



Attachments Booklet

Monday 18 June 2018

GR1, GR3, GR4, GR5, EN1, EC1, EC4 & EC5

Contents

SUSTAINABLE AND BALANCED GROWTH

GR1	Proposed Commencement of Low Rise Medium Density Housing Code and Greenfield Housing Code	3
GR3	Finalisation – Abbotsford Planning Proposal & Voluntary Planning Agreement	20
GR4	Reviewing the Wollondilly Growth Management Strategy 2011	99
GR5	Wildlife Protection Policy	111

CARING FOR THE ENVIRONMENT

EN1	Submission to the Independent Panel for Mining in the Catchment.....	121
-----	--	-----

EFFICIENT AND EFFECTIVE COUNCIL

EC1	Wollondilly Issues Paper 2018.....	139
EC4	Investment of Funds as at 30 April 2018	144
EC5	Notification of Election to fill Casual Vacancy – Local Government and Shires Association of New South Wales.....	161

GR1 Attachments

1. Council submission on exhibited amendments (March, 2016)
2. Greenfield Housing Code Area Map 1 - Marsh Road, Silverdale
3. Greenfield Housing Code Area Map 2 - Appin Road, Appin
4. Greenfield Housing Code Area Map 3 - PTT and PTTAG sites, and Bingara Gorge Estate at Wilton
5. Land Based exclusions under 1.19 - Complying Development could not be undertaken under the Low Rise Medium Density Housing Code or the Greenfield Housing Code if it is affected by any one of these land based exclusions
6. Table outlining codes with Complying Development Codes

Monday 18 June 2018

GR1 – Proposed Commencement of Low Rise Medium Density Housing Code and Greenfield Housing Code

Our Reference: TRIM 1127 CW:CS

Codes and Approval Pathways
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

1 March 2016

Dire Sir/Madam,

EXHIBITION ON EXPANDING COMPLYING DEVELOPMENT TO INCLUDE TWO STOREY MEDIUM DENSITY HOUSING TYPES

Thank you for the consultation opportunity on the proposed options for the delivery of more housing (increase housing supply), greater housing choice and better design outcomes for medium density housing across the NSW.

The proposed broadening of development types that can be carried out as complying development under the *State Environmental Planning Policy (Exempt and Complying Codes) 2008* are not supported on the following grounds:

- the proposed top-down planning controls will weaken the ability for local authorities and their communities to determine the shape of the places where they live, work and play.
- a one-size-fits all approach is not a strong basis for good design.
- they are likely to burden Wollondilly with the costs of providing additional infrastructure to service development which would currently be picked up by the developer through the development application process.
- they are not appropriate in peri-urban areas.

Although Wollondilly forms part of the Sydney's Metropolitan Rural Area it is better described as a peri-urban area. Peri-urban areas are unique and complex locations which need to be considered differently to metro, rural and regional areas in terms of policy.

Some of the characteristics of Wollondilly as a peri-urban area which limit the suitability of residential areas for medium density development as complying development in the manner proposed are that:

- Public and alternate transport arrangements are poor, with limited bus services and diesel train services that terminate at Campbelltown,

- The accessibility of areas is further constrained by a slowly developing cycleway and footpath network;
- Limited sewerage capacity to enable future growth;
- Lower levels of services and soft infrastructure; such as health,
- Constrained hard infrastructure; street lighting, drainage, roads
- Environmental and physical land constraints to development in urban areas; slope, flooding, land stability, mine subsidence, bushfire.

Wollondilly's urban areas have been carefully planned so that the location of land zoned for R2 Low Density Residential and R3 Medium Density Residential reflects the capability of the land for development.

In many cases, land in Wollondilly zoned for R2 Low Density Residential are unsuitable for medium density development because they are unserviced in terms reticulated sewerage and water supply and/or the historical development of the Shire where lots were created at a time (some as late as the 1800s) when no consideration was given to topographical features, infrastructure provision or the like.

More detail is provided on this position is provided at Attachment 1 which forms part of Council's submission.

Should you require any further information on the submission please contact Carolyn Whitten from Council's Strategic Planning team on (02) 4677 9551, or by email at carolyn.whitten@wollondilly.nsw.gov.au.

Yours faithfully



Chris Stewart
Director
PLANNING

ATTACHMENT 1:**Detailed comments on Options for Low Rise Medium Density Housing as Complying Development****Better Design**

- The Discussion Paper suggests that “better design outcomes” are one of the key reasons for expanding complying development to cover medium density housing options. If this is genuinely a drive for better design then the proposed design standards are not considered robust as, for the most part, they appear to be limited to setbacks and the provision of private open space and do not consider to encourage good design. Development should create places of character based upon an appreciation of the site and surrounding areas. Responding positively to its natural and built context. Design should ‘ground’ development to their location and this goes beyond the unthinking application of standard solutions as proposed.
- The proposed inclusion of medium density housing forms weakens Council’s ability to improve design standards within local planning policies; for example it is broadly considered inequitable to include provisions within a Development Control Plan which have a greater imposition than would be required under the SEPP (Exempt and Complying Development Codes).
- The following additional comments are provided:
 - Lack of controls to discourage mirror imaging;
 - The proposed controls for corner lots are not strong enough;
 - Needs to be more than just a window facing a secondary frontage;
 - The incentive to allow articulation within the setback area is not forceful enough;
 - In general, balconies should not be permitted on side boundaries as part of complying development as this requires a merit based assessment to consider whether it is appropriate;
 - There are no controls which consider the bulk of driveway/garages on the streetscape;
 - The suite of suggested controls are not considered to provide sufficient certainty of the built form outcome and management of potential impacts.

Design Standards

Notwithstanding Council’s objection to the proposed expansion of the complying development to cover medium density housing options, if the SEPP is amended the following comments are noted:

- No objection to the minimum frontage of 14m for the construction of 2 dwellings on a single lot as complying development.
- No major concerns with the inclusion of attic rooms so long as they meet BCA requirements.
- No issue with proposed side setbacks.
- The application of a 1.2m site setback and no building envelope would be easier to implement.
- Eave and roof overhangs should be required to comply with the building envelope/setback requirements, i.e. no setback intrusions permitted.
- Support manor homes only being permitted on corner lots with frontages to both streets.
- A definition should be provided at Clause 1.5(1) of the SEPP (Exempt and Complying Development Codes) to provide a definition for ‘building envelope’ as

there is the potential for confusion with the term of the same name as an area identified on a Section 88B instrument under the *Conveyancing Act 1919* relating to the land.

Applicable Land Use Zones

- Council objects to making the proposed medium density housing forms, with the exception of dual occupancy development, permissible within the R2 Low Density Residential zone as it this would undermine the zone objectives and potentially have a detrimental impact on the character of these areas. These housing forms should be restricted to the R3 Medium Density Residential zone.
- The proposed expansion may result in the wrong development at the wrong location.
- In order to create liveable communities and to reduce infrastructure burdens, medium density housing forms should be directed to locations which are close to shops, public transport and services. LEPs already tend to identify and zone areas which are more suited to medium density housing by zoning them R3 Medium Density Housing.
- In particular, there are villages within Wollondilly which are zoned R2 Low Density Residential and there are no local basic services such as a doctor.
- Complying development for manor homes and 3-10 dwellings should only be permitted within a radius of existing centres and/or a function rail station (Wollondilly has a number of rail stations which have no rail services). Bus services are not considered to be robust enough as locational criteria because bus services can be irregular, poor/intermittent in peri-urban areas.
- The consultation documents list a number of land use zones where the proposed medium density housing forms would not be allowed as complying development and includes a reference to "Environmental living zones". To remove any opportunity for a misinterpretation that this may refer only to an E4 Environmental Living zones this should refer to "Environmental Protection Zones.
- The proposal to not allow the proposed medium density housing forms as complying development in the R5 Large Lot Residential, Rural Zones and Environmental Protection Zones is supported.

Relationship to Local Environmental Plan

- Clarity is required on how the complying development provisions for medium density housing forms relate to LEPs. Clause 1.18(1)(b) of the SEPP (Exempt and Complying Development Codes) which deals with general Requirements for complying development indicates that the development must be "permissible, with consent, under an environmental planning instrument applying to the land on which the development is carried out". Is the intention of this clause to refer to the Land Use Table or any provision within an LEP.

Absence of Community Consultation

- An absence of community consultation and notification to adjoining landowners disempowers communities. This can lead to aggression which is often directed at Councils.

- Additional consultation should be undertaken with and targeted specifically at local communities (not Councils) to ascertain local support for the proposed measures.
- The proposal would mean that a larger portion of development could be approved/certified without local involvement in planning decisions.

Traffic & Transportation

- The suggested Design Standard for car parking for dual occupancy, manor homes and 3 – 10 dwellings refers to the Guide to Traffic Generating Developments as a source of reference for minimum car parking requirements. It is our understanding that a revised Guide to Traffic Generating Developments is being prepared and will not include prescriptive parking controls. Subsequently, it may not be appropriate to refer to this document for car parking requirements.
- Where vehicles are likely to increase vehicle movements a development application should be referred to Council. This issue relates to those developments which involve more than 3 dwellings.
- The cumulative impact of medium density housing can have detrimental impacts on the safe and efficient function of intersections and there is no ability to plan for the timing of traffic increase, proportion costs for intersection improvements or incorporate effectively into a contributions plan.
- Design Standards for complying development involving 3-10 dwellings should require the provision for footpaths/sharepath/cycleway connections to the nearest available network connection or at a minimum along the frontage of the site.
- Some areas within Wollondilly have inadequate or no street lighting, particularly in the older areas. New development involving more than 1 dwelling is often a trigger for requiring additional street lighting as part of the development consent.
- If the provision of much needed essential infrastructure such as footpaths, kerb and guttering and street lighting cannot be incorporated into the standards for medium density housing forms as complying development this will place an additional burden on already constrained Council budget to provide. One way of addressing this may be to create an 'infrastructure control lot' similar in principle to a 'flood control lot' to identify properties within the shire which potentially require additional infrastructure if density was increased. Complying development for medium density housing forms would not be permitted on an "infrastructure control lot"

Stormwater & Drainage

- There are residentially zoned areas in Wollondilly where the property frontage is not kerbed or guttered and there is minimal or no drainage infrastructure. New development is often the trigger for the provision of this infrastructure with the developer contributing to this cost. Complying Development for the proposed medium density housing forms should not be permitted on lots where there is no kerb and gutter, particularly as this has the potential to place an additional burden on already constrained Council budgets to provide.

One way of dealing with this may be to limit complying development to lots which have been subdivided in the last 10 years as these would have drainage infrastructure in place.

Alternatively, infrastructure constrained lots could be identified as an 'infrastructure control lot' similar in principle to a 'flood control lot' to identify properties within the shire which potentially require additional infrastructure if density was increased. Complying development for medium density housing forms would not be permitted on an "infrastructure control lot"

- Council should have a say in any development that drains to or connects to Council maintained infrastructure.
- There are sizeable areas within Wollondilly Shire that are flood prone but have not been mapped as such at present. Council relies heavily on the local knowledge of staff when considering development applications. We also have some areas that are so flat that adequate stormwater drainage has not been achievable.
- Drainage issues associated with subdivision of 3 – 10 dwellings are significantly more complex.
- Wollondilly Shire contains three of Sydney's major catchments; the Wollondilly River catchment, Upper Nepean River catchment and the Upper Georges River catchment. There is no mention in the Discussion Paper on how it complying development will ensure no detrimental impact on water quality.

Subdivision

- Council does not support a subdivision certificate being issued for Torrens title subdivision as it is considered essential to have input from environmental, planning and engineering experts.
- Torrens title subdivision for dual occupancy development should only be permitted after the buildings are complete, as the subdivision is only considered acceptable because the building layout is known. If subdivision is proposed to be permitted before the buildings are completed there needs to be a mechanism to ensure the house is built/completed before the subdivided lots could be sold.
- If subdivision is to be permitted as complying development a requirement needs to be included to ensure any relevant Section 94 Contributions are included on the certificate and received by the relevant local authority before a subdivision certificate is issued.
- Wollondilly contains a number of designated Urban Release Areas which are not located within Growth Centres. Consideration needs to be given to whether complying development for medium density housing forms which has a component of Torrens title subdivision should be permitted within any area mapped as Urban Release Areas (URA) under a Local Environmental Plan. Special Infrastructure Contributions may be required in these areas and already apply to standard subdivision.

Minimum Lot Size

- The proposed minimum lot sizes for each medium density housing form are not supported for the following reasons;
 - The minimum lot size is too small;
 - has the potential to enable development which would be out of character with many areas in Wollondilly.
 - would enable overdevelopment in the Wollondilly area which contains a mix of rural villages and towns;

- it doesn't take into consideration the character of towns and villages outside Sydney's more dense urban areas and will change the character of peri-urban and rural areas;
- has the potential to enable development which would be out of character with many areas in Wollondilly.
- it would undermine local planning controls based on consultation with the community, for example the location of R2 and R3 zoned land have been carefully planned on the basis of land capability and Clause 4.1A of the Wollondilly Local Environmental Plan 2011 which deals with the minimum lot size for dual occupancies in residential zones.

