agreement or its subject matter. Council must immediately notify the Department, in writing, upon becoming aware of the existence, or possibility, of a Conflict of Interest and must comply with any reasonable directions of the Department to appropriately manage the Conflict of Interest, within the time frame stipulated by the Department in writing.
- 23.4 **Assignment:** Council must not assign or novate obligations or interests under this Agreement without the prior written consent of the Department.
- 23.5 **Severability:** If any part of this Agreement is prohibited, void, illegal or unenforceable, then that part is severed from this Agreement but without affecting the continued operation of the remainder of the Agreement.
- 23.6 **Relationship:**
- (a) Nothing in this Agreement is intended to create a partnership, joint venture, employment or agency relationship between the parties; and
 - (b) A party will not hold itself out to be an employee, partner, agent or representative of the other party.
- 23.7 **Applicable law:** This Agreement is governed by, and must be construed in accordance with, the laws in force in the state of New South Wales.
- 23.8 **Governing jurisdiction:** The parties submit to the exclusive jurisdiction of the courts exercising jurisdiction in the State of New South Wales and the courts of appeal therefrom.
- 23.9 **Further assurance:** Each party must promptly execute all documents and do all things required by law, or that the other party from time to time reasonably requests, to effect, perfect or complete this Agreement and all transactions incidental to it.
- 23.10 **Counterparts:** This Agreement may be signed in any number of counterparts which taken together will constitute one instrument.

ATTACHMENT 1 AGREEMENT DETAILS

Item 1: Contact Details

| | |
|-----------------------|----------------------------------|
| The Department | |
| Address: | 320 Pitt Street, Sydney NSW 2000 |
| Representative: | |
| Email: | |
| Phone: | |

| | |
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| Council | |
| Address: | |
| Representative: | |
| Email: | |
| Phone: | |

Item 2: Special Conditions (amendments to standard conditions)

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Item 3: Funding Amount

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|------------------------|----------------|
| Funding Amount: | \$2,500,000.00 |
|------------------------|----------------|

Item 4: Project

| | |
|-----------------------------------|---|
| Project Commencement Date: | <ul style="list-style-type: none"> ▪ Agreement Date; or ▪ 1 June 2018, whichever occurs earlier |
| Project Completion Date: | 30 June 2020 |
| Project Description: | |

Item 5: Payment Milestones

| Milestone | Funding Amount | Completion Date |
|--|----------------|-----------------|
| Milestone 1 Agreement Date | \$250,000.00 | |
| Milestone 2 Approval of Project Plan | \$500,000.00 | |
| Milestone 3 Exhibition of draft LSPS | \$625,000.00 | |
| Milestone 4 Submission of Planning proposal for Gateway determination | \$625,000.00 | |
| Milestone 5 Submission of Planning proposal to the Secretary to arrange for the drafting of the updated LEP Completion of the Project | \$500,000.00 | 30 June 2020 |

Note: The timeframe for the delivery of activities to be undertaken in connection with the Project will be detailed in the Project Plan approved by the Department. Those dates will inform the Completion Dates.

Item 6: Acquitting the Funding Amount

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| Acquittal Date | 3 months after: <ul style="list-style-type: none">• actual completion of the Project; or• earlier termination of this Agreement, whichever occurs first. |
|-----------------------|---|

To comply with the Department's reporting requirements, Council must use the Acquittal Form attached to this Agreement in Attachment 4.

Council must disclose the Funding Amount separately in Council's Audited Financial Statements both as income and any unexpended funding.

All Tax Invoices must:

- i. be addressed to the Department's head office; and
- ii. prominently be identified as "Tax Invoice".

and contain:

- iii. Council's name;
- iv. Council's ABN;
- v. the milestone payment reference (i.e. 1st milestone);
- vi. the amount requested;
- vii. the GST component (listed separately to the amount requested); and
- viii. the total amount requested.



Part 1 – Quarterly Project Status Update Report

| | | | |
|-------------------------------|--|---------------------------|--|
| Council Name: | | Reporting Period: | |
| Date of Report: | | Project Manager: | |
| Project Manager: (Council) | | Total Approved Funding | |

| | |
|--|--|
| Project Update | |
| What progress has occurred since the last project payment? Which milestones have been completed? | |
| Is there a change to the methodology, timeframe or milestones of the project as stated in the project plan and has this been submitted to the Department via a Project Variation Form? | |
| Any comments/issues in relation to the project? Please outline any risks or problems associated with the project. | |

| Funds and Expenditure (all costs exclude GST) | | | | |
|---|--|---------------------------------------|---------------------|--------------------------|
| Workplan Task/Component | Total Funding (Funding Agreement) ex GST | Total of all previous payments ex GST | This payment ex GST | Balance remaining ex GST |
| | | | | |

| | | |
|--------------------------|------------|---|
| Council's Representative | | Department of Planning & Environment Representative |
| | Signature: | |
| | Name: | |
| | Position: | |
| | Date: | |

Part 2– Project Status Update Report when requesting a Payment Milestone

| | | | | | | | | |
|-------------------------------------|-------------|------------------------|---------------|---------------------------------------|-------------------------------|-----------|---|----------|
| Council Name: | | | | | | | | |
| Date of Report: | | Reporting Period: | | | | | | |
| Project Manager: | | Project Manager: | | | | | | |
| (Council) | | Total Approved Funding | | | | | | |
| Description of Milestone completed: | | | | | | | | |
| | | | | | | | | |
| Achievements: | | | | | | | | |
| | | | | | | | | |
| Change in methodology / timeframe | | | | | | | | |
| | | | | | | | | |
| Key Milestones: | Milestone | Target Date | Forecast Date | Status | Program Comments | | | |
| | Milestone 1 | | | ● | | | | |
| | Milestone 2 | | | ● | | | | |
| | Milestone 3 | | | ● | | | | |
| | Milestone 4 | | | ● | | | | |
| | Milestone 5 | | | ● | | | | |
| | Other | | | ● | | | | |
| | | | | | ^ copy colour code from below | | | |
| Status Key: | ● | On Track | ● | Generally on track, with minor issues | ● | Off Track | ● | Complete |

| | | | | | |
|--|--|---------------------------------------|------------------------------|--------------------------------|-------|
| Issues/Risks/ Escalations: | Description/Action/Response | | Date Raised | Date Required | Owner |
| | | | | | |
| | | | | | |
| | | | | | |
| Communications & Stakeholder Activities: | Key Meetings/Event | Date | Outcomes & Actions | | |
| | | | | | |
| Key progress in this milestone | | | | | |
| Key activities for next milestone | | | | | |
| Additional Comments: | | | | | |
| | | | | | |
| Attachments | A. Cost Report | B. Gantt Program | C. Photographs if applicable | D. Published Reports/Materials | |
| Comments : | | | | | |
| Funds and Expenditure (all costs exclude GST) | | | | | |
| Workplan Task/Component | Total Funding (Funding Agreement) ex GST | Total of all previous payments ex GST | This payment ex GST | Balance remaining ex GST | |
| | | | | | |

| | | |
|---------------------------------|------------|--|
| Council's representative | | Department of Planning and Environment representative |
| | Signature: | |
| | Name: | |
| | Position: | |
| | Date: | |



ATTACHMENT 4 ACQUITTAL CERTIFICATE

To be completed at the end of the Project.

Table with 4 columns and 5 rows for project details including Council's Name, Date of Report, Project Manager, Project Name, Department Branch, Project, Project Manager (Department), Value of funding ex GST, and Value of funding inc GST.

I, the undersigned, confirm that:

An amount equal to the total grant funds paid by the Department of Planning & Environment (\$.....excluding GST) has been expended on this Project in accordance with the terms and conditions of the Funding Agreement dated with the Department.

AND

A complete set of accounting and financial records relevant to the Project have been maintained.

Form with five rows for signature details: Date, Signature, Name, Council, and Position.



PROJECT VARIATION (Revision X) Date: _____

Between

Department of Planning and Environment (“the Department”)

And

(“Council”)

ABN Number

1. Revised Project Plan

[Provide a brief summary of the current status of the project and why a Project Variation is required]

[Provide details of the remaining milestones and the original and revised due dates for each item.]

Revised Project Workplan

| Milestone Number | Description of Milestones | Original Milestone Due Date | Revised Milestone Due Date | Responsibility | Output (to align with revised Stage Funding Amounts table) |
|------------------|---------------------------|-----------------------------|----------------------------|----------------|--|
| | | | | | |
| | | | | | |

2.Revised Stage Funding Amounts Table

| Stage Number | Payment Milestone | Revised Stage Funding Amounts Due | Milestone | Payment amount ex GST | Payment amount inc GST |
|--------------|-------------------|-----------------------------------|-----------|-----------------------|------------------------|
| | | | | | |
| | | | | | |

3.Project Reporting Schedule

| | |
|-------------------------------------|--|
| Original Project Commencement Date: | |
| Original Project Completion Date: | |
| Revised Project Completion Date: | |

| | |
|--|--|
| Has a previous Project Variation been requested: | |
|--|--|

| Revised/Additional Project Report Number | Revised Due Date |
|--|------------------|
| | |
| | |
| | |

Prepared by Council:

Agreed to by Department

Signature: _____
Name: _____
Position: _____
Date: _____

Signature: _____
Name: _____
Position: _____
Date: _____

Accelerated LEP review and update

| | | 2018 | | | | | | | 2019 | | | | | | | | | | | | 2020 | | | | | |
|---|---|------|------|-----|-----|-----|-----|-----|------|-----|-----|-----|-----|------|------|-----|-----|-----|-----|-----|------|-----|-----|-----|-----|------|
| Task | | June | July | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | June | July | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | June |
| Phase 1 LEP review (Health Check) | Technical Working Groups (TWG) | █ | | | | | | | | | | | | | | | | | | | | | | | | |
| | Sign Funding Agreement | █ | █ | | | | | | | | | | | | | | | | | | | | | | | |
| | LEP review report | | █ | █ | | | | | | █ | | | | | | | | | | | | | | | | |
| | Finalise project plan | | | | | █ | █ | █ | | | | | | | | | | | | | | | | | | |
| Phase 2 Draft LSPS | Undertake studies | | | | | █ | █ | █ | █ | █ | █ | █ | █ | █ | █ | █ | █ | █ | █ | | | | | | | |
| | Prepare and exhibit draft LSPS | | | | | █ | █ | █ | █ | █ | █ | █ | | | | | | | | | | | | | | |
| Phase 3 Final LSPS | Review submissions and implementation options | | | | | | | | | █ | █ | █ | █ | █ | █ | | | | | | | | | | | |
| | Finalise LSPS | | | | | | | | | | | █ | █ | █ | █ | █ | █ | █ | █ | | | | | | | |
| Phase 4 Gateway | Prepare planning proposal | | | | | | | | | | █ | █ | █ | █ | █ | █ | | | | | | | | | | |
| | Gateway determination | | | | | | | | | | | | | | █ | █ | █ | █ | █ | | | | | | | |
| Phase 5 Exhibition of draft LEP | Prepare consultation material | | | | | | | | | | | | | | | | | | █ | █ | | | | | | |
| | Exhibit planning proposal | | | | | | | | | | | | | | | | | | | | █ | █ | | | | |
| | Finalise planning proposal | | | | | | | | | | | | | | | | | | | | | █ | █ | █ | | |
| Phase 6 Plan making | Submit final planning proposal to DPE | | | | | | | | | | | | | | | | | | | | | | | █ | | |

MAY 2018



LEP ROADMAP

Guidelines for updating
Local Environmental Plans
to give effect to the District Plans
in the Greater Sydney Region

Contents

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May 2018

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Introduction

The release of the Greater Sydney Region Plan - A Metropolis of Three Cities and the five supporting District Plans in March 2018 clearly establishes the future vision for Greater Sydney to 2056. The alignment of these Plans with Infrastructure NSW's State Infrastructure Strategy and Transport for NSW's Future Transport 2056, means there is a unique opportunity for all levels of Government to coordinate implementation to align infrastructure with growth.

This is reinforced by recent amendments to the Environmental Planning and Assessment Act 1979 which embed a statutory requirement for councils to review and amend their Local Environmental Plans (LEP) as soon as practicable after a District Plan is made. Together with the introduction of local strategic planning statements (LSPS), these initiatives put into practice the NSW Government's policy shift towards upfront strategic planning.

In June 2017 the NSW Government released 'A plan to improve housing affordability', a comprehensive package of measures designed to improve housing affordability across NSW, with an emphasis on Greater Sydney where the housing affordability challenge is the greatest. These measures take into account the difficulty that first home buyers face in entering the market, the state's growing population and the need to ensure that development occurs in the right places, close to essential infrastructure such as public transport and schools.

The NSW Government is committed to providing a diverse range of housing to meet the growing population. However, housing needs to be in the right areas, and needs to be the right type, taking into consideration both the unique character of local neighbourhoods and the infrastructure required to service those communities. This aligns with the Region Plan's 30 minute city vision where most residents live within 30 minutes of jobs, education, health facilities, services and great places.

Under the Western Sydney City Deal, funding is available to six high growth areas to assist those councils with their strategic planning. The NSW Government has announced an additional seven councils to receive up to \$2.5 million each to support them to update their LEPs within two years. Other councils in Greater Sydney have been invited to apply for funding which will be available to an additional five councils to update their LEPs within two years. The Government seeks to work collaboratively with councils to complete the region's hierarchy of strategic planning through the review and updating of LEPs to give effect to the District Plans of Greater Sydney.

Purpose

The purpose of this document is to provide guidance on the process for updating LEPs to give effect to the District Plans.

The LEP Roadmap can be used by all councils in Greater Sydney who are required to update their LEPs, so that they align with the new District Plans. The timeframes specified in this guidance highlight where timeframes have been accelerated for councils who have been selected to review and update their LEPs within 2 years of the District Plans being released, rather than within 3 years.

Structure

The LEP Roadmap is divided into the following sections:

- Introduction, which outlines the purpose and structure of this document.
- Legislative context, outlines the interrelationship between the levels of strategic and statutory planning in NSW.
- Key outcomes to be achieved, outlines the process to review Local Environmental Plans to give effect to the District Plans.
- LEP review template (Appendix 1) provides a framework to satisfy the statutory requirements of the Act.
- Timeline (Appendix 2) provides an indicative overview of the key steps and timeframes.

Structure (cont.)

Additional material to support councils will be progressively released by the Department of Planning and Environment, in consultation with the Greater Sydney Commission (GSC), including guidance on:

- the preparation of local character statements
- the preparation of local housing strategies
- the role and function of local strategic planning statements
- identification of housing targets (6-10 years) and 20-year capacity
- infrastructure funding, including updating of contributions plans
- strategic issues such as open space and recreation, accessibility, environment, industrial lands, employment and social infrastructure

Legislative Context

The Environmental Planning and Assessment Act 1979 (the Act) is the principle planning and development assessment legislation in New South Wales. The Act was amended in November 2017, commencing in March 2018, to shift the emphasis from a regulatory focus to one that strengthens the role of upfront strategic planning and community participation. The goal is to provide a logical progression from macro (national, State and regional issues) to micro (local planning issues), whereby planning is able to achieve shared outcomes that better reflect the context and nature of the local community. This leads to a more connected, functional and cohesive planning at all levels.

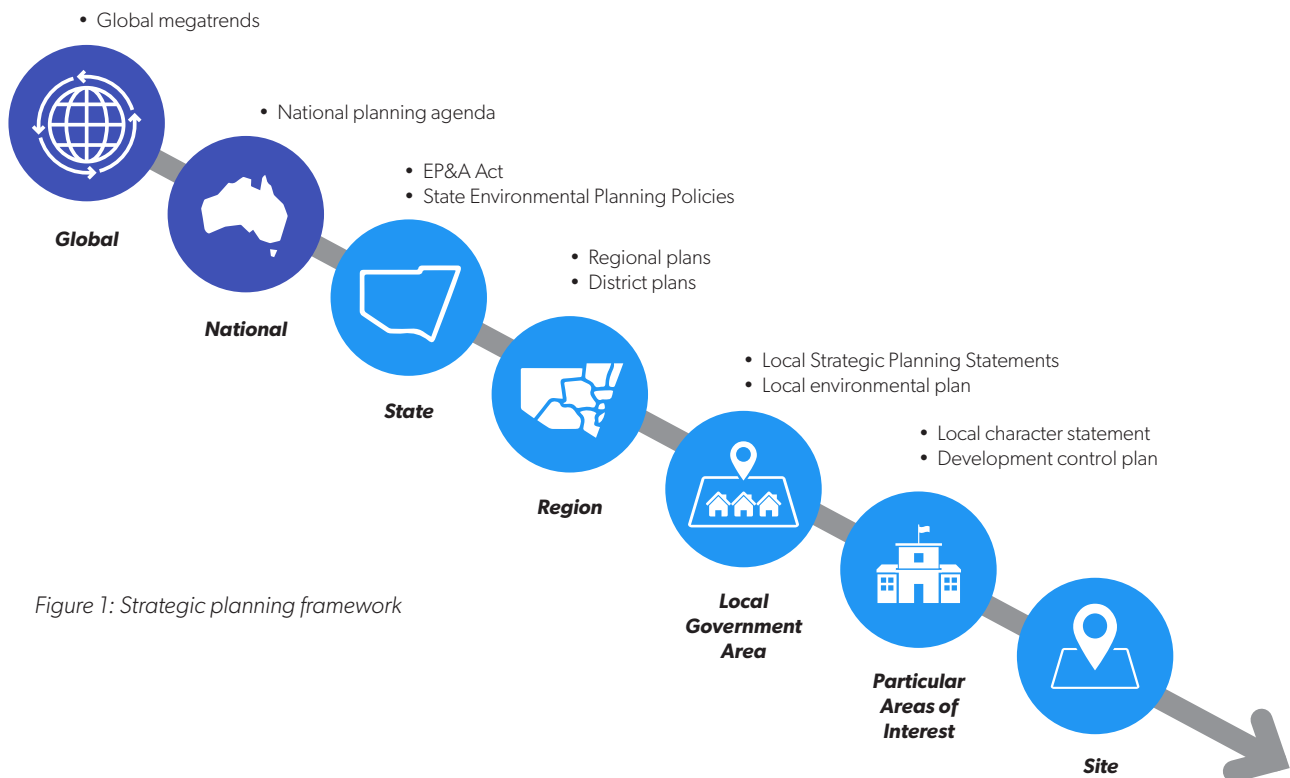


Figure 1: Strategic planning framework

In March 2018, the NSW Government released 'The Greater Sydney Region Plan - A Metropolis of Three Cities' (that replaces A Plan for Growing Sydney) and District Plans for each of Greater Sydney's five districts. The recent amendments to Part 3 of the Act mean for the first time in NSW, local strategic planning statements will provide alignment between Regional, District Plans and Local Plans which give effect to District Plans.



Figure 2: Planning framework for Greater Sydney Region

Section 3.8 of the Act requires local environmental plans to “give effect to” (deliver) the objectives and priorities identified in the Region Plan and relevant District Plan. This involves councils:

- reviewing their strategic planning framework, including a review of the existing local environmental plans against the relevant District Plan;
- undertaking necessary studies and strategies and preparing a local strategic planning statement which will guide the update of local environmental plans.

Section 3.9 of the Act requires each council to prepare and make a local strategic planning statement and review the statement at least every seven years. The role of the local strategic planning statement is to provide an alignment between regional and district plans and local strategic planning and delivery.

Local planning is also informed by councils’ community strategic plans. These community focused plans provide the strategic framework for the planning and delivery of services over a 10-year period for each local government area and are part of the broader Integrated Planning and Reporting Framework under the Local Government Act 1993. These plans can provide an important source of economic, social and environmental context for local strategic planning as well as greater context to councils’ delivery programs and operational plans.

Council’s local environmental plan review can provide local economic, social and environmental context that will help identify the priorities for investigation needed to inform the local strategic planning statement. In undertaking strategic planning processes, and/ or preparing or considering planning proposals, planning authorities must give effect to the District Plan, specifically the planning priorities and actions.

Consistency is also required with other plans and policies that form part of the strategic planning framework for Greater Sydney, including State environmental planning policies and Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979.

A new Ministerial Direction will specify the timeframe by which councils must submit their planning proposal to the Secretary of the Department of Planning and Environment to give effect to the planning priorities and actions in the relevant District Plan.

3.8 Implementation of Strategic Plans

- (1) In preparing a draft district strategic plan, the relevant strategic planning authority is to give effect to any regional strategic plan applying to the region in respect of which the district is part.
- (2) In preparing a planning proposal under section 3.33, the planning proposal authority is to give effect:
 - (a) to any district strategic plan applying to the local government area to which the planning proposal relates (including any adjoining local government area), or
 - (b) if there is no district strategic plan applying to the local government area, to any regional strategic plan applying to the region in respect of which the local government area is part.
- (3) As soon as practicable after a district strategic plan is made, the council for each local government area in the district to which the plan applies must review the local environmental plans for the area and prepare such planning proposals under section 3.33 as are necessary to give effect to the district strategic plan.
- (4) In addition to the requirement under subsection (3), the council for each local government area in the Greater Sydney Region must, on the making of a district strategic plan that applies to that area, report to the Greater Sydney Commission:
 - (a) on the review by the council of the local environmental plans for the area, and
 - (b) on the preparation of planning proposals under section 3.33 to give effect to the district strategic plan.

Figure 3: Extract from Environmental Planning and Assessment Act 1979

Key Outcomes to be Achieved

The diagram below provides an overview of the key elements in the process to review and update local environmental plans. The process has been divided into six phases related to the key deliverables of this project, as explained in the following sections.

June 2018

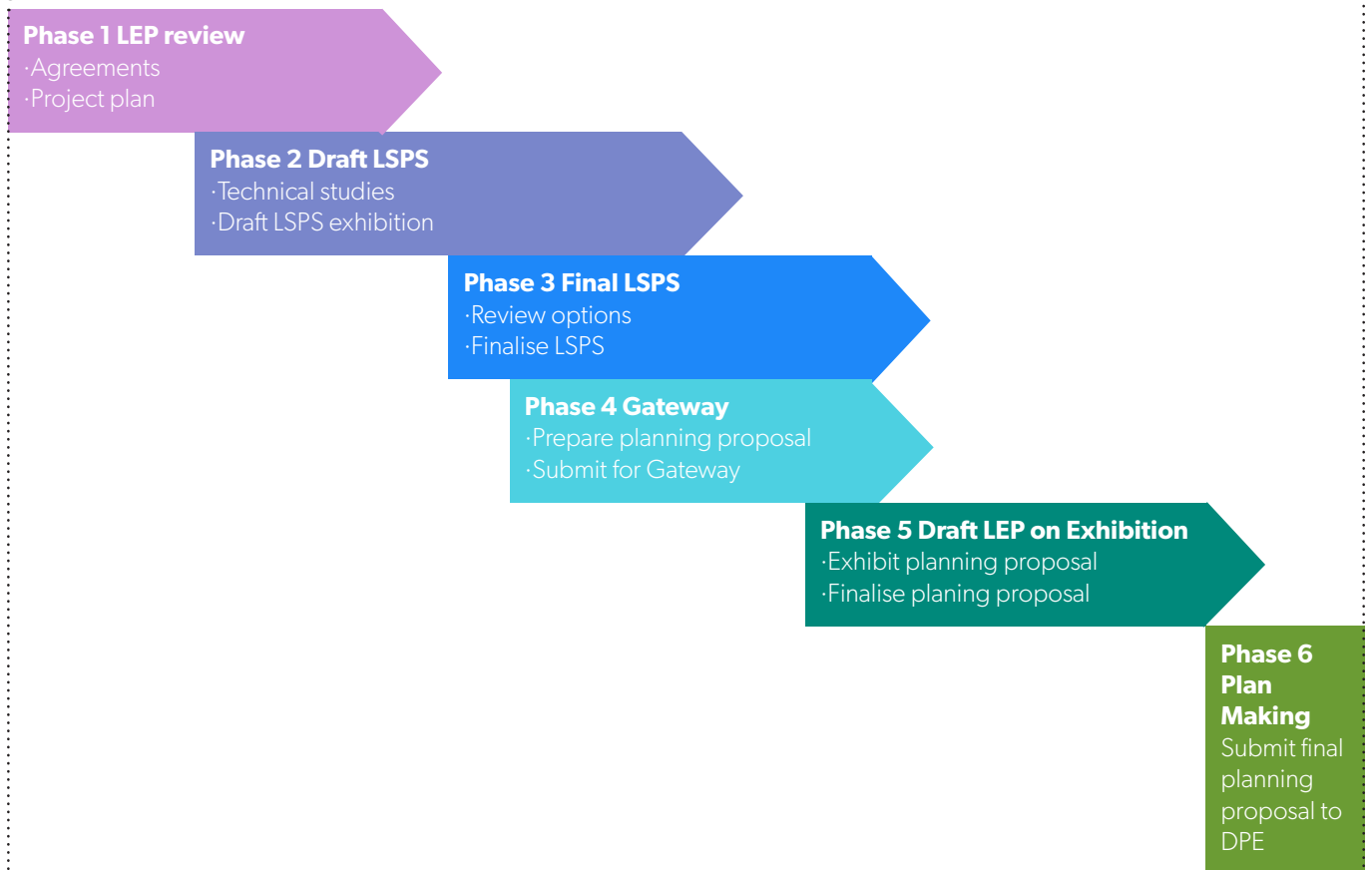


Figure 4: Key outcomes to be achieved

June 2020

6 LEP Roadmap

Phase 1 – Local Environmental Plan Review

Section 3.8(4) of the Environmental Planning and Assessment Act requires councils in the Greater Sydney Region to undertake a review of the local environmental plans for their area following the making of a District Plan. Councils will need to report to the Greater Sydney Commission on the LEP review. The purpose of the LEP review, or “health check” is to identify how closely aligned the existing local environmental plan is to the actions in the relevant District Plan. The LEP review will provide the context that will help identify the priorities for investigation needed to inform the local strategic planning statement. How and when the priorities will be considered should also be addressed.