Adequate Essential Services – disposal and management of sewage

- There are residentially zoned areas within Wollondilly which are not connected to reticulated sewerage systems and or have no town water, only tanks. Complying Development for the proposed medium density housing forms should not be permitted on unsewered land or land without reticulated water supply because these sites are constrained and are unlikely to be able to sustainably manage the disposal of waste and development could result in quite severe environmental health risks and harm to the environment.
- Generally speaking, the SEPP (Exempt and Complying Development Codes) assumes that there is capacity to service additional dwellings where the land is sewerred. However, this is not always the case. Land which is serviced by a private sewer scheme may have limited capacity to service additional dwellings such as medium density housing forms. In some cases the schemes were designed to service a capacity of 1 dwelling per lot. There is a potential risk that development could be issued with a Complying Development Certificate when there is insufficient sewer capacity to service the additional dwelling.

Wollondilly Shire Council includes a number of housing estates which contain private sewer schemes and is concerned that the existing provisions for complying development will compromise areas from being developed in a manner consistent with their original masterplan. While it is acknowledged that an approval under the Local Government Act is also required, there is nothing that requires this to be obtained prior to land owners expending funds on plans and complying development approvals.

Where land is connected to a private sewer scheme, a mechanism is required within the legislation to ensure that:

- the private sewer scheme has spare capacity for an additional dwelling; and also
 - servicing an additional dwelling would not compromise the development of a dwelling on each of the lots.
- It is noted that clause 1.18(1)(d) of the SEPP (Exempt and Complying Development Codes) indirectly prevents complying development on unsewered land because an on-site effluent disposal system could not be approved until the *Local Government Act 1993* without an approval for the development. However, the SEPP (Exempt and Complying Development Codes) should be more direct and preclude complying development for medium density housing forms.
 - Many urban areas within Wollondilly have limited sewerage capacity to enable future growth.

Mine Subsidence

- Most residentially zoned areas within Wollondilly Shire are located within mine subsidence districts including land in Appin, Bargo, Buxton, Camden Park, Douglas Park, Menangle, Picton, Tahmoor and Wilton. Complying development for medium density housing forms on land within a mine subsidence district should have the prior approval of the Mine Subsidence Board.
- From Council's experience, development in mine subsidence districts is limited to 7.2m which is less than the maximum height limit of 8.5m proposed for medium density housing forms.
- Basement car parking is discouraged in Wollondilly, largely due to the constraints of mine subsidence.
- The need for an engineering report prepared by a suitably qualified professional for excavations exceeding 1m is supported.

Waste Management

- Where waste is neglected at a design and planning phase it can result in developments which are difficult for Council (and its contractors) to service at an operational level. This can often lead to increases to broader operational costs as well as increased risks to operational staff and contractor health and safety.
- The proposed approach that the adequate provision for waste storage must be required in accordance with Council's DCP AND that written advice must be obtained from the Council is supported. If an alternative process is considered which incorporates controls for waste management within the SEPP (Exempt and Complying Development Codes) than there should be further consultation on the standards to be used. In particular, standards need to ensure things like; bin storage areas need to be concealed, there needs to be adequate frontage for bins to be collected and residents need to be able to transport waste to the street without going through the house.
- The proposed standard to prohibit waste storage forward of the front building alignment is supported.

Adaptable Housing

- 1 in 3 dwellings should be adaptable housing; Manor homes should 1 as a minimum.

Threatened and native vegetation

- Concern is raised that the existing provisions within the SEPP (Exempt and Complying Development Codes) provide protection for trees but do not appear to protect understorey vegetation such as native shrubs and grasslands by preventing complying development on these sites which in Wollondilly can be zoned for residential development.

Other forms of supporting information that may be required

- Depending on the site context, there may be a need for noise/acoustic reports, rail vibration reports, flora and fauna reports where a site has not been cleared.
- A merit based assessment is required to determine when specialist studies are required to enable a robust assessment of the development. The complying

development process does not allow for this. Because the complying development process ignores the knowledge and views of the community with no consultation requirements private certifiers will not develop the sensitivity to determine when specialist studies are required.

Competence of Accredited Certifiers and Certification Requirements

- Council understands that the Building Professionals Board regularly deal with complaints about accredited certifiers relating to relatively straightforward development types (such as single dwellings). It would seem likely that for more complex forms of development this will increase as will the risk and consequences of their decisions.
- There is currently an underlying issue with the quality and probity of private accredited certifiers assessment of complying development and also being lax with follow up inspection requirements.
- Council experiences ongoing issues managing infrastructure in response to development approved as complying development having no regard for
- Concern is raised with the capacity for Councils to assess applications for complying development because of the time lag between legislative changes and the onerous requirements with the accreditation scheme. There is also an additional burden on Councils who must provide accredited certifiers and the proposed changes to complying development will require further training.
- In addition it is noted that qualified planning professionals usually cannot meet the requirements of the accreditation scheme and are more suited for the assessment of medium density housing forms and subdivision proposals as complying development.

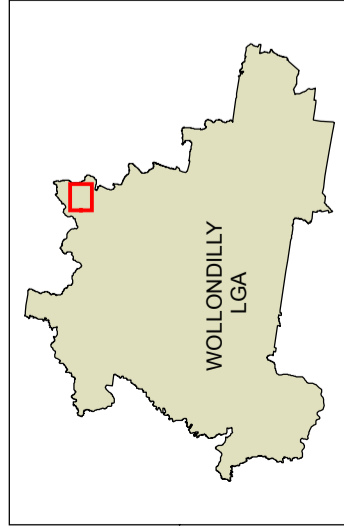
**Greenfield Housing
Code Area Map**

**Wollondilly Local Government Area
Map 1**

Legend

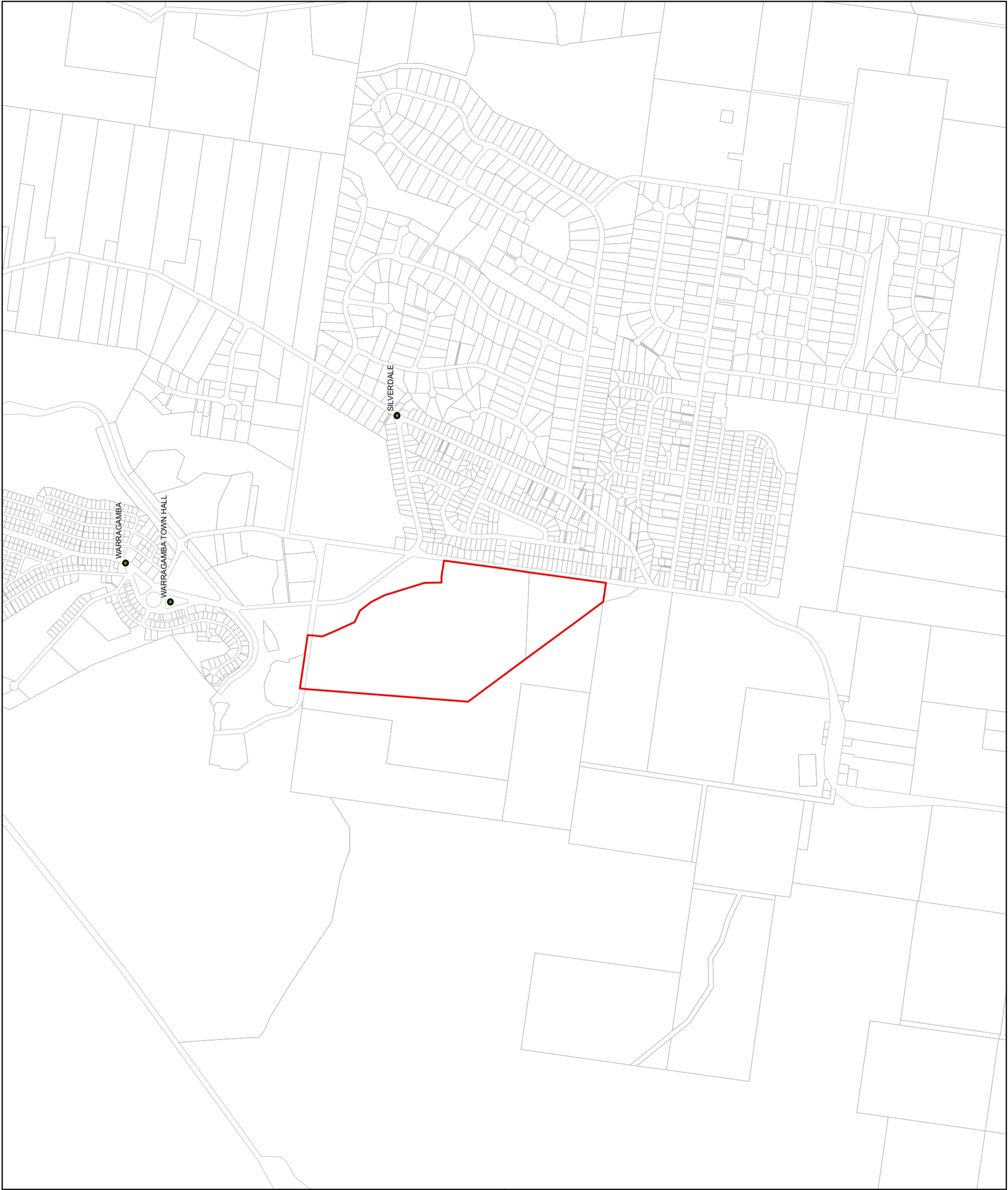
-  Greenfield Housing Code Area
-  Local Government Area Boundary
-  Cadastre 06/12/2017 © Spatial Services

Note: this map does not include site-specific exclusions that may apply to individual lots. Exclusions to exempt and complying development are set out in Part 1 of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.



0 100 200 300 400 Metres
Scale: 1:15,000 @A3

Projection: GDA94



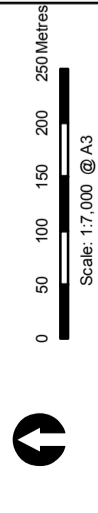
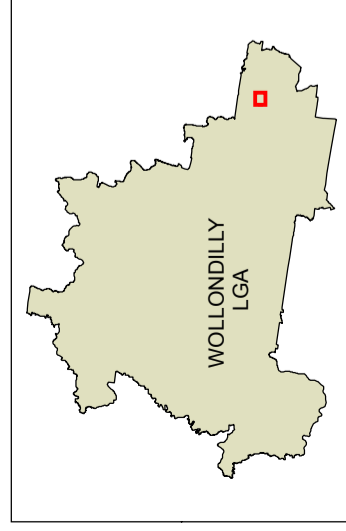
Greenfield Housing Code Area Map

Wollondilly Local Government Area Map 2

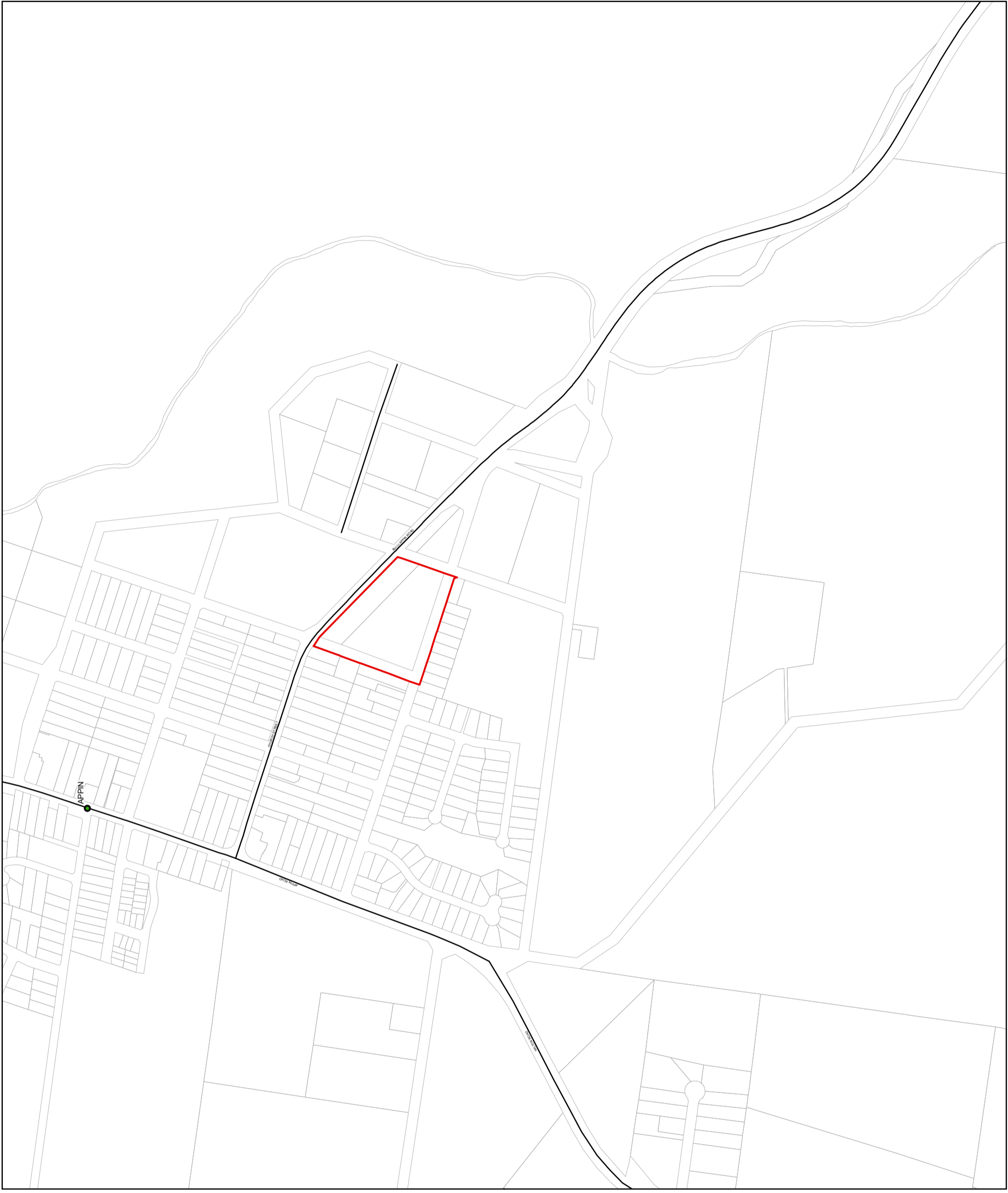
Legend

-  Greenfield Housing Code Area
-  Local Government Area Boundary
-  Cadastre 06/12/2017 © Spatial Services

Note: this map does not include site-specific exclusions that may apply to individual lots. Exclusions to exempt and complying development are set out in Part 1 of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.