Technical Working Group Program

To assist councils to prepare their LEP review, the Greater Sydney Commission and the Department of Planning and Environment will continue the program of Technical Working Groups (TWGs) and leverage the working relationships built during the preparation of the District Plans. This second phase Technical Working Group program will focus on giving effect to the District Plans. It will enable the Greater Sydney Commission and state agencies to work with councils to:

- ensure consistent interpretation of the District Plans
- facilitate the sharing and translation of evidence and data that informed the District Plans to councils
- assist in the coordination of cross-boundary and district-wide issues
- identify and confirm priorities for subsequent studies or investigations.

To commence the LEP review process, Technical Working Group (TWG) sessions will be organised to address the following themes:

- TWG 1: District Roadmap
- TWG 2: Local Strategic Planning Statements
- TWG 3: Sustainability and Monitoring
- TWG 4: Housing and Liveability
- TWG 5: Productivity
- TWG 6: Infrastructure and Priorities.

Material will be provided before each Technical Working Group to guide discussion and outputs by agencies and councils. There will be an emphasis on tailoring consideration of issues most relevant in each district to continue the ongoing dialogue from the District Plan development phase.

Following the conclusion of this phase of the Technical Working Group program, the LEP review report needs to be finalised and submitted to the Department of Planning and Environment for an initial appraisal and reported to the GSC’s Strategic Planning Committee as part of the GSC’s assurance role.

An indicative time line identifying the key steps and timeframes is provided at Appendix 2. A project plan template will be issued to councils during the TWG sessions for councils to utilise as a project management tool. This will assist councils to identify the key steps and associated timeframes to deliver the LEP review and broader local environmental plan update program. Councils progressing under the accelerated 2-year time frame will need to submit a project plan to the Department for approval. (Deliverable 2).

A template report structure for the LEP review report is included in Appendix 1 to assist councils. Further guidance will be provided on this process during the TWG program.

Phase 1: Milestones, Responsibilities & Functions

| Function | Prepared | Review | Approved |
|--|----------|---|---|
| Project Deliverable 1: Submission of LEP review | | | |
| Review of existing LEPs against District Plan | Council | GSC set template, expectations and share information for Greater Sydney Region councils | GSC: assurance role supporting implementation by Greater Sydney Region councils |
| Project Deliverable 2: Submission of project plan | | | |
| Prepare project plan | Council | DPE | DPE |
| Payment Milestone 1: Signing Funding Agreement | | | |
| Payment Milestone 2: Project Plan agreed including studies to be undertaken | | | |

Phase 2 – Draft Local Strategic Planning Statement

Develop Evidence Base

The LEP review and the preparation of the evidence base, will form the starting point for preparing a local strategic planning statement. Any additional investigations required to address gaps identified in the LEP review will be undertaken at this stage. This may involve progressing councils existing local strategic planning programs as well as new investigations and strategy development for open space and recreation needs, accessibility, environment and sustainability, employment supply and demand or social infrastructure requirements. The development of a housing strategy is a specific requirement in the implementation of District Plans that consider short and medium-term housing supply and longer-term capacity for housing.

Prepare Local Strategic Planning Statements

The requirement for a local strategic planning statement was introduced into the Environmental Planning and Assessment Act on 1 March 2018. Section 3.9 of the Act requires a local strategic planning statement to include or identify the following:

- (a) the basis for strategic planning in the area, having regard to economic, social and environmental matters,
- (b) the planning priorities for the area that are consistent with any strategic plan applying to the area and (subject to any such strategic plan) any applicable community strategic plan under section 402 of the Local Government Act 1993,
- (c) the actions required for achieving those planning priorities
- (d) the basis on which the council is to monitor and report on the implementation of those actions.

A 6-10-year housing target for the local government area will form part of the housing strategy. The Department of Planning and Environment has developed a step-by-step process guide to assist councils to produce a local housing strategy.

The Department of Planning and Environment has also produced a guideline to assist councils to prepare their local strategic planning statement. Draft local strategic planning statements are to be prepared by 1 July 2019. They will be reviewed by the Department of Planning and Environment and an assurance process will be carried out by the Greater Sydney Commission. This will provide advice on priorities and strategies to support the interpretation and implementation of District Plans as well as confirm where local strategic planning statements include matters of district and regional significance. Where required the Commission will seek inputs from relevant State agencies on these matters.

Local strategic planning statements will then be publicly exhibited for a minimum of 28 days. To assist in explaining the context for implementation of the final local strategic planning statement, councils may develop supporting material to explain the priorities identified in the draft, options considered and reasons for final choices as well as supporting plans and initiatives such as development control plans and public domain strategies.

Phase 2: Milestones, Responsibilities & Functions

| Function | Prepared | Review | Approved |
|--|-------------------------|---|--|
| Project Deliverable 3: Submission of draft Local Strategic Planning Statement | | | |
| Draft Local Strategic Planning Statement | Council | DPE review and provide advice to councils | GSC: assurance role supporting implementation by Greater Sydney Region councils |
| Project Deliverable 4: Completion of Local Housing Strategy and specialist reports | | | |
| Specialist Reports • Infrastructure & Collaboration • Liveability • Productivity • Sustainability | Council/ Consultants | Council | Council |
| Local Housing Strategy | Council | GSC review and provide advice for Greater Sydney Region councils, particularly in relation to housing targets | DPE final approval to give effect under Ministerial direction for all NSW councils |
| Payment Milestone 3: Draft Local Strategic Planning Statement placed on exhibition | | | |

Phase 3 – Final Local Strategic Planning Statement

Councils will review submissions and make modifications to planning priorities and actions for the LGA as appropriate. Any incomplete strategic work or ongoing planning issues can be identified in the final LSPS as further work to be undertaken in the local strategic planning statement action plan and would need to be resolved prior to finalisation of the LEP.

As part of finalising the local strategic planning statement an assurance process will be provided by the Greater Sydney Commission and is aimed at confirming priorities and efficiencies in the statutory processes to follow.

Phase 3: Milestones, Responsibilities & Functions

| Function | Prepared | Review | Approved |
|--|----------|-----------------|----------|
| Project Deliverable 5: Submission of final Local Strategic Planning Statement | | | |
| Final Local Strategic Planning Statement | Council | GSC endorsement | Council |



Phase 4 – Gateway Determination

Planning Proposal

Once the direction to be followed in the local strategic planning statement is established, councils can commence preparation of a planning proposal in accordance with the Department of Planning and Environment’s ‘A guide to preparing planning proposals’.

The purpose of the planning proposal is to identify the statutory mechanisms to achieve the spatial or policy-based recommendations outlined in the local strategic planning statement.

The planning proposal is to be endorsed by council and forwarded to the relevant Regional team of the Department for a Gateway determination. At this time, it is also appropriate to be considering and preparing supporting documentation such as development control plans and contribution plans.

Gateway Determination

DPE will consider the Planning Proposal and make recommendations to the Greater Sydney Commission or delegate who will decide whether to issue a Gateway determination to allow the proposal to proceed. In accordance with Section 3.34(2) of the Act, the Gateway determination will indicate:

- (a) whether the matter should proceed (with or without variation),
- (b) whether the matter should be resubmitted for any reason (including for further studies or other information, or for the revision of the planning proposal),
- (c) the minimum period of public exhibition of the planning proposal (or a determination that no such public exhibition is required because of the minor nature of the proposal),
 Note. Under Schedule 1, the mandatory period of public exhibition is 28 days if a determination is not made under paragraph (c).
- (d) any consultation required with State or Commonwealth public authorities that will or may be adversely affected by the proposed instrument,
- (e) whether a public hearing is to be held into the matter by the Independent Planning Commission or other specified person or body,
- (f) the times within which the various stages of the procedure for the making of the proposed instrument are to be completed,
- (g) if the planning proposal authority is a council—whether the council is authorised to make the proposed instrument and any conditions the council is required to comply with before the instrument is made.

Once a Gateway determination has been issued the planning proposal is returned to council to progress.

Phase 4: Milestones, Responsibilities & Functions

| Function | Prepared | Review | Approved |
|---|------------------------------------|--|-----------------------|
| Project Deliverable 6: Submission of Planning Proposal to the Department for a Gateway determination | | | |
| Local environmental plans (LEPs) | Council prepares planning proposal | GSC review and provide advice in relation to the implementation of the District Plan | DPE (delegate of GSC) |
| Payment Milestone 4: Submission of Planning Proposal to the Department for a Gateway Determination | | | |

Phase 5 – Exhibition

The planning proposal is to be placed on public exhibition and referred to State agencies in accordance with the terms of the Gateway determination. Statutory exhibition is generally for a minimum of 28 days not including the period between 20 December and 10 January (inclusive) and will need to reflect the council's community participation plan.

Council is to review the planning proposal following exhibition and attempt to resolve any issues raised in submissions by the public and agencies. Ideally, many issues will have been identified and addressed prior to exhibition through the Technical Working Group process and earlier consultation processes.

It may be necessary to amend the planning proposal in response to the submissions. In this circumstance, the Department of Planning and Environment will work with councils to determine whether re-exhibition of the planning proposal is required.



Phase 6 – Plan Making

Once council has resolved to adopt the draft LEP, council forwards all relevant information to the Department of Planning and Environment via the Department’s Planning Portal site. Council should advise the Department’s Regional team once this has occurred.

The Secretary makes arrangements with Parliamentary Counsel for the drafting of the instrument.

Once a draft of the instrument has been prepared, the Secretary, or delegate will consult with council on the content of the LEP.

Phase 6: Milestones, Responsibilities & Functions

| Function | Prepared | Review | Approved |
|--|--|--|-----------------------|
| Project Deliverable 7: Submission of draft LEP to DPE to make plan | | | |
| Local environmental plans (LEPs) | Council submits planning proposal for finalisation | GSC review and provide advice in relation to the implementation of the District Plan | DPE (delegate of GSC) |
| Payment Milestone 5: Submission of draft LEP to the Department to arrange for drafting: Completion of the project | | | |



APPENDIX ONE

LEP review Template



LOCAL ENVIRONMENTAL PLAN REVIEW TEMPLATE

A standard format for LEP review Reports to be submitted to the Greater Sydney Commission

Contents

SECTION 1 - Introduction

Executive Summary

- 1.1 Purpose of this Review
- 1.2 Planning policy and statutory context
- 1.3 Methodology
- 1.4 Submissions and engagement

SECTION 2 – The Health Check

- 2.1 Infrastructure and collaboration
- 2.2 Liveability
- 2.3 Productivity
- 2.4 Sustainability
- 2.5 Snapshot of compliance

SECTION 3 – The Context

- 3.1 Land use planning context
- 3.2 Barriers to delivery
- 3.3 Key risks
- 3.4 Key findings

SECTION 4 - Conclusions and Recommendations

- 4.1 Gap analysis
- 4.2 Priorities for preparation of planning proposal
- 4.3 Program

LEP review Template

NOTES:

• This LEP review Template has been structured around the sections, steps and recommended approach to producing a LEP review as established within the Guidelines for updating Local Environment Plans to give effect to the District Plans in the Greater Sydney Region and the Action in the Implementation chapter of District Plans which states as follows:

The Greater Sydney Commission will require a local environmental plan review to include:

- o an assessment of the local environmental plan against the district plan planning priorities and actions
- o local context analysis
- o an overview and program for the local strategic planning required to inform the preparation of a local strategic planning statement that will inform updates to the local environmental plan

• The headings contained within this template form the suggested structure of the report to be submitted to the Greater Sydney Commission. Councils within the Greater Sydney Region are encouraged to use the structure as set out, however it may be modified to suit individual council circumstances if required.

SECTION 1 – Introduction

Executive Summary

The executive summary will provide the key findings and recommendations of the LEP review.

1.1 Purpose of this Review

The purpose of this review is to identify how closely aligned the existing local environmental plan is to the actions in the relevant District Plan. The LEP review will provide the context that will help identify the priorities for investigation to inform the local strategic planning statement.

The LEP review is a key step in the implementation of the five District Plans in the Greater Sydney Region.

1.2 Planning policy and statutory context

This LEP review has been prepared to satisfy the legislative requirement under Section 3.8(4) of the *Environmental Planning and Assessment Act 1979* for all councils in the Greater Sydney Region to undertake a review of their local environmental plan(s) following the making of a District Plan.

This section briefly describes the current strategic planning framework applicable in the local government area.

1.3 Methodology

This section refers to the process undertaken by council when compiling this report. This will include the outcomes of the Technical Working Group (TWG) program co-ordinated by the Greater Sydney Commission and Department of Planning and Environment as well as any other relevant technical reviews and consultation.

1.4 Submissions and engagement

This section summarises any input provided via targeted stakeholder engagement or general community consultation during the preparation of the LEP review.

SECTION 2 – The Health Check

The purpose of this section is to identify how closely aligned the existing local environmental plan is to the actions in the relevant District Plan. Reference should be made to any existing council plans, policies, programs, strategies and research that contributes to those actions.

Summary text can be included in this section, with further details provided in a table as an appendix if required.

Councils may find it useful to utilise a grading system to indicate the degree of compliance with the actions.

2.1 Infrastructure and collaboration

This section identifies the relevant actions related to infrastructure and collaboration and provides a status update for each action.

2.2 Liveability

This section identifies the relevant actions related to liveability and provides a status update for each action.

2.3 Productivity

This section identifies the relevant actions related to productivity and provides a status update for each action.

2.4 Sustainability

This section identifies the relevant actions related to sustainability and provides a status update for each action.

2.5 Snapshot of compliance

This section provides an indicative summary of the degree of compliance with the District Plan actions by theme. This will provide one input to guide where future attention should be focussed.

SECTION 3 – The Context

This section describes the changing context and emerging issues in the local government area. Challenges, opportunities and future focus areas for council mapped against priorities in the District Plan.

3.1 Land use planning context

This section identifies the unique and changing context in which planning is being undertaken in the local government area.

This may include reference to factors such as:

- Social matters including changing demographics
- Economic matters including changing employment patterns
- New or emerging environmental matters
- Infrastructure capacity and investment
- Issues identified through the preparation of community strategic plans

3.2 Barriers to delivery

This section identifies the specific barriers to achieving the District Plan actions.

This may include:

- The need for current and/or reliable data and evidence
- Issues associated with resources and funding
- Governance and co-ordination requirements
- Regulatory barriers
- Inter-dependencies with other projects and programs

3.3 Key risks

The section describes other potential or unknown barriers that may arise.

3.4 Key findings

By providing context to key issues of the local government area, this section will evaluate the evidence base to identify the consequences and hence what additional or different approaches may be required. This analysis forms the basis of the review and in simple terms will answer the question “so what?”

SECTION 4 - Conclusions and Recommendations

This section outlines the key actions or decisions required to inform the preparation of council's local strategic planning Statement.

4.1 Gap analysis

This section identifies the scope of the research, investigation or decisions required to underpin amendment of council's planning controls to support the District Plan actions.

This may include for example:

- Local housing strategy
- Feasibility analysis
- Staging and sequencing options
- Open space strategy
- Centres strategy
- Transport modelling

4.2 Priorities for preparation of planning proposal

It is recognised that compliance with all actions in the District Plan may be an iterative or sequential process requiring more than one update to the local environmental plan. Therefore, this section prioritises the areas or activities that council will focus on to move towards a greater degree of compliance with the relevant District Plan actions.

The priorities will be discussed in the context of the:

- LEP update to be undertaken over the next 3 years, and in the case of accelerated councils over the next 2-years.
- Longer term priorities that may inform future LEP and District Plan reviews.

4.3 Program

This section provides information about the next steps and indicative timeframes in the LEP update process, in particular, key milestones set out in the LEP Roadmap that are identified as part of the accelerated 2 year or the 3 year process.

APPENDIX TWO

Timeline



ACCELERATED LEP REVIEW AND UPDATE

Indicative timeline

Accelerated LEP review and update

| Task | 2018 | | | | | | 2019 | | | | | | 2020 | | | | | | | | | | | | | |
|--|------|------|-----|-----|-----|-----|------|-----|-----|-----|-----|-----|------|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|------|--|
| | June | July | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | June | July | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | June | |
| Phase 1 LEP review (Health Check) | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Technical Working Groups (TWG) | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sign Funding Agreement | | | | | | | | | | | | | | | | | | | | | | | | | | |
| LEP review report | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Finalise project plan | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Phase 2 Draft LSPS | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Undertake studies | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Prepare and exhibit draft LSPS | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Phase 3 Final LSPS | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Review submissions and implementation options | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Finalise LSPS | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Phase 4 Gateway | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Prepare planning proposal | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Gateway determination | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Phase 5 Exhibition of draft LEP | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Prepare consultation material | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Exhibit planning proposal | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Finalise planning proposal | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Phase 6 Plan making | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Submit final planning proposal to DPE | | | | | | | | | | | | | | | | | | | | | | | | | | |

MAY 2018



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GR5 Attachments

1. Table summarising Public Agency feedback on the Cross Street Planning Proposal
2. Table summarising community submission to Cross Street Planning Proposal
3. Land Use Zoning Comparison Map
4. Lot Size Comparison Map
5. Height of Building Comparison Map
6. Natural Resources Water Comparison Map
7. Urban Release Area Comparison Map

Monday 16 July 2018

GR5 – Cross Street Planning Proposal Post Exhibition Report

Table of government agency submissions – Public Exhibition and Gateway.

| Department/Agency | Comments | Changes to planning proposal or Further Action |
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| Public Exhibition Submissions | | |
| <p>NSW Department of Primary Industries (NSW DPI) – Agriculture Land Use Planning</p> <ul style="list-style-type: none"> • NSW DPI encourages the protection of environmentally sensitive lands in the E2 zone to ensure that their important environmental properties are protected. • NSW DPI is concerned with possible impacts on the adjacent turkey processing plant. It suggests that any proposed residential areas are located 500 m or more as indicated in the Indicative proposed land use maps prepared by Eco logical 2017. This will ensure that an important secondary agricultural enterprise is protected from future land use conflicts. • NSW DPI would like to stress that agricultural lands should not be seen as an easy source of land for urban expansion. The protection of agricultural lands is an important tool in maintaining the sustainability of current communities and provides food security for future generations. • Agricultural lands provide employment to local people both directly and indirectly. To this end, NSW DPI is currently mapping Important Agricultural Lands throughout the State, once mapping occurs in your Council area; this information will be provided to Council to inform future rezoning proposals. | <p>The comments from NSW DPI indicate support for the planning proposal with regard to the following:</p> <ul style="list-style-type: none"> • Protection of environmentally sensitive land zoned E2 Environmental Conservation. • Land within 500m of the turkey processing facility remaining rural to avoid any potential land use conflict. <p>It is considered that the site although used for agricultural purposes is well located for residential uses as:</p> <ul style="list-style-type: none"> • It is located adjoining residential land and close to services and facilities in Tahmoor. • Further urban expansion into rural land is limited as the Bargo River provides a boundary on the southern side of Tahmoor. <p>The mapping of agricultural land by NSW DPI is supported and will provide vital data to better inform any future rezoning proposals.</p> | <p>No change to the planning proposal or further action required.</p> |

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| <p>Department of Primary Industries – Fisheries The Bargo and Nepean Rivers are known to support the Macquarie Perch which is an endangered species listed under the <i>Fisheries Management Act 1994</i>. An Assessment of Significance for potential impacts to the Macquarie Perch is required. Such an assessment should consider potential impacts from reductions in water quality from stormwater discharges, sewerage discharges and erosion and sedimentation impacts. Considering the proximity of the Endangered Macquarie Perch to this site, it is recommended that:</p> <ul style="list-style-type: none"> ▪ Extra care is taken to employ best practice erosion and sediment controls during construction ▪ A long-term maintenance strategy for water quality treatment trains is established prior to development of this site; and ▪ Careful consideration is given to the potential for sewerage discharges or seepages to the nearby rivers, and that appropriate measures to mitigate or reduce the risks of such discharges are implemented. | <p>An Assessment of Significance for potential impacts to the Macquarie Perch should be undertaken as part of any future development application for subdivision.</p> <p>Site-specific controls in Wollondilly DCP would detail the requirements from DPI –Fisheries. The site will be seweraged which will mitigate one of their concerns.</p> | <p>No change to the planning proposal required.</p> <p><u>Further action</u> Include site-specific controls in Wollondilly DCP to ensure there is an Assessment of Significance for Macquarie Perch and to provide mitigation measures for potential impacts from the development on an ongoing basis.</p> |
| <p>Department of Industry – Lands and Water Natural Resources Access Regulator (NRAR)(previously Office of Water)</p> <ul style="list-style-type: none"> • The proposal includes sewer and water to the site which NRAR supports to ensure adequate water supply and sewage disposal is achieved and to mitigate impacts on surface water and groundwater sources in terms of both quantity and quality. | <p>The NRAR comments support the planning proposal strategies including:</p> <ul style="list-style-type: none"> • the servicing arrangements for the site • the proposed buffer around Bargo Gorge which exceeds requirements under the Water Management Act (2000) • the vegetated buffers around the drainage lines are mostly in place and will be enhanced through re-vegetation in some areas. | <p>No change to the planning proposal required.</p> <p><u>Further action</u> The site-specific development controls would include a requirement for site remediation and ensuring that any retained dams and detention basins</p> |

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| <ul style="list-style-type: none"> • The planning proposal identifies the site to have a Bargo River Gorge Buffer of 100 m separating the Bargo River and Gorge from the development. The buffer of 100 m exceeds the 40 m riparian corridor required for the Water Management Act (2000). • NRAR supports vegetated buffers around the drainage lines on the site in accordance with the “<i>Guidelines for Riparian Corridors on Waterfront Land</i> (DPI 2012)”. These guidelines require a minimum 10m vegetated buffer on either side of the high bank of the watercourse and/or dam where present. It is recommended these guidelines be reviewed in finalising the subdivision layout. • The Site Servicing Strategy indicates the requirement for 5 retention basins to manage stormwater from the site. The assessment concludes the 5 retention basins result in no increase in post development runoff velocity when compared to pre development. This is supported by NRAR to mitigate impacts to downstream waterfront land. • NRAR advises any dams which are proposed to retain water will need to be sized in accordance with the Maximum Harvestable Rights Dam Capacity based on the area of land in the reserves. | <ul style="list-style-type: none"> • The detention basins to manage stormwater and ensure there is no impact on downstream properties. <p>The current dams are likely to be removed and the site remediated. Any future water holding facility including detention basins will need to be sized in accordance with the Maximum Harvestable Rights Dam Capacity based on the area of land in the reserves.</p> | <p>meet Harvestable Rights Dam capacity.</p> |
| <p>NSW Health – South Western Sydney Local Health District (SWSLHD) The SWSLHD appreciates opportunities to create social and physical environments that are</p> | <p>The SWSLHD comments are noted.</p> | <p>No change to the planning proposal or further action is required.</p> |

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| <p>healthy and support healthy activities so that individuals, families and communities can enjoy the best health possible.</p> <p>They are satisfied with the provisions in the planning proposal.</p> | | |
| <p>Subsidence Advisory NSW (SA NSW)</p> <ul style="list-style-type: none"> SA NSW notes that the land proposed to be rezoned is located within the Bargo mine subsidence district and existing coal mine leases held by Tahmoor Coal. As a result, any future surface development (including infrastructure) or the subdivision of land will require approval under section 22 of <i>Coal Mine Subsidence Compensation Act 2017</i>. The proposal overlies an area where coal has been extracted and an area that is unmined. SA NSW understands the unmined area contains large faults that would make underground coal extraction very difficult. SA NSW notes that Tahmoor Coal indicated at a meeting held on 4 May 2018 they would likely have no objection to the proposal. <p>Given the above, SA NSW supports the proposal subject to council receiving formal written confirmation from Tahmoor Coal of their previously stated position.</p> | <p>SA NSW comments indicates that underground mining has occurred and is unlikely to be recommenced in the future.</p> <p>Tahmoor Colliery has advised that they have no objection to the planning proposal subject to future development complying with mine subsidence guidelines.</p> | <p>No change to the planning proposal or further action is required.</p> <p>Any future development application for subdivision and housing will require SA NSW approval which is part of the integrated concurrence provisions undertaken for all development applications within mine subsidence areas.</p> |
| <p>Endeavour Energy</p> <p>There are no easements over the site benefitting Endeavour Energy</p> <ul style="list-style-type: none"> 11,000 volt / 11 kV high voltage overhead power lines (including two pole mounted substations no.s 11260 & 11261) over Lots 1 & 2 DP 1128745 which is not held under | <p>The advice from Endeavour Energy in relation to the existing services on site is note. The site is able to be serviced with electricity subject to further discussion at the design stage with Endeavour Energy. The developer will need to meet Endeavour Energy requirements in terms of</p> | <p>No change to the planning proposal or further action is required.</p> |

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| <p>easement coming off Cross Street / Myrtle Creek Avenue.</p> <ul style="list-style-type: none"> ▪ 11 kV high voltage overhead power lines along the extension of River Road which tees off to over Lots 3 DP 1128745 and is not held under easement but is indicated as 'Out of Service'. ▪ Low voltage overhead service conductor coming from pole mounted substation no. 120175 in Greenacre Drive traversing Lot 6 DP 263172 to the customer connection point on Lot 1 DP 1128745 which is not held under easement. ▪ Although the low voltage and 11 kV high voltage overhead power lines on the site are not held under easement, they are protected assets under the Electricity Supply Act 1995 (NSW) Section 53 'Protection of certain electricity works'. The owner or occupier of the land cannot take any action by reason of the presence or operation of the electricity works in, on or over the land ie. they cannot remove the electricity infrastructure from the property. These protected assets are managed on the same basis as if an easement was in existence. ▪ The low voltage overhead power lines requires a 9 metre minimum easement width ie. 4.5 metres to both sides of the centre line of the conductors / poles. ▪ Presumably these overhead power lines will be undergrounded / relocated as part of the future subdivision works. This will be dealt with as part of the application for connection of load (please refer the below point | <p>providing easements, relocating or placing electricity services underground.</p> | |
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| <p>'Network Capacity / Connection) and the developer / designer is aware of Endeavour Energy's requirements for the existing overhead power lines to be undergrounded / relocated.</p> <ul style="list-style-type: none"> ▪ However the certification of the design does not constitute an agreement to decommission the existing infrastructure and no work should be undertaken to decommission the overhead power lines until all matters have been resolved and approved by Endeavour Energy. | | |
| <p>Department of Industry – Lands</p> <p>There are no Crown lands on the site so the Department has no comments.</p> | <p>Submission noted.</p> | <p>No change to the planning proposal or further action is required.</p> |
| <p>NSW Rural Fire Service (NSW RFS)</p> <p>NSW RFS raises no objections to the proposal subject to a requirement that the future subdivision of the land complies with Planning for Bushfire Protection 2006. This includes but is not limited to:</p> <ul style="list-style-type: none"> ▪ Provision of Asset Protection Zones within the proposed lots in accordance with Table A2.4 and A2.6 (as applicable); ▪ Access to be provided in accordance with the design specifications set out in section 4.1.3 and; ▪ Services to be provided in accordance with section 4.1.3. <p>With regard to these requirements, the following comment is made in relation to the submitted concept plan;</p> <ul style="list-style-type: none"> ▪ All bushfire protection measures should be contained within the overall development | <p>All APZs will be located within roads, residential lots and on detention basins and not within proposed E2 Environmental Conservation land.</p> <p>A Plan of Management in relation to bushfire protection measures on lands to be maintained by Council shall be prepared for the site.</p> | <p>No change to the planning proposal is required.</p> <p><u>Further action</u> The site-specific controls shall include a requirement for the preparation of a Plan of Management for bushfire protection measures on land maintained by Council.</p> |