Projection: GDA94



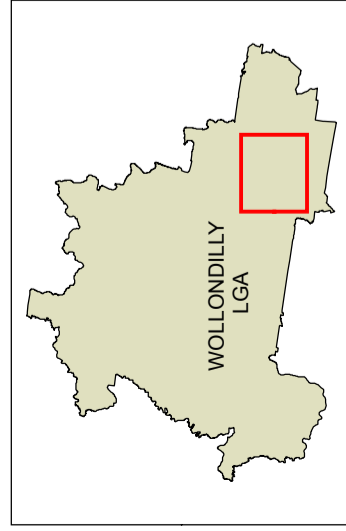
Greenfield Housing Code Area Map

Wollondilly Local Government Area Map 3

Legend

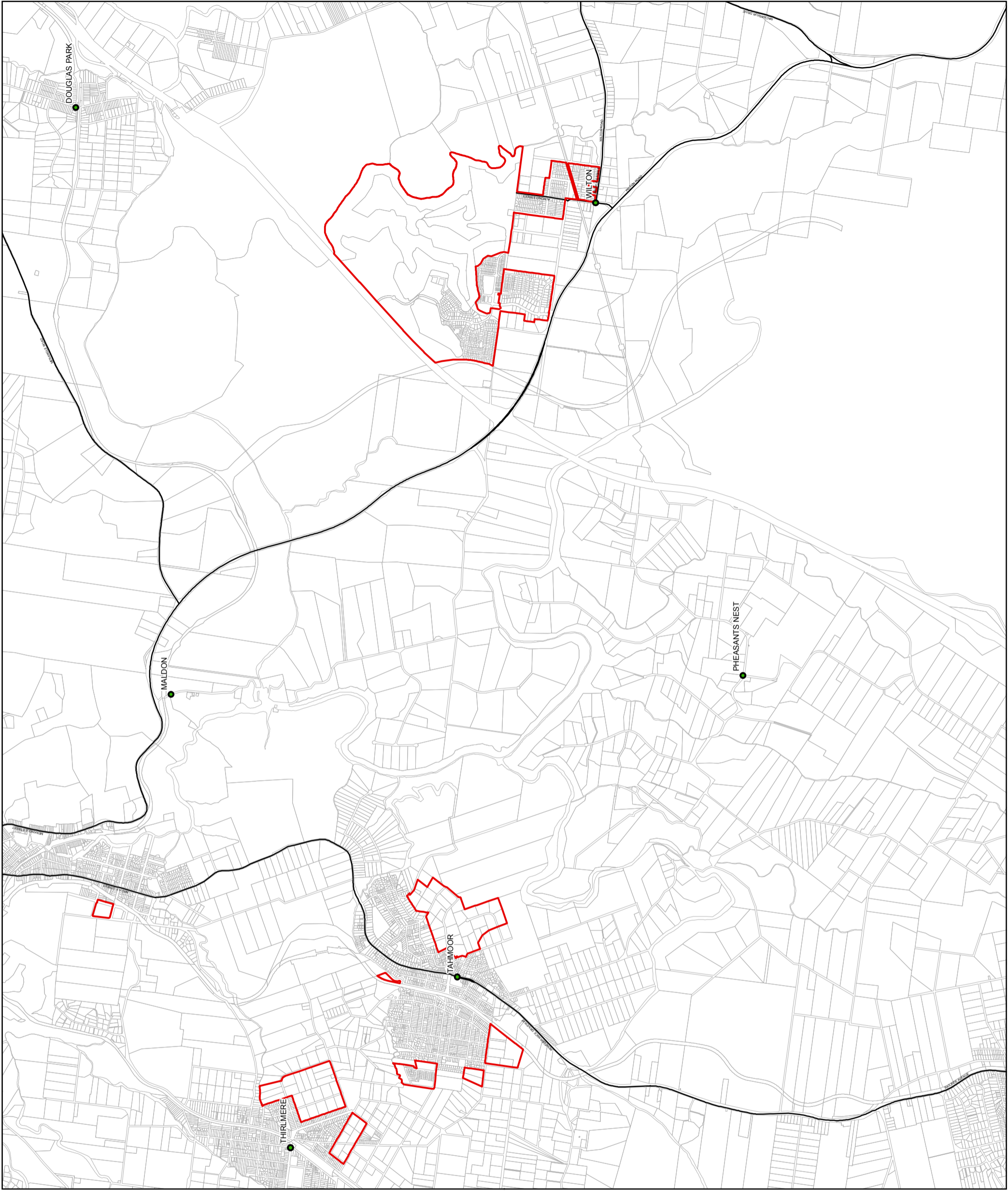
-  Greenfield Housing Code Area
-  Local Government Area Boundary
-  Cadastre 06/12/2017 © Spatial Services

Note: this map does not include site-specific exclusions that may apply to individual lots. Exclusions to exempt and complying development are set out in Part 1 of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.



0 0.5 1 1.5 Kilometres
Scale: 1:45,000 @A3

Projection: GDA94



Attachment 5

Land based exclusions under Clause 1.19 of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Complying Development cannot be undertaken on any land comprising the following:

- (a) *Land within a heritage conservation area or a draft heritage conservation area, unless the development is a detached outbuilding, detached development (other than a detached studio) or swimming pool; or*
- (b) *Land that is reserved for a public purpose by an Environmental Planning Instrument; or*
- (c) *Land identified on an Acid Sulfate Soils Map as being class 1 or class 2; or*
- (d) *Land that is subject to a biobanking agreement under Part 7A of the Threatened Species Conservation Act, 1995 or a Property Vegetation Plan approved under the Native Vegetation Act, 2003; or*
- (d1) *Land that is subject to a private land conservation agreement under the Biodiversity Conservation Act, 2016 or that is a set aside area under Section 60ZC of the Local Land Services Act, 2016; or*
- (e) *Land identified by an Environmental Planning Instrument as being:*
 - (i) *within a buffer area; or*
 - (ii) *within a river front area;*
 - (iii) *within an ecologically sensitive area; or*
 - (iv) *environmentally sensitive land;*
 - (v) *within a protected area;*
- (f) *Land that is identified by an Environmental Planning Instrument, a development control plan, or a policy adopted by Council as being or affected by:*
 - (i) *a coastline hazard; or*
 - (ii) *a coastal hazard; or*
 - (iii) *a coastal erosion hazard; or*
- (g) *land in a foreshore area; or*
- (h) *land that is in the 25 ANEF contour or a higher ANEF contour, unless the development is only for:*
 - (ii) *the erection of ancillary development, attached development or detached development; or*

- (ii) *the alteration of, or an addition to, ancillary development, attached development or detached development.*
- (i) *Land that is declared to be a special area under the Water NSW Act, 2014;*
- (j) *unsewered land:*
 - (i) *to which State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 applies, if that development will result in an increase to the number of bedrooms on the site or a disturbance area of more than 250 square metres; or*
 - (ii) *in any other drinking water catchment identified in any other environmental planning instrument.*

Code which sits within the Complying Development Code	Intended Effect of the Code
Part 3 Housing Code	Enables new 1 and 2 storey dwellings and any attached development to be undertaken in zones R1, R2, R3, R4 and RU5 as Complying Development subject to the development standards set out in the Code.
Part 3A Rural Housing Code	Enables new 1 and 2 storey dwellings and any attached development to be undertaken in zones RU1, RU2, RU3, RU4 and RU6 and R5 as Complying Development subject to the development standards set out in the Code.
Part 4 Housing Alterations Code	Enables alterations to existing residential accommodation, including alterations to common property or existing ancillary development that is associated with residential accommodation as Complying Development subject to the development standards set out in the Code.
Part 4A General Development Code	Enables Bed and Breakfast Accommodation, home businesses involving the manufacture of food products and structures associated with community events to be undertaken as Complying Development subject to the development standards set out in the code.
Part 5 Commercial and Industrial Alterations Code	Enables internal building alterations, change of use of premises, first use of premises, other structure improvements and ancillary development associated with commercial and industrial development to be undertaken as Complying development subject to the development standards set out in the Code.

Code which sits within the Complying Development Code	Intended Effect of the Code
Part 5A Commercial and Industrial (New Buildings and Additions Code)	Enables the construction of a new building for the purposes of an industry, warehouse, or distribution centre, and various forms of alterations and additions to an existing industrial or commercial building to be undertaken as Complying Development subject to the development standards set out in the Code.
Part 5B Container Recycling Facilities Code	Enables the erection on land of any container recycling facility or alterations and additions to an existing building for the purposes of a container recycling facility within industrial and commercial zoned land to be undertaken as Complying Development subject to the development standards set out in the Code.
Part 6 Subdivisions Code	Enables the strata subdivision of a building to be undertaken as Complying Development subject to the development standards set out in the Code.
Part 7 Demolition Code	Enables the demolition of a dwelling, swimming pool, industrial building, certain commercial buildings and ancillary development to be undertaken as Complying development subject to the development standards set out in the Code.
Part 8 Fire Safety Code	Enables the alteration and addition to, and the installation of new fire safety equipment in buildings to be carried out as Complying Development subject to the development standards set out in the Code.

GR3 Attachments

1. Table Summarising Public Agency Feedback on the Abbotsford Planning Proposal
2. Table Summarising Community Submission to Abbotsford Planning Proposal
3. Areas to be identified on the Natural resources – Biodiversity Map (Figure 22 from Biodiversity Study)
4. Land Use Zoning Comparison Map
5. Lot Size Comparison Map
6. Height of Buildings Comparison Map
7. Heritage Comparison Map with notations showing additional changes
8. Draft Planning Agreement Schedule of Works and Service
9. Abbotsford Draft Planning Agreement
10. Letter from Department of Planning & Environment – Alteration to Gateway Determination

Monday 18 June 2018

GR3 – Finalisation – Abbotsford Planning Proposal & Voluntary Planning Agreement

Attachment 1; Table Summarising Public Agency Feedback on the Abbotsford Planning Proposal

Agency	Summary of Submission to public exhibition	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission
<p>Department of Education</p>	<ul style="list-style-type: none"> Does not object, in principal, to the rezoning of land for the purpose of residential development. Cumulative impact on local schools. Picton Public School is built on an undersized site and requires additional land to accommodate increased demand. The acquisition of land will require a developer contribution to increase the school sites capacity. 	<ul style="list-style-type: none"> It is noted that the Department of Education has not objected to the planning proposal. The Department's submission provides broad comments on the cumulative impact on local schools across the Shire identifying Picton Public School along with three (3) other area schools as requiring additional land. There is no known mechanism as part of the planning proposal to require a developer contribution for state education infrastructure. When the proposal is forwarded to the Department of Planning & Environment for finalization this issue should be brought to their attention in any cover letter. It is noted that since this submission was received an application has been lodged with the NSW Department of Planning & Development for a major upgrade of the existing school. The proposed development would increase the capacity of the existing school to accommodate 1,500 students. 	<p>No changes are proposed to the Planning Proposal.</p>
<p>Department of Primary Industries - Agriculture</p>	<ul style="list-style-type: none"> Acknowledges that the planning proposal does not align to the GMS or a rural residential strategy, however, notes that Council would include the locality if they were able to update their GMS. Highlights that the proposed lot size of 4000m2 will result in an urban or rural village landscape with subsequently related service level demands by residents. Supports that the residual land is continued to be zoned RU2 for agricultural uses while protecting the landscape values. For continued grazing of the remnant land, a source for stock water will be required. Agricultural Suitability Mapping highlights that the eastern portions are within a landscape of agricultural land class 2 suitable for cropping which has been used in the past for fodder production. Supports the retention of the heritage values for the Abbotsford Dairy infrastructure. A possible solution is to retain the land suitable for crops to be used as an open field for recreational or fodder production and irrigated by waste water from the residential lots. Suggests that landscape features or roadways should be provided to allow for setback/separation of adjoining 	<ul style="list-style-type: none"> While there is logic in any new growth management strategy acknowledging existing planning proposals, such as the Abbotsford proposal, at an advanced stage there is otherwise no certainty that the land would be included in any future policy for growth. The Planning Proposal seeks to rezone the whole site from a rural zone to an environmental protection zone. Zone E4 Environmental Living allows for a limited range of rural land uses but would prevent development across the site for intensive agricultural uses. Abbotsford Road and the creek will separate the majority of the site from rural zoned land to the north east. 	<p>No changes are proposed to the Planning Proposal.</p>