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| <p>and not on adjoining land, other than in exceptional circumstances. Subsequent development should be designed to ensure all APZ requirements are contained within lots, road reserves and lands managed under a formal Plan of Management.</p> | | |
| Gateway Submissions | | |
| <p>Transport for NSW (TfNSW) TfNSW has advised that there are no issues with the Planning Proposal.</p> | <p>The TfNSW comments are noted.</p> | <p>No change to the planning proposal or further action is required.</p> |
| <p>Roads and Maritime Services (RMS)</p> <ul style="list-style-type: none"> ▪ RMS entrusts Council to assess the traffic implications of this Planning Proposal on classified regional roads (Remembrance Drive). ▪ The assessment of the impact of the Planning Proposal on the local road network in relation to Remembrance Drive, classified as a regional road is now a matter for Council to determine. ▪ RMS recommends that Wollondilly Shire Council identify the land associated with this Planning Proposal as an urban release area and thereby, subject to the satisfactory arrangements clause in the local environmental plan. RMS is satisfied that the implications of the rezoning on the State road network are covered by the broader assessment and resultant interim State contribution rate | <ul style="list-style-type: none"> ▪ Council staff have determined that traffic lights are urgently required on the intersection of Progress Street and Remembrance Drive to cater for the additional impact of traffic from both this and the development of recently rezoned and subdivided land in East Tahmoor. ▪ It is proposed to include the site on the Urban Release Area Maps in accordance with the RMS advice. A State Infrastructure Contribution determined by the State Government would apply to each future proposed lot to assist in improving the regional State road network. This would ensure that contributions towards any regional infrastructure upgrades are provided at the subdivision stage. | <p>No change to the planning proposal or further action is required.</p> <p>The site will be included on the Urban Release Area Map which will require the future developer of the site to provide a State Infrastructure Contribution</p> |

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| <p>Department of Education and Communities NSW</p> <p>The Department note that new classrooms may need to be provided to service the additional demand generated by the proposal. Furthermore, the cumulative impact of a number of other urban developments in the Wollondilly area significantly increase education demand in the future, potentially requiring significant investment in new education infrastructure.</p> <p>To assist with the delivery of future education infrastructure, the Department request a new developer contribution system as part of new planning system, which included contributions for 'education establishments'.</p> | <p>Council is aware of the cumulative impact of Planning Proposals and the subsequent increase in demand on education infrastructure. Information is regularly provided to NSW Education on Planning Proposals, population projections and residential development to assist in their planning of new schools and additional classrooms.</p> <p>Co-sharing of facilities has been considered and at its meeting held in October 2017 Council resolved to enter into a Memorandum of Understanding with NSW Education as a basis for ongoing cooperation regarding joint use of facilities and land.</p> | <p>No change to the planning proposal or further action is required.</p> <p>The Planning Proposal will be mapped as an Urban Release Area which would provide an opportunity for a State Infrastructure Contribution to be imposed by the NSW Government. Any such contributions potentially could be used towards the provision of additional educational facilities or land for new schools. Council will continue to lobby for improvements to schools.</p> |
| <p>Office of Environment (OEH) OEH provided Gateway comment on the proposal in September 2014 and June 2016. No further submission was received at public exhibition</p> <p>Biodiversity OEH provided a summary of the process involved regarding the proposed Biodiversity Certification of the land as part of the Planning Proposal. OEH also recommended that the exhibition of the Biodiversity Certification application should ideally coincide with the exhibition of the Planning Proposal.</p> <p>Aboriginal Cultural Heritage</p> | <p>Biodiversity The Biodiversity Certification assessment and strategy to make the Application for Conferral of Biodiversity Certification was reviewed by OEH prior to being placed on exhibition concurrently with the Planning Proposal. The application was on exhibition for 33 days in accordance with the requirement for at least 30 days under the now repealed <i>Threatened Species Act 1995</i>.</p> <p>Aboriginal Cultural Heritage The recommendations of OEH would be undertaken as part of any future development application for subdivision of the site.</p> <p>The three recorded sites have been submitted to AHIMS for registration on the database.</p> | <p>No change to the planning proposal is required.</p> <p><u>Further action</u> OEH require a report on the consultation undertaken and any feedback for the Application for Conferral of Biodiversity Certification.</p> <p>A Plan of Management to ensure Aboriginal Heritage is protected can be included in Site-specific DCP requirements.</p> |

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| <p>OEH reviewed the amended Aboriginal Cultural Heritage Assessment Report (ACHAR) and found that it has adequately addressed the recommendations from September 2014 consultation.</p> <p>OEH provide further recommendations for:</p> <ul style="list-style-type: none"> ▪ the development of a Plan of Management to protect Aboriginal sites and drainage channel exclusion zones; ▪ obtain an Aboriginal Heritage Impact Permit for any objects that may need to be harmed prior to commencement of works; ▪ ongoing consultation with the Aboriginal community; and ▪ ensuring that the three identified Aboriginal sites are registered on Aboriginal Heritage Information Management System (AHIMS); <p>Flooding</p> <ul style="list-style-type: none"> ▪ OEH reviewed the Preliminary Stormwater Management Strategy and raised the following concerns: ▪ Mainstream flooding – the report lacks discussion of smaller waterways in the proposed condition. ▪ Overland Flow Paths – the report should assess major overland flow paths within the site. ▪ Mitigation Strategy – design, ownership and maintenance of proposed basins should be addressed. Basins should also be assessed in accordance with the NSW Dam Safety Committee guidelines. | <p>Flooding</p> <p>OEH comments have been reviewed by the proponent’s hydrology consultant and Council’s Design Engineer. It is considered that further detailed assessment will be required to be undertaken in any development application for subdivision of the site to ensure that drainage infrastructure is able to satisfactorily manage flooding.</p> | |
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| <p>NSW Police Force A Safer by Design Evaluation was completed on 29 September 2014. The outcome of this evaluation is Police have no issues with this Planning Application.</p> | <p>The NSW Police Force comments are noted.</p> | <p>No change to the planning proposal or further action is required.</p> |
| <p>NSW Department of Trade & Investment (DTIRIS) – Mineral Resources Branch – Coal Resources The proposal area overlies a mining lease and consolidated mining lease held by Tahmoor Coal Pty Ltd. Tahmoor are currently extracting coal through longwall mining methods within the mining lease north-west of the site. Further coal extraction from this location is not considered viable.</p> <p>Mine Subsidence The entire subject area falls within the Bargo Mine Subsidence District (MSD). Accordingly, any proposed future development in the subject area would require consultation with the Mine Subsidence Board (now Subsidence Advisory NSW).</p> <p>General Information Petroleum Exploration License (PEL) 2 held by AGL Upstream Investments Pty Ltd exists over a broad regional area that includes the subject site.</p> <p>Recommendation MRB have no resource issues to raise concerning the proposed rezoning of the Cross Street site. The NSW DTIRIS comments that there are no current or likely future mining issues related to this site are noted.</p> | <p>The MSB letter from December 2012 indicated that Lot 23 DP 233658 was undermined in 2008 and Lot C DP 374621 in 2009. The remainder of the site proposed for rezoning and subdivision has not been mined and will not be mined in the near future.</p> <p>Approval will be required from MSB for any subdivision or building development as the total area of the site lies in the Bargo Mine Subsidence district. The advice from the MSB is noted. Future subdivision and development applications will be referred to NSW Subsidence Advisory for approval.</p> | <p>No change to the planning proposal or further action is required.</p> |

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| <p>Sydney Water Water</p> <ul style="list-style-type: none"> • The subject site will be serviced from the Thirlmere water supply zone. Preliminary investigation shows that the existing mains in Progress Street and Rockford Road will require amplification to 200mm mains to service the future growth in the area <p>Wastewater</p> <ul style="list-style-type: none"> • Currently the Picton Wastewater Recycle Plant (WRP) and effluent management system does not have sufficient capacity to service the proposed 240 residential lots. However, Sydney Water is aware of this proposed development and included it in their planning for the upgrade of the WRP. • Connection to the Sydney Water Wastewater system will not be permitted until the Picton WRP and effluent management system are upgraded (including change to the current Environmental Protection Licence). | <p>Although no response was received from Sydney Water as part of the public exhibition, on-going discussions have been held with Sydney Water and the latest advice indicates that the Picton Wastewater Recycle Plant upgrade is likely to occur in May 2018 and once this is completed, the WRP will have sufficient capacity to service the proposed development.</p> <p>However, Sydney Water also advised that there are still ongoing negotiations with the Environment Protection Authority (EPA) regarding effluent management (eg discharge volumes to the Nepean River and Stonequarry Creek).</p> <p>The EPA rejected Sydney Waters application and they are currently working on a licence variation. Until then, only the committed MDP Picton Tahmoor Thirlmere precincts can be serviced. The Cross Street proposal is outside of these precincts so the site will not be able to be serviced until the WRP is upgraded and terms with the EPA are agreed.</p> | <p>No change to the planning proposal is required.</p> <p><u>Further action</u> Regular liaison will continue to be held with Sydney Water to provide advice and monitor future servicing arrangements.</p> |
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| <p>Fire and Rescue NSW (FRNSW) The following recommendations were made:</p> <ul style="list-style-type: none"> ▪ Any future residential subdivisions be served by a road way system which complies with FRNSW Policy No. 4 - Guidelines For Emergency Vehicle Access; ▪ Traffic management devices be designed so as not to hinder or impede FRNSW emergency vehicle access, ▪ Any future residential sub-division associated with the proposed LEP Amendment be served by a fire hydrant system which is connected to a reticulated potable water supply. In addition, that fire hydrants be provided and located in accordance with the requirements of Appendix B of Australian Standard (AS) 2419.1 —2005 ▪ All roadways be prominently identified by reflective street signs. | <p>The recommendations from FRNSW would be incorporated into the conditions of consent for any future development approval for subdivision.</p> | <p>No change to the planning proposal or further action is required.</p> |
| <p>State Emergency Service (SES) No response was received at Gateway or at public exhibition.</p> | <p>The site when developed will have adequate access for fire safety and emergency evacuation and stormwater management to mitigate any flooding issue.</p> | <p>No change to the planning proposal or further action is required.</p> |
| <p>Environmental Protection Agency In summary, the EPA provided advice with regard to the following matters:</p> <p>Air Quality The EPA notes that the proposed 500m buffer approach appears to rely only on odour modelling to inform the siting of residential development in the vicinity of activities associated with the Ingham Turkey Processing Facility. While a buffer zone approach may</p> | <p>Air Quality The main source of odour from the Ingham Turkey processing facility is from the wastewater ponds. Most of this wastewater is now connected to the Sydney Water sewer and the level of odour has decreased significantly. The reduction of odour was a key requirement of Sydney Water in order to secure final consent for the connection. In addition the proposed residential areas will be further than 500 metres from the facility and this is considered an acceptable distance to ensure that odour is not</p> | <p>No change to the planning proposal is required.</p> <p><u>Further action</u> Site-specific DCP provisions in relation to;</p> <ul style="list-style-type: none"> ▪ Air quality – an odour assessment. ▪ Water quality – water sensitive urban design and monitoring to reduce |

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| <p>reduce the risk of odour impacts, it will not remove the risk entirely.</p> <p>EPA recommend that Council consult Chapter 5 of the Technical Framework: Assessment and Management of Odour from Stationary Sources in NSW for guidance on alternative options available for avoiding and mitigating potential or existing odour impacts.</p> <p>Noise The EPA considers that the scope of the noise assessment provided is not sufficient to determine the suitability of the site for residential development. The assessment has not considered the cumulative impact of the proposed land rezoning, existing and foreseeable sources of noise (Ingham operation and proposed South and East Tahmoor rezoning), road traffic noise and traffic generating development. The EPA is also unable to assess potential cumulative impacts from this proposal nor the South and East Tahmoor rezoning because the scope of each noise report is limited and compounded by the fact that each has adopted different approaches to the noise modelling with different inputs and assumptions.</p> <p>Water Quality Due to the sensitivity of the catchment and current performance of Water Sensitive Urban Design (WSUD), the EPA recommends that pollutant load reduction targets should be derived that support the relevant community's</p> | <p>an issue. This is consistent with Council's adopted mitigation measures, and aligns with the adopted approach which was endorsed for the rezoning of the East Tahmoor area. While the level of odour reduction has not been tested since the upgrade has been completed, it is considered likely that it would be within acceptable limits and is not necessary at this time. A requirement for an odour assessment as part of any future subdivision application can be included in site-specific provisions in the Wollondilly DCP.</p> <p>Noise The planning proposal site is bounded by the Bargo River Gorge and is not traversed by a major road. Most of the site is located over a kilometer from Remembrance Driveway, the nearest major road. The Cross Street site is not a thoroughfare to anywhere as acknowledged in the traffic report. Traffic generated from the planning proposal site would be dispersed through three routes, River Road, Tahmoor Road and Progress Street and this would limit potential traffic noise impact on adjoining residents.</p> <p>In addition, the existing turkey processing facility is accessed from Rockford Road. The proposed future residential area at Cross Street will not be affected by truck and/or freight movements.</p> <p>Accordingly road noise is not considered to pose any acoustic issues for the planning proposal site or for adjoining areas. Any future development application must have regard to potential noise impacts as outlined in Wollondilly DCP.</p> | <p>pollutant levels from urban use.</p> <ul style="list-style-type: none"> ▪ Remediation to ensure the site is suitable for residential use. ▪ Waste management on the urban edge. |
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| <p>uses environmental values of surrounding waterways.</p> <p>To ensure effective maintenance and monitoring of water conservation and WSUD techniques in the future, Council should consider measures such as the use of Voluntary Planning Agreements (VPAs) to secure these arrangements including financial contributions and accountable parties through the planning process.</p> <p>Contaminated Land Management The EPA recommends that a contemporary contamination land assessment should be undertaken as part of any land use change process to inform future land use. If historical information suggests that activities have been undertaken in the past that has caused site contamination, the EPA recommends that Council consider the involvement of an EPA-accredited Site Auditor during the contamination management process, including the provision of a site audit statement certifying that the land is suitable for the proposed use.</p> <p>Waste Management Council should make sure that existing services have capacity to address any proposal that involve incremental growth in the Council area. In addition, Council should also make sure that Councils Development Control Plan is contemporary in relation to waste management.</p> | <p>Water Quality Details regarding water quality modelling and outputs will be provided at the subdivision stage to ensure that pollutant load targets can be achieved.</p> <p>WSUD measures will be implemented at the development application stage. Five detention basins are proposed to manage stormwater and these are proposed to be dedicated to Council under a VPA with a financial contribution for ongoing management and maintenance.</p> <p>Contaminated Land Management A preliminary contaminated land investigation was undertaken in 2010 and was updated in 2013. The assessment found that that the majority of the site in its current condition is suitable for the intended residential land use, however a few localised areas onsite pose a potential limited risk to the environment and human health.</p> <p>Recommendations to alleviate this risk are proposed to be implemented prior to or during the development phase to return these areas to a condition suitable for residential land use. A Stage 2 contamination investigation is recommended to be undertaken prior to any approval for subdivision on particular areas of the site that are potentially contaminated.</p> <p>An EPA accredited Site Auditor would provide assurance that any contamination management needed would be undertaken appropriately to ensure that the land is suitable for residential use. Requirements for a Stage 2 contamination</p> | |
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| | <p>investigation and a site auditor to confirm residential suitability are proposed to be included in site-specific controls within Wollondilly Development Control Plan 2016.</p> <p>Waste Management Current waste management services are considered adequate to enable incremental growth resulting from this planning proposal. The Planning Proposal will result in a relatively small increase in population and waste issues are not considered to be significant. Waste management will be addressed in detail at the subdivision stage.</p> <p>However it is important to ensure that waste management is undertaken effectively to prevent urban edge effects such as rubbish dumping in bushland. Appropriate infrastructure such as bollards and fencing to limit vehicular access to bushland should form part of any waste management strategy for the site. These requirements are proposed to be included in site-specific controls within Wollondilly DCP 2016 and also would be a consideration in any biobanking strategy.</p> | |
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Table of community submissions from Public Exhibition

| Main Concerns | Planning response to concerns |
|---|--|
| <p>Roads and Transport</p> <ul style="list-style-type: none"> ▪ Cumulative impact of traffic on roads from this and other nearby developments. ▪ The local roads require upgrading and the high level of additional traffic needing to access Remembrance Driveway – up to 480 vehicles with 2 per dwelling - will put a strain on local roads ▪ There is a need for better access to the freeway. The current route via Prince Street and Argyle Street Picton is already congested and trying to get another thousand cars across the bridge will create chaos especially when we have another flooding event. ▪ The development should be put on hold until there is a firm commitment to provide better rail services and another freeway access. ▪ The developer should pay all costs associated with ensuring traffic is managed adequately | <ul style="list-style-type: none"> ▪ A traffic analysis for the Cross Street Planning Proposal found that there was capacity within the current road framework for the additional traffic generated from development of the site. ▪ Council has prepared a plan for a road network at East Tahmoor that would provide for improved connections. ▪ A review of Wollondilly Development Contributions Plan is underway and includes consideration of the need for upgrades to traffic infrastructure particularly along Remembrance Driveway in Tahmoor. ▪ Planning for an alternative route to the freeway is also being considered. |
| <p>Overcrowding</p> <ul style="list-style-type: none"> ▪ The lots are too small and people will be living on top of each other. ▪ No lots less than 4,000 sqm should be allowed on eastern lobe of the site adjoining the Bargo River to allow the reinstatement of the critically endangered Shale Sandstone Transition Forest (SSTF). ▪ The minimum lot size should not go below 700 sqm. ▪ There are rumours of up to 800 houses. ▪ Ensure families are not crammed into small spaces with too narrow roads and roofs close together. | <ul style="list-style-type: none"> ▪ A range of minimum lot sizes is proposed for residential land with the smallest being 700 sqm and the largest, 1.5 hectares. ▪ The proposed minimum lot size for the eastern lobe is 4,000 sqm and this area also includes a relatively wide area of E2 land which will assist in the protection of SSTF. ▪ The majority of lots across the site are proposed to be 1500 sqm which is relatively large when compared to modern minimum lot sizes adopted in other sites in Tahmoor and other Councils. ▪ The proposed R5 Large Lot Residential zone over most of the site does not permit dual occupancies which would also ensure that the site will not be overcrowded. |
| <p>Environmental</p> <ul style="list-style-type: none"> ▪ Support for a regenerated 100m vegetation buffer along the Bargo Gorge zoned E2 to protect critically endangered communities. ▪ Concern about possible future regular burning of E2 land. ▪ Hope that the E2 land will eventually form part of a National Park. | <ul style="list-style-type: none"> ▪ The E2 land along the Bargo River and across the site is proposed to be conserved through Biobanking. The Biobanking agreement will include provisions for ongoing management and maintenance of this land. |

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| <ul style="list-style-type: none"> ▪ Need to ensure adequate funding for bush regeneration. ▪ The biodiversity certification should be done by an independent body. ▪ Runoff from 4 watercourses with invasive weeds and nutrients (phosphorus and nitrogen) from fertilisers that could devastate the Bargo Gorge which has great ecological and tourism value. ▪ A vegetated buffer around the watercourses and an adequate sewerage system is required. ▪ The environmental land is supported but there is a concern that it will be abandoned similar to The Acres development adjoining ▪ Advice from the Environmental Protection Agency on addressing river pollution from stormwater and sewage should be heeded. | <ul style="list-style-type: none"> ▪ Any bushfire management regime would consider impact on threatened and endangered species. ▪ Re-generation of bushland would also be included in the Biobanking agreement. ▪ The Biodiversity Certification process has been undertaken by an independent accredited ecologist. Water quality monitoring is considered important and could be a component of the Biobanking agreement. ▪ The residential land is proposed to be connected to sewer |
| <p>Provision of facilities</p> <ul style="list-style-type: none"> ▪ There are no parks or schools proposed. ▪ Will there be any green space left. ▪ A corridor for wildlife, pedestrians and cyclists should be considered across River Road to link bushland. ▪ Tourist facilities and accommodation and a walking trail to the Mermaid Pools should be considered and would become a community asset. | <ul style="list-style-type: none"> ▪ The area to be biobanked will provide opportunities for passive recreation with walking trails to lookouts and picnic facilities. ▪ An area of land adjoining Cross Street is proposed for local open space. ▪ A wildlife pedestrian link across River Road is not possible as while the site will include biobanked bushland adjacent to River Road, land on the opposite side is under a different private ownership. ▪ The site is proposed for residential purposes but there would be opportunities for 'bed and breakfast' land uses. ▪ A walking trail to the Mermaid Pools may be a future consideration but would also involve land under different ownership and is not possible under this Planning Proposal. |
| <p>Other</p> <ul style="list-style-type: none"> ▪ The turkey processing facility wastewater is largely sewered and there is no odour. Land around Progress Street within 500m of the facility should be able to be rezoned to residential | <ul style="list-style-type: none"> ▪ A planning proposal to rezone land for residential along Progress Street near the facility would need to provide evidence that noise and odour from the turkey processing facility would not adversely affect future residents. However it is noted that the Department of Primary Industry - Agriculture supports no further residential development within 500 metres of the turkey processing facility to avoid land use conflict and to support this important rural industry. |


Map Series to be Amended:
Land Zoning

Map Sheets to be Amended:
8400_COM_LZN_008G_020_20160602
8400_COM_LZN_008H_020_20150731

Zone

- B1 Neighbourhood Centre
- B2 Local Centre
- B4 Mixed Use
- B5 Business Development
- E1 National Parks and Nature Reserves
- E2 Environmental Conservation
- E3 Environmental Management
- E4 Environmental Living
- IN1 General Industrial
- IN2 Light Industrial
- IN3 Heavy Industrial
- R2 Low Density Residential
- R3 Medium Density Residential
- R5 Large Lot Residential
- RE1 Public Recreation
- RE2 Private Recreation
- RU1 Primary Production
- RU2 Rural Landscape
- RU4 Primary Production Small Lots
- SP1 Special Activities
- SP2 Infrastructure

Cadastre

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 Addendum data 20/02/2018 © Wollondilly Shire Council