Attachment 1 to Report; Table Summarising Public Agency Feedback on the Abbotsford Planning Proposal

Agency	Summary of Submission to public exhibition	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission
Integral Energy	<p>agricultural pursuits from dwellings to reduce the risk of land use conflict.</p> <ul style="list-style-type: none"> No response received to date. It is noted that a submission was received from Endeavour Energy in August 2012 which confirmed that electrical supply capacity was available for the site. 	Noted	No changes are proposed to the Planning Proposal.
NSW Department of Planning & Environment - Division of Resources & Geoscience, Geological Survey of New South Wales	<ul style="list-style-type: none"> Aside from the Picton Mine Subsidence District expanding to cover part of the site, their general advice for the site remains unchanged from their previous advice provided in June 2012. In June 2012 NSW Trade & Investment (Resources & Energy) advised: <ul style="list-style-type: none"> Site is underlain by the Bulli Seam within the Illawarra Coal measures at a depth of between 500 to 580 metres. The Bulli Seam beneath the area is between 1.7 to 2.2 metres thick and has potential as a future high quality coking resource. While the land proposed for rezoning lies largely outside of any current coal title or Mine Subsidence District, the resource beneath the site is prime coking coal and so it is likely the area will be undermined in the future. It should be noted that is likely a new Mine Subsidence District would be established in the area if development were to proceed. Prefers that development is concentrated in the existing area of the Wollondilly Growth Management Strategy (GMS). For new greenfield sites such as this outside of the GMS more stringent design guidelines will likely be argued to mitigate against future mine induced ground subsidence. Prefers that the land identified within the GMS be developed before new greenfield sites such as this. Would not object subject to: <ul style="list-style-type: none"> Any development must adopt appropriate Mine Subsidence Board development/building guidelines; A subsidence study be completed to inform appropriate building guidelines. Of particular concern is the Nepean Fault Zone that occurs along the eastern boundary of the proposed rezoning area. Additionally there is some flood prone land on the site and this will also need to be addressed in the subsidence study. 	<ul style="list-style-type: none"> Noted. Site specific planning controls for inclusion in the Wollondilly Development Control Plan 2016 are currently being prepared to guide future development on the site if the land is rezoned. Consideration will be given to including a requirement for a subsidence study to be submitted with any development application to subdivide land across the site to inform appropriate building guidelines. 	No changes are proposed to the Planning Proposal.

Agency	Summary of Submission to public exhibition	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission
<p>NSW Health South Western Sydney Local Health District (SWSLHD)</p>	<ul style="list-style-type: none"> Acknowledges the importance of community consultation and engagement and the Wollondilly Growth Management Strategy 2011's position on balancing the need for growth against the context of a broad community desire to keep the Shire rural, Highlights page 27 of the Cumulative Impact Assessment Report prepared to inform the proposal and advises the importance of considering the "future effects of similar developments in the area which will have accumulative effect on public infrastructure and services and impact on agricultural productivity", Recommends updating the Planning Proposal to make it clearer that the site is not currently used for any primary agricultural or food production and that the proposed changes will not impact upon food security is recommended. Acknowledges the process that will need to happen to undertake further assessment to determine the extent of contamination, if any, that may be potentially present a risk to human health and/or the environment. 	<p>Noted</p>	<p>No significant changes are proposed to the Planning Proposal.</p> <p>However, the Planning Proposal document should be updated to reflect SWSLHD's comments in terms of healthy food (i.e. the site's role in terms of agricultural lands, food production and food security).</p>
<p>NSW Rural Fire Service</p>	<ul style="list-style-type: none"> No concept plan or master plan has been provided as part of the planning proposal, which can pose difficulties in providing specific comments at this stage of the proposal. No objection subject to careful consideration of comments prior to progression of the planning proposal; <ul style="list-style-type: none"> - Access - Grassland hazard - Asset Protection Zones - Areas of high conservation value - Services Requests Council to ensure the Wollondilly Bush Fire Management Committee (BFMC) is advised of the planning proposal to ensure that any relevant amendments resulting may be adopted/addressed into the Wollondilly Bush Fire Management Plan. 	<p>Noted.</p>	<p>No changes are proposed to the planning proposal.</p> <p>If the rezoning is supported by Council, details of the proposal will be forwarded to the Wollondilly Bush Fire Management Committee (BFMC).</p>
<p>Office of Environment & Heritage – Environment Division</p>	<ul style="list-style-type: none"> Notes the proposed land use zonings and minimum lot sizes have changed. No comments. 	<p>Noted.</p>	<p>No changes are proposed to the planning proposal.</p>

Agency	Summary of Submission to public exhibition	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission
<p>Office of Environment & Heritage – Heritage Council of NSW</p>	<ul style="list-style-type: none"> The proposed curtilage for “Abbotsford” is smaller than the current curtilage identified within the WLEP 2011 but is still larger than the curtilage associated with the state listing of this item, and on this basis no objection in principle is raised to the reduction of the heritage curtilage within WLEP 2011. It is recommended that Council consider the inclusion of significant vegetation associated with Abbotsford, such as thorn hedging on the northern side of the existing main driveway, within the curtilage. It is recommended that the visual connections of ‘Abbotsford’ to the Vault Hill be recognised in any statement of significance associated with ‘Abbotsford’ and in future site specific controls for the subject land. A Heritage Impact Statement is not included within the planning proposal and any potential impacts cannot be ascertained. It is recommended that a HIS that includes an updated visual impact assessment be prepared. The existing controls within the Wollondilly DCP 2016 are considered inadequate to control the impacts of the future development in the vicinity of the SHR listed ‘Abbotsford’ . It is recommended a site-specific Development Control Plan should be prepared to guide and control development in the vicinity of the heritage item. It is recommended that the HIS and site specific DCP be prepared before the planning proposal is finalised. Any future development application should be guided and accompanied by an Archaeological Management Plan. Supports the listing of items of local heritage significance where they are supported by robust heritage assessments. Therefore, no objection is raised to the proposal to heritage list Byrne’s Exhibition Diary and silo structures. Any works within the SHR curtilage require the approve of the Heritage council of NSW under the Heritage Act 1977 and an application to the Heritage Council needs to be made if any land in NSW that is likely to contain archaeological remains is proposed to be disturbed or excavated. 		
<p>Roads & Maritime Services</p>	<ul style="list-style-type: none"> Does not object to the planning proposal in principle as it is unlikely to significantly impact on the state classified road network, based on a maximum of 40 rural residential lots containing low density residential dwellings. 	<ul style="list-style-type: none"> In 2016, Council appointed TDG to undertake a Picton Town Centre Transport Master Plan which considered all known planning proposals in the Picton precinct. This was to consider the cumulative impact of growth across the area rather than site by site based traffic studies. The study has been funded by the proponents of the four (4) existing planning proposals across 	<p>No changes are proposed to the Planning Proposal. However, a Road Safety Audit should be undertaken in the future</p>

Agency	Summary of Submission to public exhibition	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission
	<ul style="list-style-type: none"> It is more appropriate that Council determine whether or not the proposed access arrangements are acceptable from a network perspective (i.e. acceptable in terms of safety and efficiency). Provided the following general comments; <ul style="list-style-type: none"> Traffic assessments were prepared a number of years ago. RMS recommends Council review the above reports to ensure the figures used and the associated assessment is reflective of the current traffic volumes and conditions. Limited assessment has been provided on sight distances at the intersection of Abbotsford Road and Barkers Lodge Road. RMS encourages Council to undertake further assessment of this intersection including the identification of suitable infrastructure to ameliorate any traffic and safety impacts associated with the development. Promoting increased use of sustainable modes of travel; Encourages the connection of the site to planned shared pedestrian cycle paths that will enable access to the Picton town centre. Developer contributions for road/transport improvements; Indicates that Council should be satisfied that appropriate mechanisms are in place for developer funding or road/transport infrastructure improvements that may be required as a result of future development of the land covered by the planning proposal. Speed zones; acknowledges comment in traffic study that the existing speed limit of Abbotsford Road to the west of Fairleys Road will need to be amended to a reduced speed limit and indicates that RMS will consider any change to speed limit post development. Does not have any current road proposal that would affect/require any of the land to which this planning proposal relates. 	<p>Picton including the Abbotsford site and is being project managed by Council.</p> <p>This is a more recent study and combined with the proponent's study is considered to adequately consider the traffic and transportation impacts from the Abbotsford site if rezoned and developed.</p> <p>The <i>Draft Picton Town Centre Transport Master Plan</i> was provided by the consultant in September last year and has been work-shopped with Councilors. It is hoped to finalise the study this year (2018).</p> <p>The draft study identifies a number of road intersection upgrades through town as a result of the existing and forecast growth issues. Some of these are referred to below.</p> <p>In terms of the Picton precinct the Abbotsford Planning Proposal is expected to only generate approximately 40 lots and this not considered likely to have a significantly adverse impact on the road network on its own.</p> <p>Although the study is not public or finalised, given the comparatively small size of the proposal, in terms of anticipated lot yield, it is considered adequate to finalise the proposal.</p> <p>The draft findings confirm the need to undertake works at the intersection of Barkers Lodge Road and Argyle Street. However, it is noted that this intersection is under pressure from long term growth and not just the Abbotsford proposal.</p> <p>A draft Planning Agreement accompanies the planning proposal which proposed a number of community benefits should the development proceed. One of these benefits includes a monetary contribution of \$5,000 per lot towards the Council's costs of constructing road works and traffic management facilities identified in the Picton Traffic Study referred to above.</p> <ul style="list-style-type: none"> In relation to sight distances at the intersection of Abbotsford Road and Barkers Lodge Road, a road safety audit is currently being undertaken on a number of intersections throughout Picton as an additional piece of work to the Picton traffic study work. The outcome of this work will be known shortly. 	<p>as part of any approved future development of the site.</p>

Attachment 1 to Report; Table Summarising Public Agency Feedback on the Abbotsford Planning Proposal

Agency	Summary of Submission to public exhibition	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission
		<p>If any works are identified for this intersection it is likely they will be funded, in part, by the monetary contribution to be made as part of the Planning Agreement. However, costs would need to be apportioned according to the sites contribution to congestion at this junction as opposed to broader growth. In this regard the Abbotsford proposal is considered to be comparatively small.</p> <ul style="list-style-type: none"> In terms of encouraging use of sustainable mode of travel, it is considered appropriate that any future development should provide pedestrian access to the Picton Sportsground to link up with the recently constructed pedestrian bridge that connects the sports ground to the Botanic Gardens. 	
<p>Subsidence Advisory NSW</p>	<ul style="list-style-type: none"> No submission received to public exhibition however correspondence was received in July 2017 when the mine subsidence boundary changes came into place. The summary below reflects the earlier correspondence. The land proposed to be developed is in proximity to Tahmoor underground coal mine. However, the site is not within Tahmoor Coal's active underground mine operations area. While there is unlikely to be subsidence damage to future development in this area arising from current coal mining operations, it is recommended the applicant confirm Tahmoor Coal's future mining plans with the mine proprietor. Recommends Council liaise with the Division of resources and Geoscience to obtain its advice on future coal reserves in the area. 	<ul style="list-style-type: none"> As part of the public exhibition Tahmoor Coal Pty Ltd were invited to provide feedback. A response was received from Tahmoor Colliery who advised they have no objection to urban development "provided development is approved consistent with mine subsidence requirements". The NSW Department of Industry (Resources and Energy Division & Geological Survey of NSW) were also invited to provide feedback. A submission was received and is included separately in this table. 	<p>No changes are proposed to the Planning Proposal.</p>
<p>Sydney Water</p>	<ul style="list-style-type: none"> The upgrade to the Picton Wastewater Recycling Plant (WRP) has been delayed until May 2018. Sydney Water is still negotiating with the EPA about effluent management (eg discharge volumes to the Nepean River and Stonequary Creek) and a licence variation. Until then, Sydney Water can only service the committed MDP Picton Tahmoor Thirimere precincts. The Abbotsford site is outside this precinct and cannot be serviced until both the WRP is upgraded in terms with the EPA agreed. As Abbotsford is for 40 large residential lots (4,000sq.m), Sydney Water would not service these with wastewater anyway as they are capable of having onsite treatment systems. Acknowledges that the planning proposal indicates there will be onsite wastewater system provided for each individual lot. 	<p>Noted.</p>	<p>No changes are proposed to the Planning Proposal.</p>

Attachment 1 to Report; Table Summarising Public Agency Feedback on the Abbotsford Planning Proposal

Agency	Summary of Submission to public exhibition	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission
	<ul style="list-style-type: none"> There is water network capacity to service 40 residential lots. However the closest drinking water main is on Equestrian Drive so the developer would be responsible for building the extension to connect to our system. The topography of the land is quite steep and we would only support development that occurs below RL 195 metres. Any development at a higher RL than that would not meet our operating licence for satisfactory pressure. The developer would need to install a booster pump if they want to service land higher than that. 		
Telstra	No response received to date.	Noted.	No changes are proposed to the Planning Proposal.
Transport for NSW	<ul style="list-style-type: none"> No objection. No further comment at this stage of the planning process. 	Noted	No changes are proposed to the Planning Proposal.

Attachment 1 to Report; Table Summarising Public Agency Feedback on the Abbotsford Planning Proposal

Agency	Summary of Submission to public exhibition	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission
Adjoining Local Governments Areas			
Blue Mountains City Council	<ul style="list-style-type: none"> No response received to date. 	Noted	No changes are proposed to the Planning Proposal.
Camden Council	<ul style="list-style-type: none"> No objection to the proposal. 	Noted	No changes are proposed to the Planning Proposal.
Campbelltown City Council	<ul style="list-style-type: none"> No issues or concerns with respect to implications of the proposal on Campbelltown Local Government Area. The planning proposal documentation appears to sufficiently justify the restricted level of additional development that would be permitted by the proposed amendments to the WLEP 2011 having regard to the sensitive environmental and heritage attributes of the site. 	Noted	No changes are proposed to the Planning Proposal.
Liverpool City council	<ul style="list-style-type: none"> No comments 	Noted	No changes are proposed to the Planning Proposal.
Oberon City Council	No response received to date.	Noted	No changes are proposed to the Planning Proposal.
Penrith City Council	No response received to date.	Noted	No changes are proposed to the Planning Proposal.
Upper Lachlan Shire Council	No response received to date.	Noted	No changes are proposed to the Planning Proposal.
Wingecarribee Shire Council	<ul style="list-style-type: none"> No Objection. 	Noted	No changes are proposed to the Planning Proposal.
Wollongong City Council	<ul style="list-style-type: none"> No comment on Planning Proposal. 	Noted	No changes are proposed to the Planning Proposal.

Attachment 2; Matrix & Table Summarising Stakeholder submissions to the Abbotsford Planning Proposal

MATRIX OF KEY ISSUES RAISED IN SUBMISSION

Submission No.	Does the submission support the development?	Raised Issue												
		Traffic & Transportation	Essential Services	Stormwater & drainage	Growth & character of local area	Mining	Contamination	Heritage	Studies (age/accuracy)	Other	Draft Planning Agreement			
1	No	•	•	•										
2	No	•	•	•	•		•							•
3	No	•	•							•				
4	No	•												
5	No	•	•	•	•			•						•
6	Neutral					•								
7	No	•	•	•										•
8	No	•	•	•	•									
		7	2	5	3	1	2	1	7	1	1	7	1	2

TABLE SUMMARISING SUBMISSIONS AND COUNCIL'S RESPONSE

Issue Raised	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission?
<p>Traffic & Transportation</p> <ul style="list-style-type: none"> • Adequacy of Traffic & Transport study; <ul style="list-style-type: none"> - Traffic & Transportation Study prepared by Thompson Stansbury Associates contains many errors and inaccuracies. - Was prepared before and does not consider traffic generated from Picton Sportsground. - Traffic related studies are inadequate and incorrect information provided and do not allow an accurate assessment of the true impact of the proposal on the currently local road network and the lack of local infrastructure and capability of meeting current user demands. - Traffic generation seems to underestimate vehicle no.s - Doesn't consider future growth and increased traffic using Barkers Lodge Road. - An updated traffic management plan would be needed before any future subdivision be approved. 	<p>A <i>Traffic and Transportation Study</i>, dated November 2012 was prepared by Thompson Stansbury Associates to inform the Abbotsford Planning Proposal. The consultant was engaged by and paid for by the proponent which is the normal process.</p> <p>The proponent also engaged Gabites Porter to undertake an assessment of the Abbotsford site to update the Wollondilly TRACKS Transportation Model. The report on this work is dated October 2012. TRACKS is a land use and transport modelling system.</p> <p>The Planning Proposal and supporting studies, including the traffic study have been referred to Council's Infrastructure & Planning Department for their specialist comment.</p> <p>In 2016, Council appointed TDG to undertake a Picton Town Centre Transport Master Plan which considered all known planning proposals in the Picton precinct. This was to consider the cumulative impact of</p>	No changes proposed.

Attachment 2; Matrix & Table Summarising Stakeholder submissions to the Abbotsford Planning Proposal

Issue Raised	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission?
<ul style="list-style-type: none"> - Most of the information is outdated and doesn't accurately represent the current traffic environment and residency that use the land and roads in the area. - The traffic study does not acknowledge traffic from sportsground and Valley View estate. - The traffic study doesn't consider different sporting seasons during different times of the year. 	<p>growth across the area rather than site by site based traffic studies. The study has been funded by the proponents of the four (4) existing planning proposals across Picton including the Abbotsford site and is being project managed by Council.</p> <p>This is a more recent study and combined with the proponent's study is considered to adequately consider the traffic and transportation impacts from the Abbotsford site if rezoned and developed.</p> <p>The <i>Draft Picton Town Centre Transport Master Plan</i> was provided by the consultant in September last year and has been work-shopped with Councilors. It is hoped to finalise the study this year (2018).</p> <p>The draft study identifies a number of road intersection upgrades through town as a result of the existing and forecast growth issues. Some of these are referred to below.</p> <p>In terms of the Picton precinct the Abbotsford Planning Proposal is expected to only generate approximately 40 lots and this not considered likely to have a significantly adverse impact on the road network on its own.</p> <p>Although the study is not public or finalised, given the comparatively small size of the proposal, in terms of anticipated lot yield, it is considered adequate to finalise the proposal.</p> <p>The draft findings confirm the need to undertake works at the intersection of Barkers Lodge Road and Argyle Street. However, it is noted that this intersection is under pressure from long term growth and not just the Abbotsford proposal.</p> <p>A draft Planning Agreement accompanies the planning proposal which proposed a number of community benefits should the development proceed. One of these benefits includes a monetary contribution of \$5,000 per lot towards the Council's costs of constructing road works and traffic management facilities identified in the Picton Traffic Study referred to above.</p> <p>This contribution is considered to be well and above a standard development contribution towards road infrastructure.</p>	No changes proposed.
<ul style="list-style-type: none"> • Traffic studies are out of date; 	As detailed above, in 2016, Council appointed TDG to undertake a Picton Town Centre Transport Master Plan which considered the	No changes proposed.

Attachment 2; Matrix & Table Summarising Stakeholder submissions to the Abbotsford Planning Proposal

Issue Raised	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission?
<ul style="list-style-type: none"> - Wollondilly Transportation Model Traffic Impact is out of date and falls short in identifying the current traffic concerns of the local area. - Report does not take into consideration increased traffic levels from the sportsground - Traffic & Transportation Study prepared by Thompson Stanbury and Associates is out of date and does not address current road network usage and conditions. - Traffic management plan doesn't really reflect the current situation. - There has been a big increase in the amount of vehicles using the road since the traffic study was prepared due to sportsground, and more traffic from The Oaks and Oakdale etc. - An updated traffic management plan would be needed before any future subdivision be approved. - Most of the information is outdated and doesn't accurately represent the current traffic environment and residency that use the land and roads in the area. - Traffic study is from October 2012 and doesn't include traffic from the sporting field development which opened in 2014. - The studies prepared to inform the planning proposal are out of date. Particular note made to the traffic and flood studies. - The traffic study does not acknowledge traffic from sportsground and Valley View estate. 	<p>cumulative impact of all known planning proposals in the Picton precinct. The draft study was provided to Council in September 2017 for consideration.</p> <p>The traffic study prepared to inform the Planning Proposal combined with Council's <i>Draft Picton Town Centre Transport Master Plan</i> are considered to adequately consider the likely traffic impact of the rezoning.</p> <p>On this basis it is considered unreasonable to ask for the traffic study to be updated.</p>	
<ul style="list-style-type: none"> • Traffic from Picton Sportsground; <ul style="list-style-type: none"> - Impact on road from Council sports ground; - Cars parked along Fairleys Road - Waiting time to get out of Abbotsford Road into Abbotsford road at Fairley's Road intersection. - Report does not take into consideration increased traffic levels from the sportsground - Sporting events result in a 500% increase to the local road network with congestion at the intersection of Fairleys Road and Abbotsford Road, Abbotsford Road and Barkers Lodge Road and Barkers Lodge Road and Argyle Street. - Roads are not adequate to facilitate numbers of vehicles from sportsground. - Request for a giveaway sign for traffic coming from the sportsground to allow egress from Abbotsford Road when there are sporting events on. 	<p>Picton Sportsground is a Council facility and was opened in 2014. This was after the traffic study had been prepared for the planning proposal which was in 2012.</p> <p>Traffic from the Sportsground was not considered as part of the Picton Town Centre Master Plan study either.</p> <p>It is acknowledged that traffic associated with use of the Picton Sportsground causes short periods of traffic congestion which can be frustrating for sportsground users and especially local residents. However, these impacts will be of short duration and limited in terms of their impact on the wider road network.</p> <p>Road safety is important though, and this can be considered through the development application process if the land is rezoned.</p>	<p>No changes proposed to planning proposal.</p> <p>However, a Road Safety Audit should be undertaken in the future as part of any approved future development of the site.</p>

Attachment 2; Matrix & Table Summarising Stakeholder submissions to the Abbotsford Planning Proposal

Issue Raised	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission?
	<p>It is considered that a Road Safety Audit is of merit and should be included as a condition of development consent associated with the future development of the site. The Audit would consider appropriate controls and priorities for this intersection.</p> <p>Council has recently implemented a number of measures to improve access to the sportsground and relieve parking and pedestrian pressures. These include:</p> <ul style="list-style-type: none"> - Widening of Fairleys Road - Construction of a pedestrian bridge to link the sportsground with the existing Picton urban area for cyclist and pedestrians. 	
<ul style="list-style-type: none"> • Intersection of Argyle Street & Barkers Lodge Road. <ul style="list-style-type: none"> - Need for a roundabout on Argyle St and Barkers Lodge Road to make traffic flow fairer. - No objection to planning proposal so long as the following infrastructure are improved: - Roundabout at intersection of Barkers Lodge Rd and Argyle Street to prevent traffic queuing up Barkers Lodge Road. - Sporting events result in a 500% increase to the local road network with congestion at the intersection of Fairleys Road and Abbotsford Road, Abbotsford Road and Barkers Lodge Road and Barkers Lodge Road and Argyle Street. - The blind intersection of Barkers Lodge Road and Argyle Street is already dangerous to negotiate for vehicles turning right from Barkers Lodge Road towards Tahmoor. The intersection requires either a roundabout or traffic lights. The problem is exacerbated when events at the sportsground close and traffic has been seen to queue back for 200 meters, leading to risk-taking by drivers. - Congestion in both directions during peak times will only get worse with new development 	<p>The <i>Draft Picton Town Centre Transport Master Plan</i> has confirmed the need to carry out improvements to this intersection.</p> <p>Pursuing infrastructure upgrades is a separate matter however, and refers to the wider Picton network and not just the Abbotsford Planning Proposals.</p> <p>As mentioned above, the Planning Proposal is accompanied by a Draft Planning Agreement which includes a monetary contribution towards the Council's costs of constructing road works and traffic management facilities identified in the Picton Traffic Study. Some of the money contributed by the Abbotsford Planning Proposal will go towards this intersection.</p>	<p>No changes proposed to planning proposal.</p>
<ul style="list-style-type: none"> • Intersection of Abbotsford Road & Barkers Lodge Road. <ul style="list-style-type: none"> - There needs to be a right-turn lane from Barkers Lodge Road into Abbotsford Road on safety grounds. 	<p>As mentioned above, it is considered that a Road Safety Audit is of merit and should be included as a condition of development consent associated with the future development of the site. The Audit could also consider appropriate controls and priorities for this intersection.</p>	<p>No changes proposed to planning proposal.</p> <p>However, a Road Safety Audit should be undertaken in the future as part of any approved future development of the site.</p>
<ul style="list-style-type: none"> • Additional traffic from development. 	<p>This submission appears to have misunderstood the scale of the development if the land was rezoned in the manner proposed.</p>	<p>No changes proposed to planning proposal.</p>

Attachment 2; Matrix & Table Summarising Stakeholder submissions to the Abbotsford Planning Proposal

Issue Raised	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission?
<ul style="list-style-type: none"> - Concern with impact from addition cars (though refers to 66 x 5 acre lots and over 300 x 1 acre lots). 	<p>The Abbotsford Planning Proposal is expected to only generate approximately 40 lots and not the 366 lots suggested in the submission.</p> <p>Council's response to the impact from addition traffic has already been addressed above.</p>	
<ul style="list-style-type: none"> • Abbotsford Road <ul style="list-style-type: none"> - No objection to planning proposal so long as the following infrastructure are improved: - Straighten existing Abbotsford Road on the Picton side and on the Valley View side due to driving behaviour - Abbotsford Road to be widened by 2 metres to handle significant increase in traffic, - Upgrades to section of road between Abbotsford Road and Argyle Street to remove bends and provide pedestrian access. - Existing "country road" is narrow, no kerb and guttering, no footpaths and does not have the capability to allow safe access and operation. - A total road upgrade is necessary - The opportunity to correct the inadequate road design of Abbotsford Road as part of this development should not be lost. All roads should be brought to 2017 road standards. - The first 500m of Abbotsford Road needs to be straightened. - This section of road does not currently meet line-of-sight standards. - Abbotsford road re-alignment to remove the bends near the silos is appropriate but needs review. At the junction of the re-aligned road with the existing road, the verge is too close to the creek edge (only about 400mm) and does not allow for a security barrier and future creek erosion. - The existing drainage for run-off from the proposed rezoned land on Abbotsford Road to the creek is already seriously inadequate, leading to unnecessary road flooding and damage. The proposed development will add significant water volume with the increase in hard surfaces and the increased ground saturation due to septic systems. Much more extensive drainage arrangements are required. 	<p>A draft Planning Agreement accompanies the planning proposal which proposes a number of community benefits should the development proceed. These include straightening a section of Abbotsford Road after Equestrian Drive and re-aligning Abbotsford Road to remove the bends near the silos.</p> <p>Development of the site would involve road upgrades along the full length of Abbotsford Road where it adjoins the site and should address most, if not all of the objections raised here.</p> <p>Any road upgrades will need to comply with Council's <i>Design Specification 2016</i> which sets out the requirements for engineering design.</p>	<p>No changes proposed to planning proposal.</p>
<ul style="list-style-type: none"> • Identified need for a bridge over the causeway. 	<p>The effectiveness of the existing causeway is a separate issue already known to Council and is already included on Council's Stormwater</p>	<p>No changes are proposed to the planning proposal.</p>