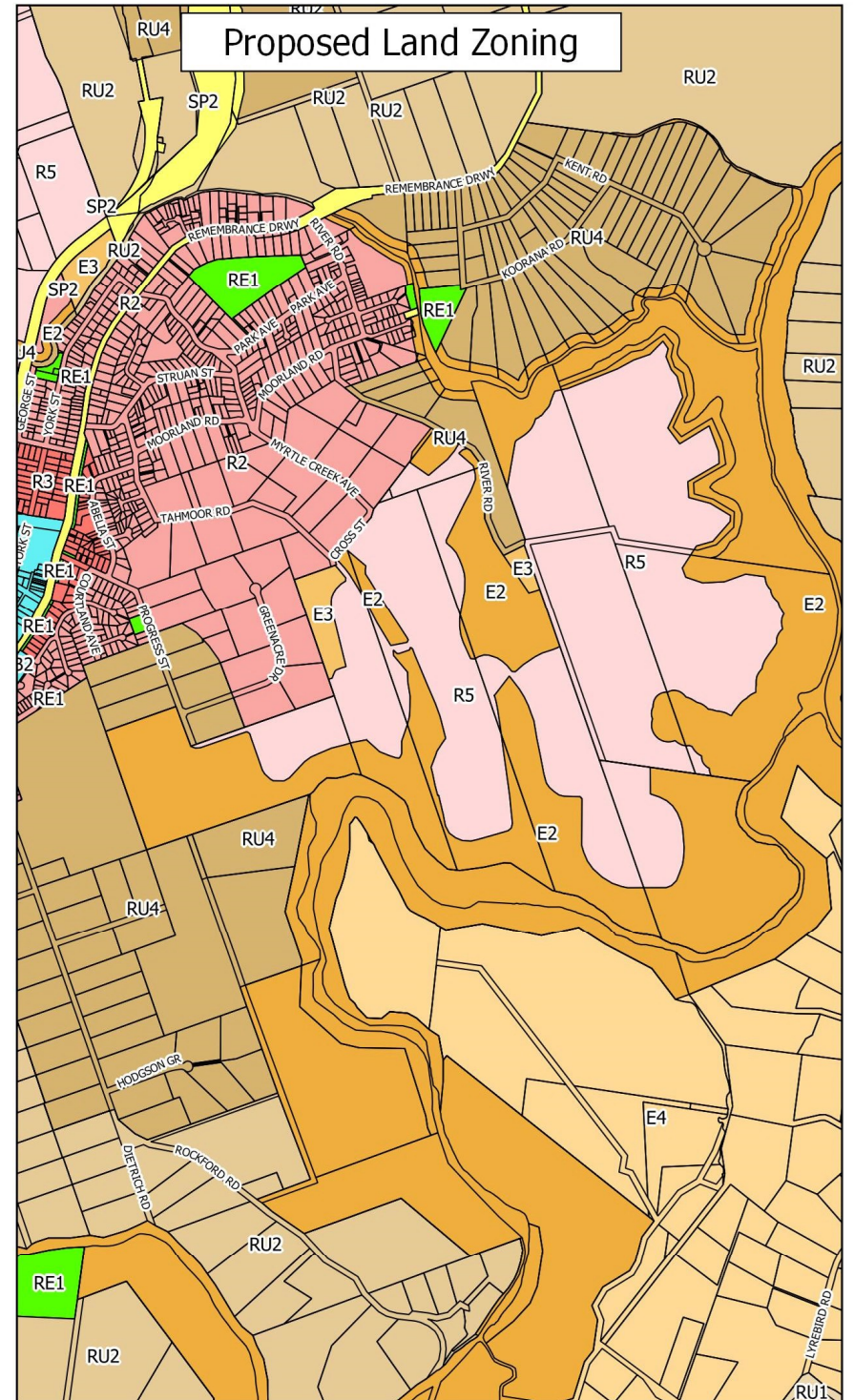
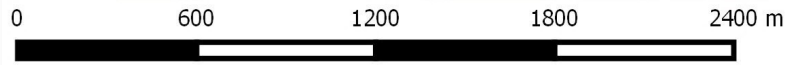
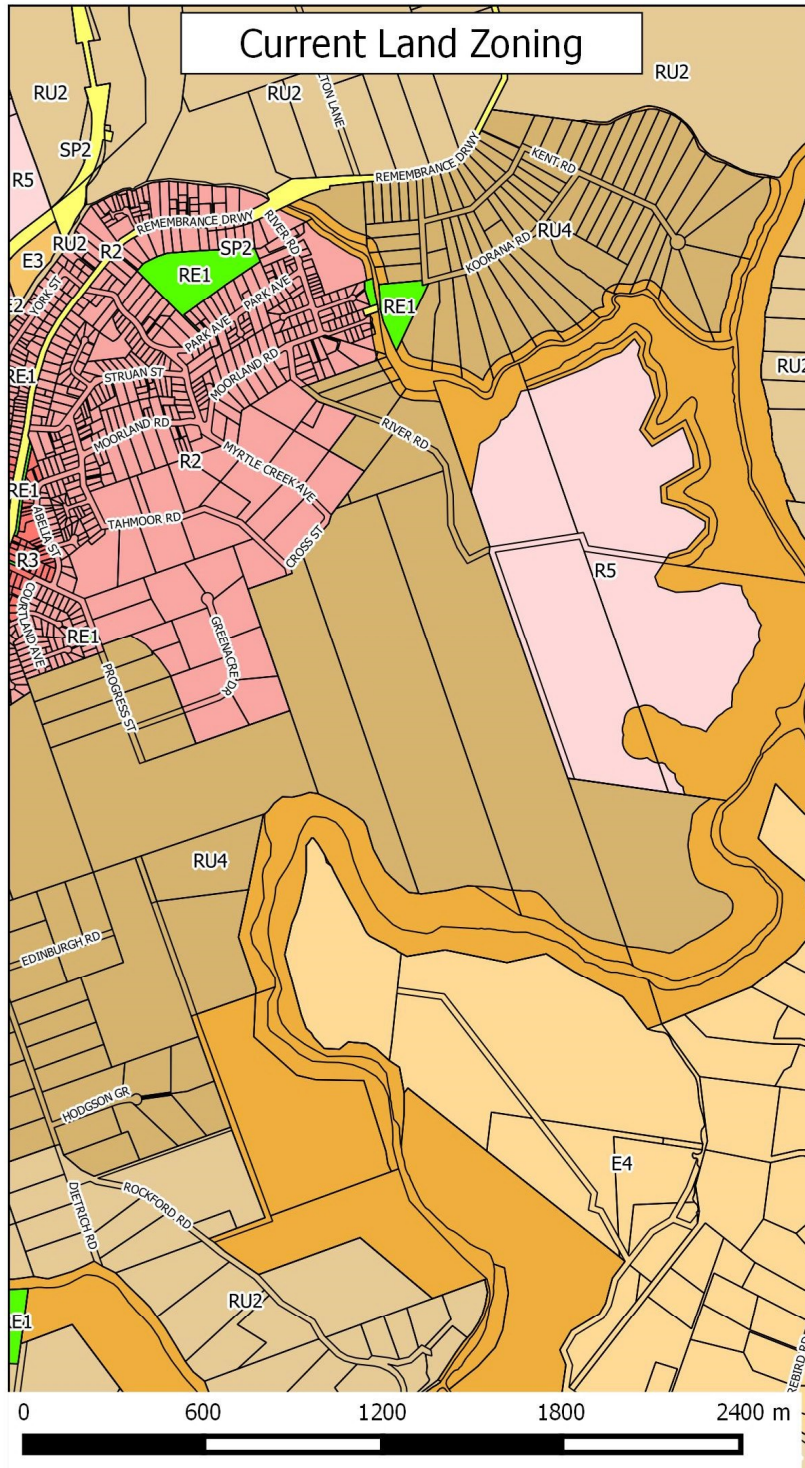
Note: all legend items in Wollondilly Shire Council's LEP 2011 maps are listed above. All items may not be visible in the adjacent map.

Map Produced: 20-02-2018



Projection: GDA 1994
MGA Zone 56

Visit the website below to view the published map sheets listed above.
<http://www.legislation.nsw.gov.au/mispindex?type=epi&year=2011&no=85>



Map Series to be Amended:
Lot Size Map

Map Sheets to be Amended:
8400_COM_LSZ_008G_020_20160602
8400_COM_LSZ_008H_020_20150731

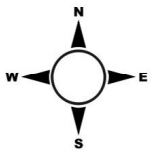
Minimum Lot Size (sq m)

- B 230
- C 250
- G 450
- Q 700
- T 975
- U1 1250
- U2 1500
- V 2000
- W 4000
- X 5000
- Y1 1ha
- Y2 1.5ha
- Z1 2ha
- Z2 3ha
- Z3 4ha
- Z4 4.5ha
- AA1 5ha
- AA2 7ha
- AB1 16ha
- AB2 20ha
- AB3 30ha
- AB4 35ha
- AB5 40ha
- AC 60ha
- AD 100ha

Cadastral

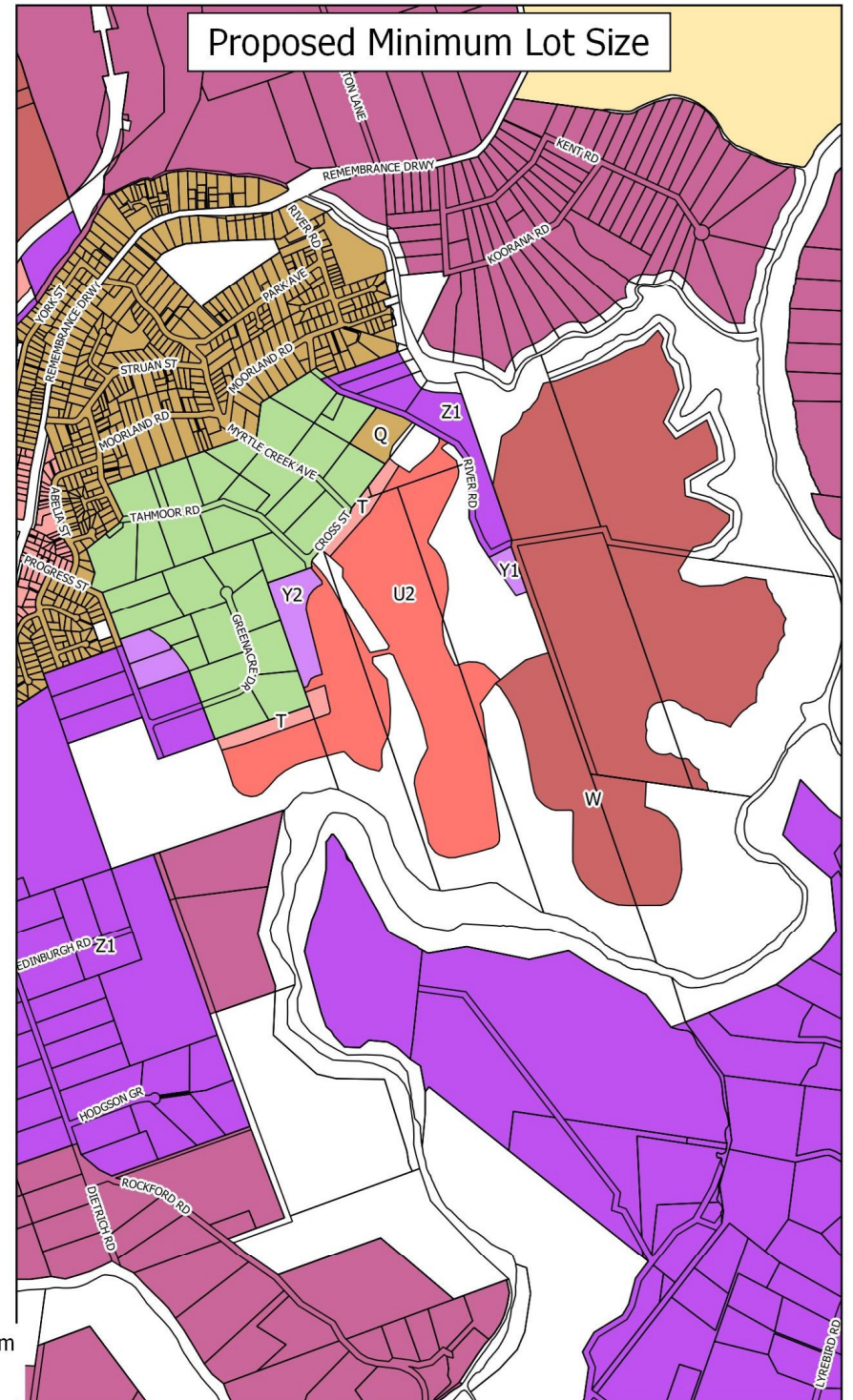
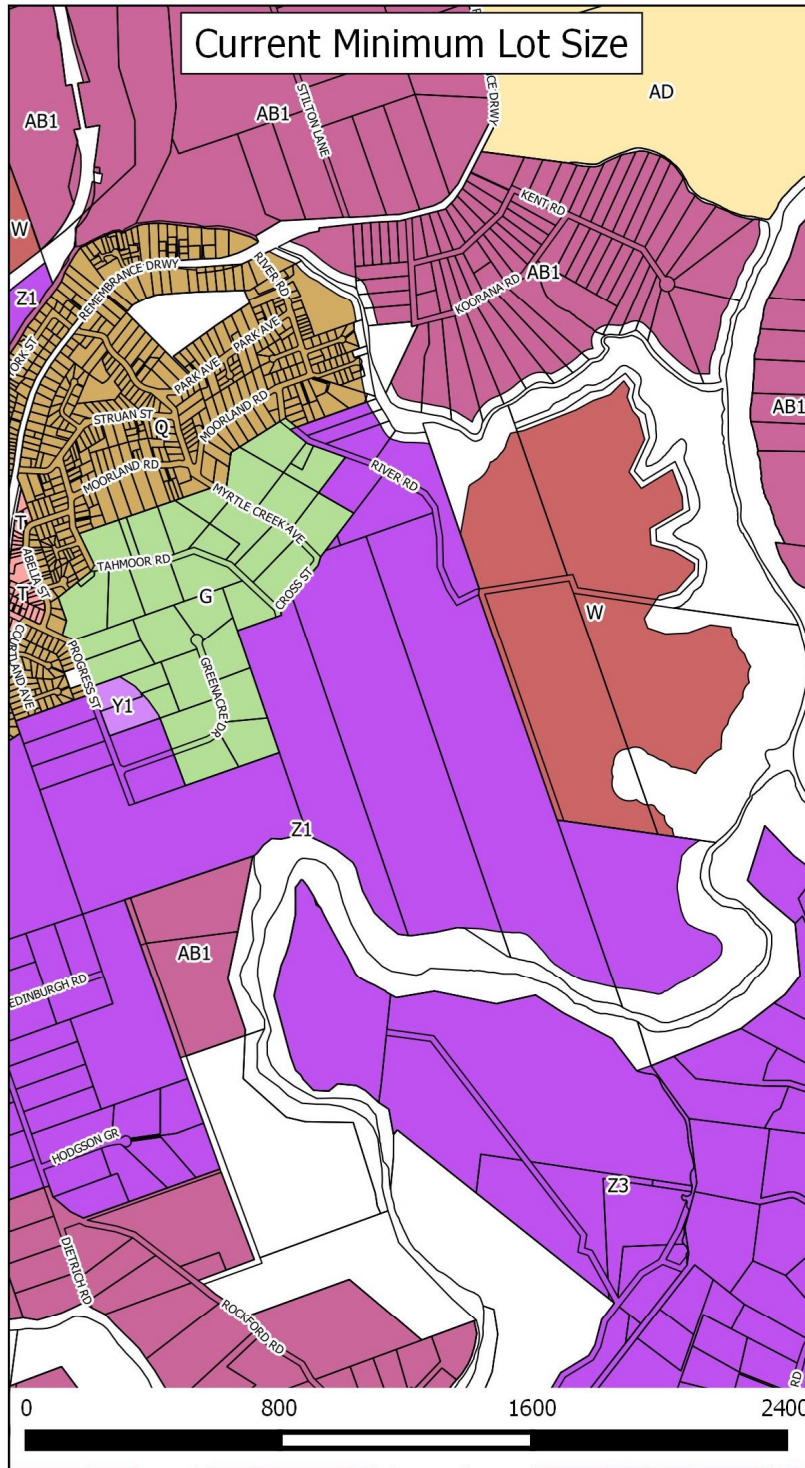
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MGA Zone 56
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Map Series to be Amended:
Height of Buildings