Attachment 2; Matrix & Table Summarising Stakeholder submissions to the Abbotsford Planning Proposal

Issue Raised	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission?
<ul style="list-style-type: none"> - In order for Valley View to be used as a possible park and wait for floods to fall a bridge over the existing culvert is required to keep the road open. - The causeway about 1km before Valley View estate is a regular floodpoint which needs to be addressed for all-weather purposes. - Recommends a bridge over the current causeway across Abbotsford road (about 1km before Valley View Estate) to accommodate additional water volume from the proposed development and to ensure a safe flood escape route. 	<p>Improvement Program. It will be addressed on a priority basis against other items on the list.</p>	
<ul style="list-style-type: none"> • Suggested Solutions <ol style="list-style-type: none"> 1. Magnolia Drive and or Hereford Way should be extended to link with Fairleys Road providing an alternative route to the north of Picton Township; 2. Abbotsford Road and Fairleys Road both need to be widened to meet current traffic demands; 3. The intersection of Barkers Lodge Road and Argyle Street needs the provision of traffic lights or a roundabout to improve traffic flow; 4. Footpaths need to be provided to the sportsground from Barkers Lodge Road to ensure children are safe whilst walking to the venue; 5. Fairleys Road must be widened to limit existing conflict as a result of various vehicle movements milk trucks, buses, cars and pedestrians. 6. Consider reducing speed limit through Abbotsford Road and Fairleys Road. 	<p>The <i>Draft Picton Town Centre Transport Master Plan</i> has identified a comprehensive range of strategies to address Picton's challenges in terms of the road network.</p> <p>The Master Plan confirmed the need to carry out improvements to the Intersection of Barkers Lodge Road and Argyle Street intersection.</p> <p>If rezoned, development of the Abbotsford site would require upgrades to Abbotsford Road.</p> <p>It is also considered that a Road Safety Audit is of merit and should be included as a condition of development consent associated with the future development of the site. The Audit would consider appropriate controls and priorities for the intersection of Abbotsford Road and Barkers Lodge Road and also Abbotsford Road and Fairleys Road.</p>	<p>No changes proposed to planning proposal.</p> <p>However, a Road Safety Audit should be undertaken in the future as part of any approved future development of the site.</p>
Storm water & Drainage		
<ul style="list-style-type: none"> • Flood study does not reflect on the ground flooding. <ul style="list-style-type: none"> - Higher flood levels were observed in the storm event last year than the nominal 200 to 300mm listed in the report. - Flood study falls short in providing a true picture of the subject site flood levels. - Reports that "a small portion of the site is located within Council's flood planning level" where approximately ten (10) proposed lots are indicated. - Study does not identify parts of the site which were inundated in last year's floods. In particular, lots within the "bends" 	<p>A <i>Flood Assessment Report</i>, dated February 2013, was prepared by Floodmit Pty Ltd to inform the Abbotsford Planning Proposal. The consultant was engaged by and paid for by the proponent which is the normal process.</p> <p>The Planning Proposal and supporting studies, including the flood assessment report have been referred to Council's Infrastructure & Planning Department for their specialist comment.</p>	<p>No changes proposed to planning proposal.</p>

Attachment 2; Matrix & Table Summarising Stakeholder submissions to the Abbottsford Planning Proposal

Issue Raised	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission?
<p>including the existing road network and further along Abbottsford tributary.</p> <ul style="list-style-type: none"> - In last year's floods and previously, Abbottsford road was cut in several locations with vehicles being stranded Abbottsford Road was impassable. - Several references to cars being lost in floods in the past 	<p>The flood study, as with any study, of this nature is only an estimate where as the storm event in June 2016 was a real event.</p> <p>The flood study is limited to the main unnamed stream which runs alongside Abbottsford Road and does not capture overland flow. Council's engineer has confirmed that this is the correct approach.</p> <p>In terms of the storm event in 2016, the applicant has provided evidence to suggest that the flooding was consistent with the projections in the study.</p> <p>Overland flow (i.e. in this case water coming off the site) will be considered at the subdivision stage and managed as part of the detailed design.</p> <p>The study is considered adequate for this stage of the planning process and mainstream flooding is not considered to be a problem in terms of rezoning the land. Further analysis and design will be required as part of any development application to subdivide the land.</p> <p>It is noted that the study is based on data from Council's Stonequarry Creek Study. This was a draft that has been exhibited but not adopted. A more recent study has been prepared for Council and was reported to Council in December 2017 and was recently exhibited for public feedback. However, for an undeveloped site like the Abbottsford site, the updated data is unlikely to change the outcome of the predicted impacts on the site and would not change the assessment for this proposal.</p>	<p>No changes proposed to planning proposal.</p>
<ul style="list-style-type: none"> • Adequacy of flood study; <ul style="list-style-type: none"> - Flood study falls short in providing a true picture of the subject site flood levels. - Study refers to an escape road via Valley View Estate. Valley View is a private community estate with no through road. - Escape via Valley View is not practical as it is not accessible due to sections of Abbottsford Road flooding and the causeway. - Reports that "a small portion of the site is located within Council's flood planning level" where approximately ten (10) proposed lots are indicated. 	<p>As noted above, a study has been prepared to inform the planning proposal which considers flooding. The methodology used for the study is considered appropriate and an updated study is not considered to change the assessment for this proposal.</p> <p>In the case of a flooding event, people need to be able to evacuate to higher ground until the water levels go back down. The Flood Assessment Report prepared by Floodmit Pty Ltd, does not advocate for evacuation to the Valley View Estate but acknowledges that if the road access point to the site is located north of the junction of Abbottsford Road with Fairleys Road then access to the south in a major flood may not be possible in a major flood. In this scenario the report identifies that evacuation would be to the north to Valley View</p>	<p>No changes proposed to planning proposal.</p>

Attachment 2; Matrix & Table Summarising Stakeholder submissions to the Abbotsford Planning Proposal

Issue Raised	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission?
	<p>Estate and indicates that other local drainage problems could affect this route.</p> <p>Valley View Estate may be an evacuation route under certain circumstances but it is not ideal and the preferred route would be via Barkers Lodge Road and this is what will be planned for in moving forward.</p> <p>In terms of the Abbotsford site, the flood study indicates that only a small portion of the site, would be inundated in a major flood (1 in 100 year flood event). A majority of the site is flood free.</p> <p>Any future dwellings would need to be built above the flood planning level. The flood planning level is a height used to set floor level for property development in flood prone areas. It considers the likely flood level in a major flood and allows additional height (0.5m) to account for factors such as wind, unforeseen blockages etc.</p> <p>As a result, any future development within the extent of the flood prone area will need some sort of treatment to raise ground level to the house out of the flooding risk and also to provide a rising evacuation. It is better if the road is above the house.</p> <p>The <i>Wollondilly Development Control Plan 2016</i> include planning controls to guide development in terms of flooding and these would apply to future development on the Abbotsford site if rezoned.</p> <p>Council's Infrastructure & Planning Department have no objection to the Planning Proposal.</p>	
<ul style="list-style-type: none"> • Identified need for a bridge over the causeway. - In order for Valley View to be used as a possible park and wait for floods to fall a bridge over the existing culvert is required to keep the road open. - The causeway about 1km before Valley View estate is a regular floodpoint which needs to be addressed for all-weather purposes. 	<p>If rezoned, development of the Abbotsford site will need to be planned for evacuation to be via Barkers Lodge Road. Evacuation towards the Valley View estate is not the preferred approach.</p> <p>The effectiveness of the existing causeway is a separate issue already known to Council and is already included on Council's Stormwater Improvement Program. It will be addressed on a priority basis against other items on the list.</p>	<p>No changes proposed to planning proposal.</p>
<ul style="list-style-type: none"> • The flooding study is out of date. 	<p>A <i>Flood Assessment Report</i>, dated February 2013, was prepared by Floodmit Pty Ltd to inform the Abbotsford Planning Proposal. The study is based on the best available information at that time.</p>	<p>No changes proposed to planning proposal.</p>

Attachment 2; Matrix & Table Summarising Stakeholder submissions to the Abbotsford Planning Proposal

Issue Raised	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission?
	<p>In particular, the study is based on data from Council's Stonequarry Creek Study. This was a draft that has been exhibited but not adopted. A more recent study has been prepared for Council and was reported to Council in December 2017 and was recently exhibited for public feedback. However, for an undeveloped site like the Abbotsford site, the updated data is unlikely to change the outcome of the predicted impacts on the site and would not change the assessment for this proposal.</p> <p>It is acknowledged that the study is now 5 years old which is not ideal. However, an updated study would not change the assessment for this proposal and therefore would also not change the approach taken by the planning proposal. Subsequently it is considered unreasonable to require the proponent to update the study at this late stage. Further investigation would be required at the detailed development stage as part of any development application.</p>	
<ul style="list-style-type: none"> • Development will exacerbate runoff from the site; - The existing drainage for run-off from the proposed rezoned land on Abbotsford Road to the creek is already seriously inadequate, leading to unnecessary road flooding and damage. The proposed development will add significant water volume with the increase in hard surfaces and the increased ground saturation due to septic systems. Much more extensive drainage arrangements are required. - The proposal seems to make no provision for on-site water detention systems. - Verbal feedback during a meeting with representatives from Valley View Estate also suggested that significant amounts of water came off the hill and through the causeway which can't cope during excessive rainfall and would also be worse as a result of the development. 	<p>As noted above, the Planning Proposal and supporting studies, including the flood assessment report have been referred to Council's Infrastructure & Planning Department for their specialist comment.</p> <p>If rezoned, and developed in the manner proposed the majority of the development would not drain towards the causeway.</p> <p>The Flood Assessment Report prepared by Floodmit Pty Ltd indicates that a subdivision scale detention is proposed and will be further developed.</p> <p>The drainage requirements as part of any development application must demonstrate that a development will not worsen the drainage situation.</p>	<p>No changes proposed to planning proposal.</p>
<ul style="list-style-type: none"> • Sections of Abbotsford Road which require improvements; • There are currently three (3) regular floodpoints on Abbotsford road which need to be addressed for all-weather purposes. These are: <ul style="list-style-type: none"> ▪ On Abbotsford road between Equestrian Drive and Fairleys road, ▪ From the 90 degree turn on Abbotsford Road near the silos for 100 metres to the next bend (near the creek); and ▪ The causeway about 1km before Valley View estate. 	<p>Any future development on the site would need to demonstrate that development would not worsen the drainage situation.</p> <p>The effectiveness of the existing causeway is a separate issue already known to Council and is already included on Council's Stormwater Improvement Program. It will be addressed on a priority basis against other items on the list.</p>	<p>No changes proposed to planning proposal.</p>

Attachment 2; Matrix & Table Summarising Stakeholder submissions to the Abbottsford Planning Proposal

Issue Raised	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission?
Essential Services & Utilities		
<ul style="list-style-type: none"> • Servicing arrangements & impact on existing development - Drinking water - will development be connected to town water? - Water pressure - Water Pressure has dropped. Concerned about impact from a further subdivision. - Disposal of wastewater – assumes the rezoning will come with a full sewerage system 	<p>Wastewater disposal will be managed through on-site sewage management systems provided by each lot owner. An onsite wastewater system will be provided within each individual lot. This is likely to be an aerated wastewater treatment system with onsite disposal via either surface spray or sub-surface effluent irrigation.</p> <p>Any future development application will need to satisfy the requirements of Council's <i>Onsite Sewage Management and Greywater Reuse Strategy</i>.</p> <p>In terms of water, future development would connect to Sydney Water's water supply network. However, the developer would need to build an extension to connect to Sydney Water's existing infrastructure.</p> <p>Sydney Water have reviewed the water pressure on Equestrian Drive and advised that it is considered to be very good. Regardless, they have indicated that connecting an additional 40 lots to the network would not affect water pressure for existing properties.</p>	No changes proposed to planning proposal.
Growth & Character of Local Area		
<ul style="list-style-type: none"> • The planning proposal in its current form falls short of ensuring minimal impact upon the existing locality. • Concerns regarding the effects of the development to the 'rural aspects' of Wollondilly area. • The submitter disapproves of the 'significant amount of residential growth' in the last 30 years in Wollondilly. 	<p>If development were to be undertaken on the site in the manner permitted by this planning proposal it would change the character of the site in that there would be approximately 40 houses where there is currently only one (the archaeological homestead ruin). A number of the rural structures would also be removed.</p> <p>However, the density proposed is not dissimilar to adjoining properties to the south and the property is well located in terms of its location adjoining Picton. In particular, with the opening of the pedestrian bridge at Picton Sportsground future residents are within walking distance of the high quality open space and cycling distance of the town centre.</p> <p>The submitters view on residential growth is noted. Demand for growth in Wollondilly is managed through applying the Wollondilly Growth Management Strategy 2011. This document was subject to community consultation and is the adopted position of Council. Balanced growth</p>	No changes proposed to planning proposal.

Attachment 2; Matrix & Table Summarising Stakeholder submissions to the Abbotsford Planning Proposal

Issue Raised	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission?
	can benefit rural communities through boosting the local economy, contributing to housing diversity and affordability and enabling infrastructure.	
Contamination		
<ul style="list-style-type: none"> • Potential contamination of the existing site <ul style="list-style-type: none"> - Study is vague and falls short in identifying the true impact upon the proposed residential population. - Detail needs to be provided identifying the affected areas of the site and proposed method of treatment to ensure that future residential lots and subsequent building envelopes are not negatively impacted. 	<p>A Contaminated Land Study, dated June 2013 was prepared by Harvest Scientific Sciences Pty Ltd to inform the Abbotsford Planning Proposal. The study concludes that, subject to the need for further detailed investigation and potential remediation, there are no contamination related issues which prevent the rezoning of the site for residential use.</p> <p>The study has been reviewed and it is considered that the study has been completed in accordance with the EPA Guidelines for Consultants Reporting on Contaminated Sites and other relevant guidelines.</p> <p>The contamination assessment has incorporated a range of measures to identify areas of possible contamination on the site and they have been suitably mapped. The nature of any possible contamination from these areas should not prevent any rezoning of the land. These areas can be further investigated as part of a detailed site investigation which would form part of any future development application and this further investigation would also inform whether any remediation is necessary.</p> <p>The requirement for further investigation will be included within the <i>Wollondilly Development Control Plan 2016</i> as a site specific control for future development on the site.</p> <p>The preliminary contamination assessment provide an outline of the likely methods of remediation that would be used if any contamination were to be found as part of a future investigation. It would be more appropriate for specific detail on the proposed method of remediation to form part of a Remediation Action Plan, would also form part of a future development application if any remediation was found to be necessary.</p> <p>It is acknowledged that the study is now 5 years old which is not ideal. However, an updated study would not change the assessment for this proposal and therefore would also not change the approach taken by the planning proposal. Subsequently it is considered unreasonable to</p>	<p>No changes proposed to planning proposal.</p> <p>However, there is a need for further investigation and this requirement will be included in the proposed site specific planning controls proposed for inclusion within the development control plan.</p>

Attachment 2; Matrix & Table Summarising Stakeholder submissions to the Abbotsford Planning Proposal

Issue Raised	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission?
	require the proponent to update the study at this late stage especially as the need for further investigation at the development application stage has been identified.	
Voluntary Planning Agreement		
<ul style="list-style-type: none"> Council needs to include additional road upgrades within the proposed VPA to ensure a safer environment for all users including residents and the community who access Abbotsford and Fairleys Roads. 	<p>The draft Planning Agreement includes the following road works and safety improvements;</p> <ul style="list-style-type: none"> Stabilisation and reconstruction of Abbotsford Road along a partially new alignment, and Monetary contribution of \$5,000 per lot to implement the findings of the Draft Picton Town Centre Transport Master Plan once finalised. <p>Additional local road works may be identified as part of any future development application to develop the site.</p> <p>This is considered to provide a benefit to Council and the community by creating a safer road, because the road presently has a pronounced kink along the carriageway and which can present a hazard to road users.</p> <p>The monetary contribution towards Picton Town Centre Transport Master Plan works which is considered reasonable.</p>	<p>No changes proposed to draft Planning Agreement.</p> <p>A Road Safety Audit should be undertaken in the future as part of any approved future development of the site.</p>
Heritage Buildings		
<ul style="list-style-type: none"> Silo and barn buildings definitely need to be preserved as they are such an icon in the area and need to be included with the house and other items mentioned for preservation. Preservation of this little pocket is so important and are so glad it is being recognised by all involved. Development needs to be sympathetic so the feel of the area doesn't change. 	<p>Noted.</p> <p>Site specific planning controls are currently being prepared for inclusion within the Wollondilly Development Control Plan 2016 to guide future development on the site. The site's heritage will be central to any proposed controls for the site.</p>	<p>No changes proposed to the planning proposal.</p>
Mining		
	Noted	No changes proposed to the planning proposal.

Attachment 2; Matrix & Table Summarising Stakeholder submissions to the Abbotsford Planning Proposal

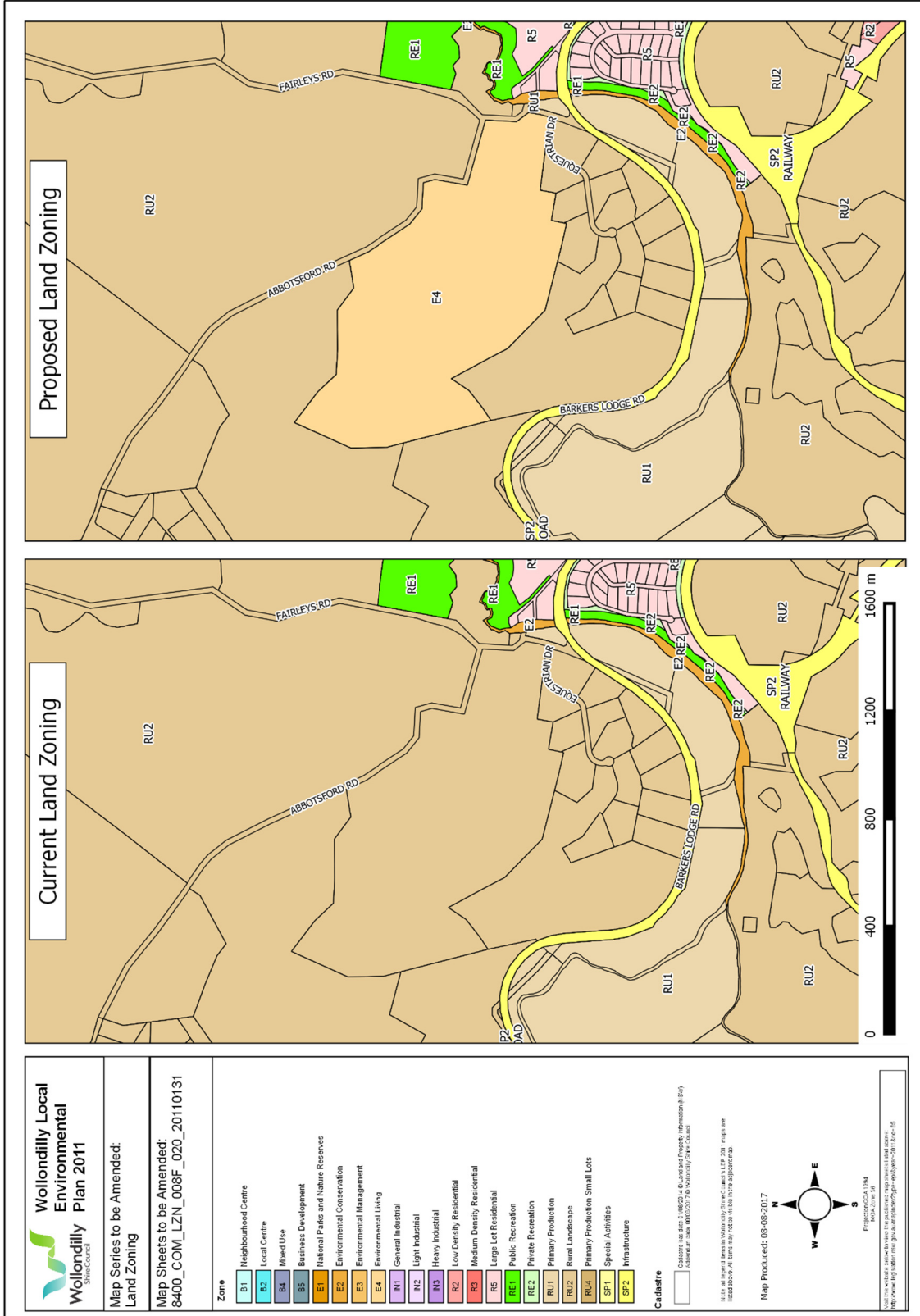
Issue Raised	Council Assessment Response	Are changes required to the Planning Proposal/ other action required in response to the submission?
<ul style="list-style-type: none"> A portion of the site lies within long term mining area of the Tahmoor Coal Pty Ltd Mining Lease 1376 and in the Picton Mine District. Tahmoor Colliery have no objection to urban development provided development is approved consistent with mine subsidence requirements. The findings of the <i>Potential Impacts of Mine Subsidence due to the Future Extraction of Coal Resources</i>, prepared to inform the planning proposal, should be taken into consideration throughout the planning approval process. 		
Studies		
<ul style="list-style-type: none"> The studies prepared to inform the planning proposal are out of date. Particular note made to the traffic and flood studies. 	<p>It is acknowledged that the studies were prepared 5 years ago which is not ideal. However, updated studies are not considered likely to result in significantly different recommendations and are therefore unlikely to change the assessment for this proposal.</p> <p>It is considered unreasonable to require the proponent to update the studies at this late stage.</p> <p>Additional comments have been provided for other issues raised and the age of the studies. These include; contamination, traffic and</p>	No changes proposed to planning proposal.
Other		
<ul style="list-style-type: none"> Consideration needs to be given to the current use of 1.2km of Abbotsford Road as a stock route. This is likely to continue occasionally as not all of the farm land is to be re-zoned in the development. 	<p>Noted.</p> <p>The portion of the farm being rezoned is located to the south and west of Abbotsford Road with no areas remaining for stock to cross Abbotsford Road.</p>	No changes proposed to the planning proposal.

Attachment 3; Areas to be identified on the Natural resources – Biodiversity Map (Figure 22 from Biodiversity Study)

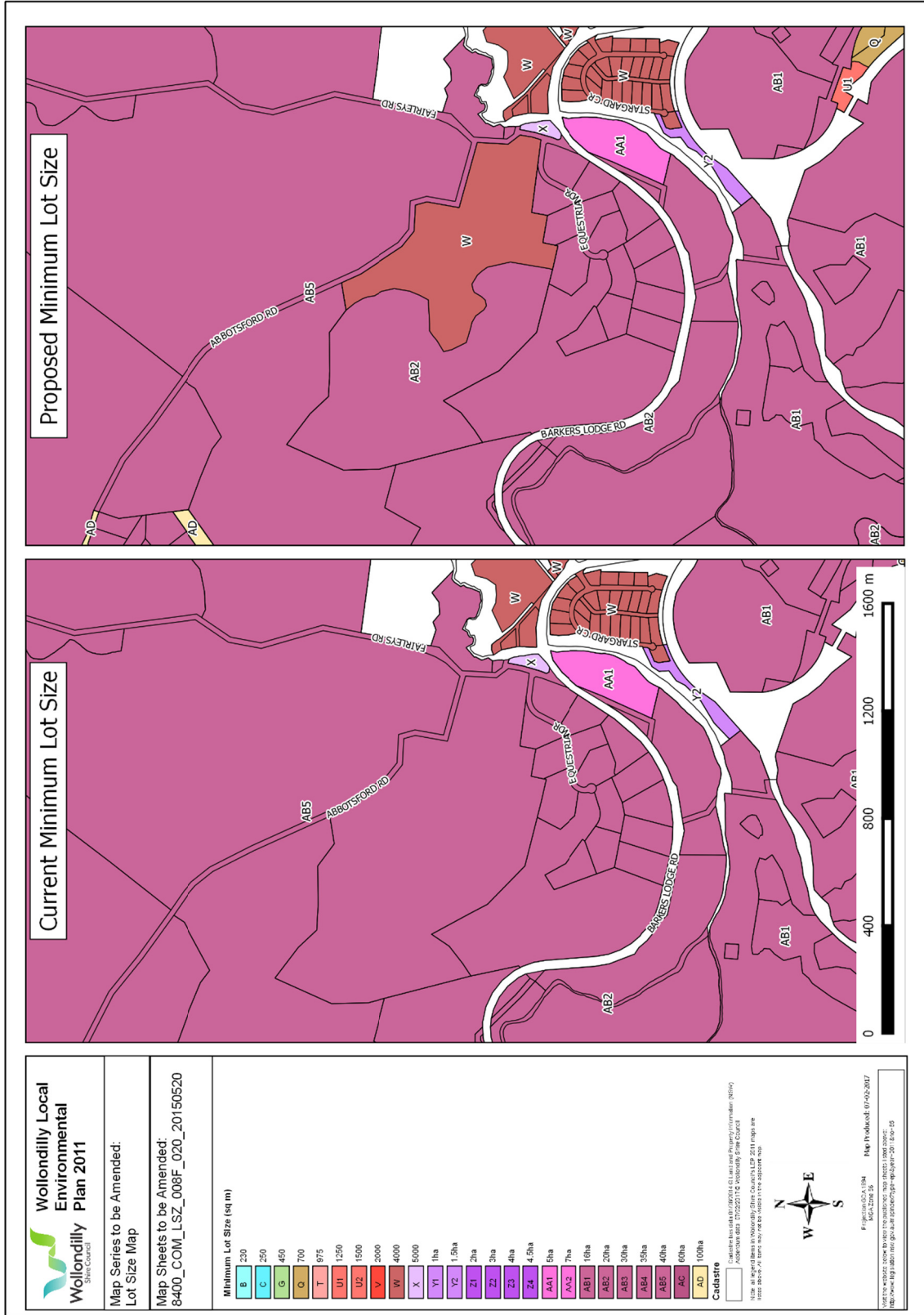


Areas of 'high' and 'moderate' conservation significance would be identified on the proposed Natural Resources Biodiversity Map. These areas are denoted by 'high' (1) and 'moderate' (2).
Source: Figure 22 (page 46) from *Biodiversity Study for a Planning Proposal for Part of Abbotsford Farm Picton*, ACS Environmental Pty Ltd, June 2013.