Map Sheets to be Amended:
8400_COM_HOB_008G_020_20160602
8400_COM_HOB_008H_020_20150731

Maximum Building Height (m)

| | |
|---|-----|
| F | 6.8 |
| J | 9 |
| L | 11 |
| M | 12 |
| O | 15 |

Cadastre


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 Addendum data 20/02/2018 © Wollondilly Shire Council

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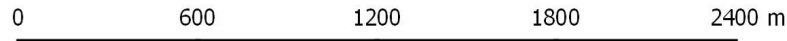
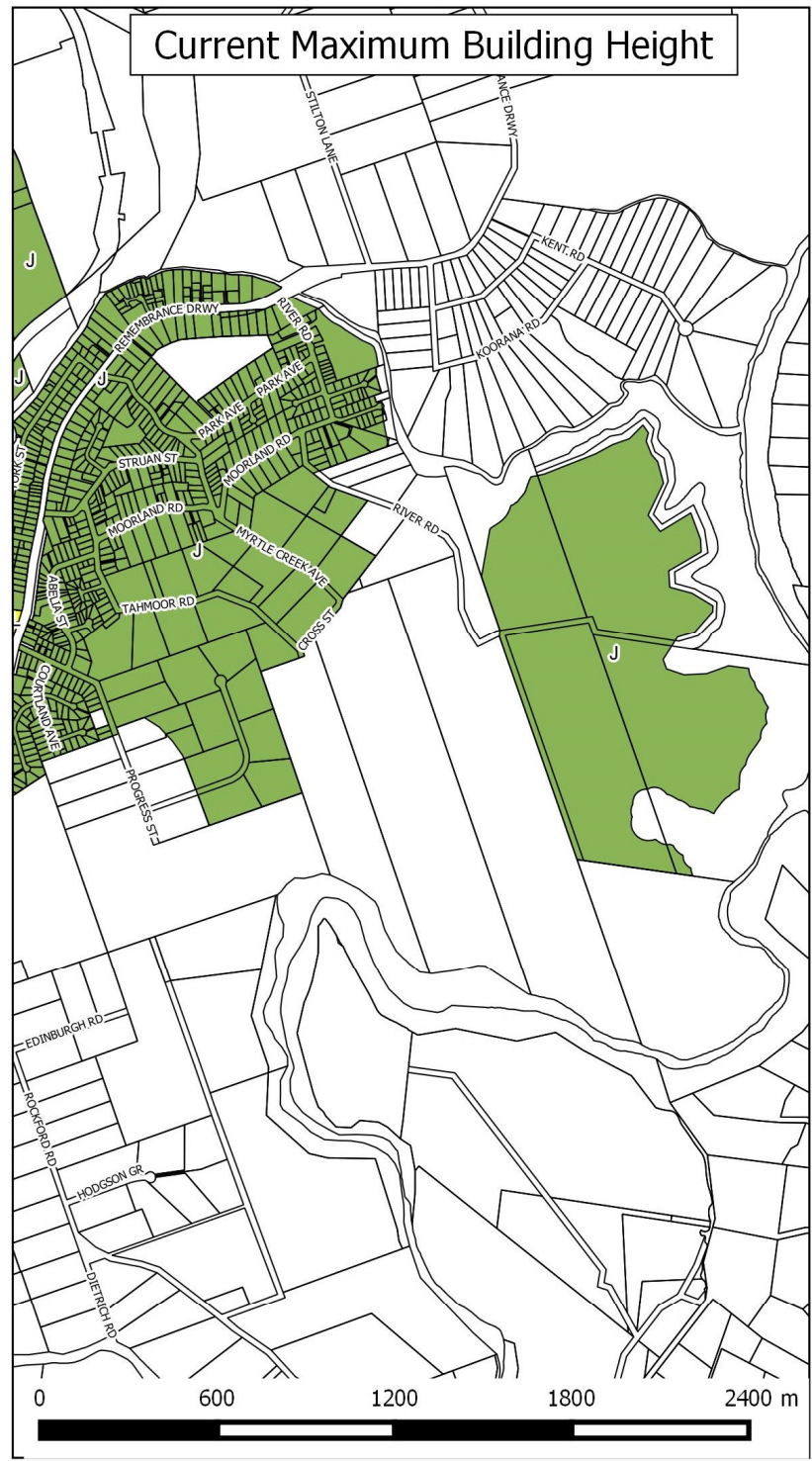
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Current Maximum Building Height



Proposed Maximum Building Height



Map Series to be Amended:
Natural Resources - Water

Map Sheets to be Amended:
8400_COM_NRW_008_080_20160602

Sensitive Land



Cadastral

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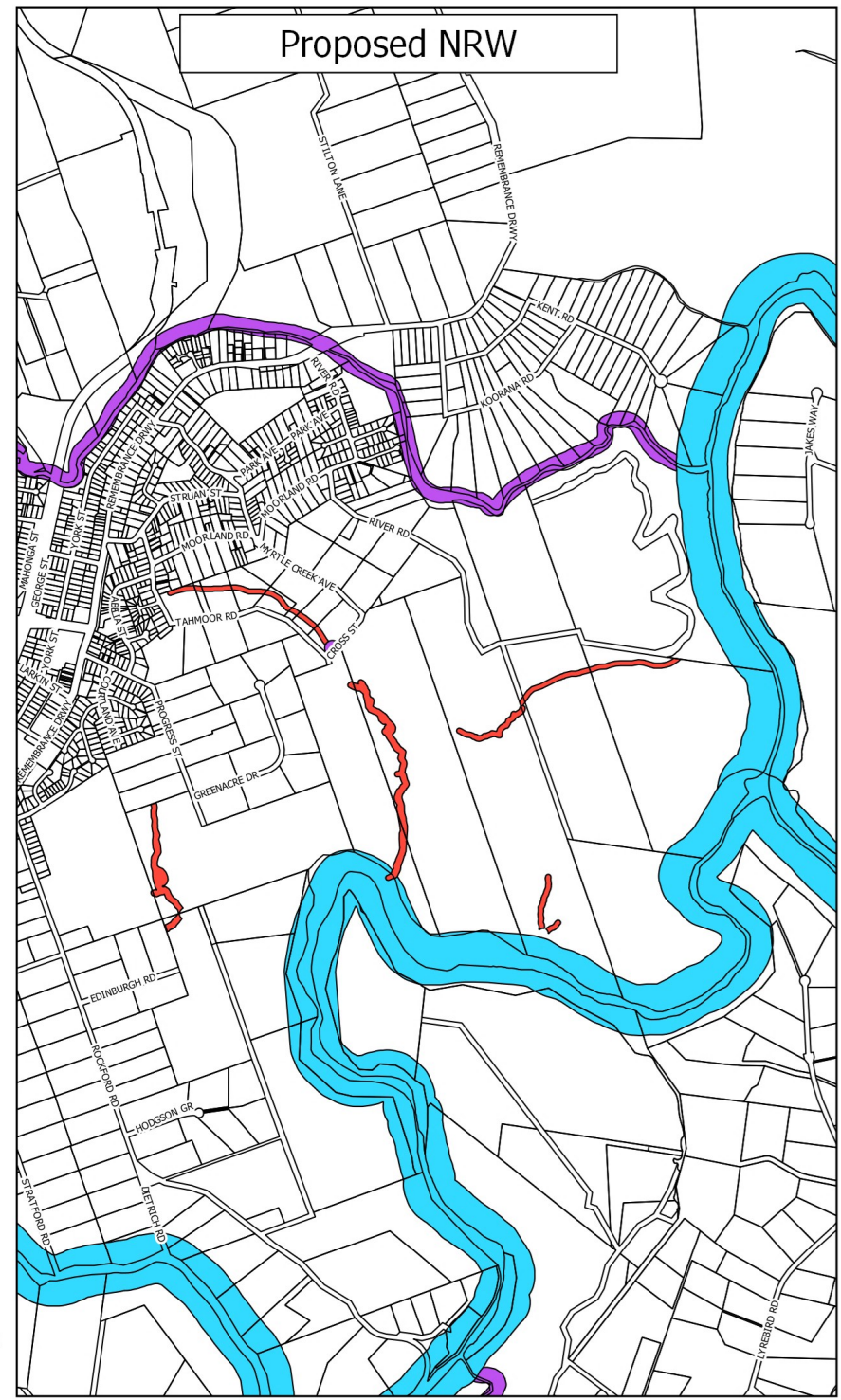
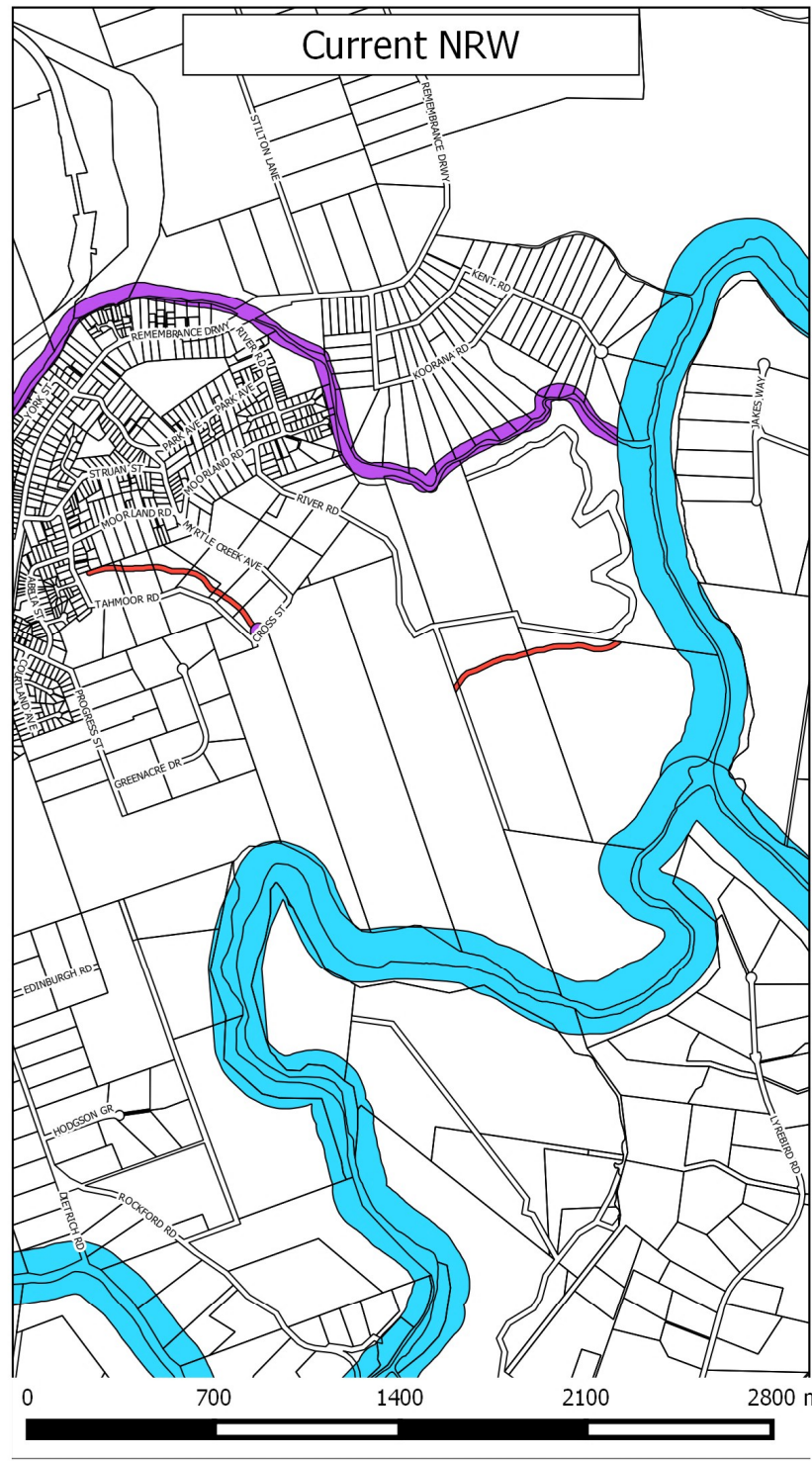
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Map Produced: 28-03-2018



Projection GDA 1994
MGA Zone 56

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Map Series to be Amended:
Urban Release Area

Map Sheets to be Amended:
8400_COM_URA_008_080_20160210

Urban Release Areas

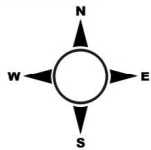
 Urban Release Area

Cadastre

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