Attachment 4; Land Use Zoning Comparison Map



Attachment 5; Lot Size Comparison Map

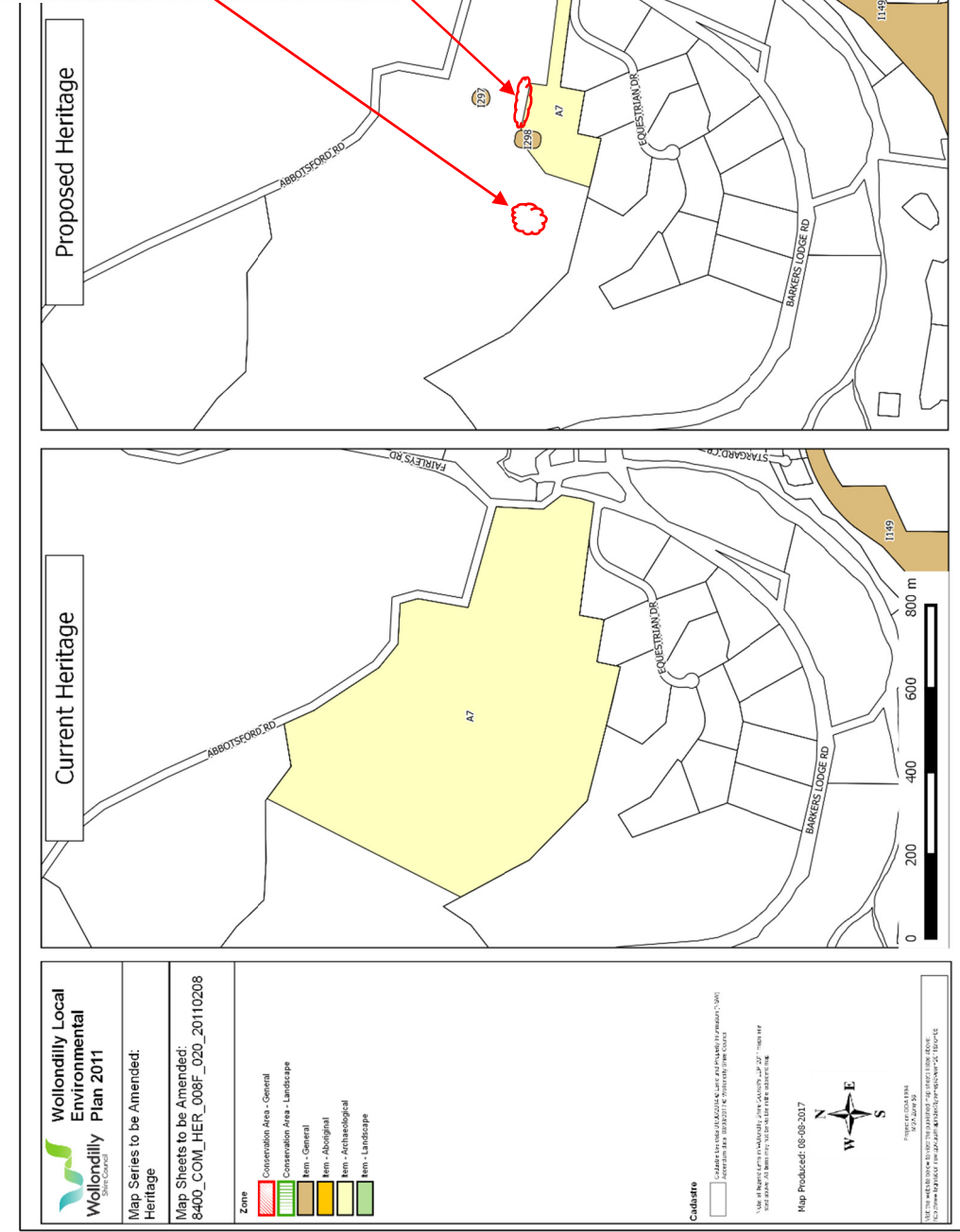


Attachment 6; Height of Buildings Comparison Map



Attachment 7; Heritage Comparison Map with notations showing additional changes

Inset; key landscape features of Abbotsford's cultural landscape



Inset source: Curtilage Study prepared by NBRIS + Partners, June 2013

Circles are significant individual trees, ovals are rows of similar trees, the square is the likely former croquet lawn and the line is the trench dug to shed water draining down the hill behind the homestead.

The features identified in red are to be included on the Heritage Map.

ATTACHMENT 8 – Schedule of Works to be Delivered

The Planning Agreement provides for the following works to be provided:

Development Contribution	Public Purpose	Manner & Extent	Timing
(i) Stabilisation Work	Heritage conservation	Carrying out and completion of Work to stabilise the Heritage Item in accordance with the specifications in Schedule 6.	Completion by no later than 9 months after the date the Development Consent is granted to the Superlot Development
(ii) Realignment of Abbotsford Road	Public roads	Carrying out and completion of the realignment of Abbotsford Road in accordance with a design and specification determined in accordance with clause 5 of this Schedule	Completion prior to the earlier of: (a) the date that is 9 months after the issuing of the first Construction Certificate for the Stage 1-5 Development, (b) the issuing of the first Subdivision Certificate that creates a Final Lot on the Stage 2-4 Land, subject to clause 2 of Schedule 7
(iii) Dedication of land required for realignment of Abbotsford Road generally as shown marked with horizontal lines on the Land Dedication Plan as a public road under the Roads Act	Public roads	Dedication of land required for the realignment of Abbotsford Road as a public road free of cost to the Council	Land to be dedicated as a public road under the Roads Act on completion of the realignment of Abbotsford Road.
(iv) Monetary contribution towards the Council's costs of constructing road works and traffic management facilities identified in the document titled ' <i>Picton Traffic Study (2017)</i> ' prepared by TDG	Road works and traffic management	Payment of \$5,000 per Final Lot	Before the issuing of the first Subdivision Certificate that creates the Final Lot

Planning Agreement

Environmental Planning and Assessment Act 1979

Wollondilly Shire Council

and

R & F Ziems Pty Limited ACN 001 747 806

Glynnis Jean Thompson

Neil Leonard Arber

Bertoli Building Pty Limited ABN 68 056 658 836

Zaxmoat Pty Limited ACN 079 492 247

THIS Deed is dated

PARTIES:

WOLLONDILLY SHIRE COUNCIL (Council) of 62-64 Menangle Street, Picton NSW 2571

R & F ZIEMS PTY LIMITED ACN 001 747 806 of 330 Princes Highway, Corrimal NSW

GLYNIS JEAN THOMPSON c/- Brock Partners, Suite 605, 22 Market Street, Sydney NSW 2000

NEIL LEONARD ARBER c/- Brock Partners, Suite 605, 22 Market Street, Sydney NSW 2000

BERTOLI BUILDING PTY LIMITED ABN 68 056 658 836 of Suite 605, 22 Market Street, Sydney NSW 2000

ZAXMOAT PTY LIMITED ACN 079 492 247 c/- Brock Partners, Suite 605, 22 Market Street, Sydney NSW 2000

(together the Developer)

INTRODUCTION:

- A** The Developer owns the Land set out in Schedule 3.
- B** The Developer proposes to carry out Development on the Land.
- C** The Land is the subject of a planning proposal within the meaning of s55 of the Act.
- D** The Developer has offered to enter into this Deed with the Council to secure the stabilisation of the Heritage Item and the provision of other Development Contributions in connection with the Instrument Change and development of the lower slopes of part of the Land.
- E** The Developer's carrying out of Development on the Stage 2-4 Land is subject to a redundant part of Abbotsford Road ceasing to be a public road under the *Roads Act 1993*.

IT IS AGREED:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed unless the context clearly indicates otherwise:

Act means the *Environmental Planning and Assessment Act 1979 (NSW)*.

Address for Service means the address of each party appearing in Schedule 2 or any new address notified by any party to all other parties as its new Address for Service.

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

Authority means any Federal, State or local government or semi-governmental, statutory, judicial or public person, instrumentality or department.

Bank Guarantee means an irrevocable and unconditional undertaking without any expiry or end date in favour of the Council to pay an amount or amounts of money to the Council on demand issued by:

- (a) one of the following trading banks:
 - (i) Australia and New Zealand Banking Group Limited,
 - (ii) Commonwealth Bank of Australia,
 - (iii) Macquarie Bank Limited,
 - (iv) National Australia Bank Limited,
 - (iv) St George Bank Limited,
 - (v) Westpac Banking Corporation, or
- (b) any other financial institution approved by the Council in its absolute discretion

Business Day means any day that is not a Saturday, Sunday, gazetted public holiday or bank holiday in Sydney, and concludes at 5pm on that day.

Claim includes a claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding or right of action.

Cost means a cost, charge, expense, outgoing, payment, fee and other expenditure of any nature.

Deed means this Deed and includes any schedules, annexures and appendices to this Deed.

Defect means anything that adversely affects, or is likely to adversely affect, the appearance, structural integrity, functionality or use or enjoyment of a Work or any part of a Work.

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

Development means any development within the meaning of Act that is made permissible by the taking effect of the Instrument Change and which is envisaged to include subdivision of the Land generally in accordance with the Staging Plan.

Development Application has the same meaning as in the Act.

Development Consent has the same meaning as in the Act.

Development Contribution means a monetary contribution, the dedication of land free of cost, the carrying out of work, or the provision of any other material public benefit, or any combination of them, by the Developer, to be used for, or applied towards a public purpose, but does not include any Security or other benefit provided by a party to the Council to secure the enforcement of that party's obligations under this Deed for the purposes of s93F(3)(g) of the Act, as described in Schedule 4.

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 Deed.

Explanatory Note means the note exhibited with a copy of this Deed when this Deed is made available for inspection by the public pursuant to the Act, as required by the Regulation.

Final Lot means a lot created in the Development for separate residential occupation and disposition, or a lot of a kind or created for a purpose that is otherwise agreed in writing by the parties, not being a lot created by a subdivision of the Land that is to be dedicated or otherwise transferred to the Council.

General Register of Deeds means the land register maintained under the *Conveyancing Act 1919* (NSW) and so titled.

GST means any form of goods and services tax payable under the GST Legislation.

GST Legislation means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Heritage Item means the heritage item, within the meaning of the LEP, described as '*Abbotsford - house ruins, trees, garden and grounds*,

underground tank, cottage, outbuildings' which is located on the Heritage Item Lot.

Heritage Item Lot means the lot identified as the 'Abbotsford Homestead Lot' on the Staging Plan.

Instrument Change means an environmental planning instrument within the meaning of the Act that amends the LEP to:

- (a) rezone the Land from zone RU2 Rural Landscape to E4 Environmental Living, and
- (b) impose a minimum lot size of 4000sqm on the lower slopes of part of the Land being the land shown as 'Stage 1', 'Stage 2', 'Stage 3' and 'Stage 4' on the Staging Plan, and
- (c) impose a minimum lot size of 20ha on the upper slopes and the ridgeline of the Land being the land shown as 'Stage 5' of the Staging Plan.

Just Terms Act means the *Land Acquisition (Just Terms Compensation) Act 1991*.

Land means the land described in Schedule 3 of this Deed.

Land Dedication Plan means the plan in Schedule 8 of this Deed.

LEP means the *Wollondilly Local Environmental Plan 2011*.

Mediation Program means the Mediation Program of the Law Society of New South Wales as published on its website and as varied from time to time.

Real Property Act means the *Real Property Act 1900* (NSW).

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.

Register means the Torrens title register maintained under the Real Property Act.

Regulation means the *Environmental Planning and Assessment Regulation 2000* (NSW).

Roads Act means the *Roads Act 1993* (NSW).

Road Work Credit means the sum of:

- (a) 50% of the costs of construction (as determined by the Council) of the realignment of the part of Abbotsford Road from Equestrian Drive to Fairley's Road marked as such on the Section 94 Offset Plan, and
- (b) 100% of the costs of construction (as determined by the Council) of the realignment of the part of Abbotsford Road from Fairley's Road to the boundary of the part of the Land marked as 'Stage 4' on the Staging Plan marked as such on the Section 94 Offset Plan, and
- (c) 50% of the difference between the market value of the land which is dedicated to the Council for the realignment of Abbotsford Road under this Deed and the market value of the Redundant Road referred to in clause 2 of Schedule 4, as determined by the valuation report prepared by Mr John Graveur and dated 18 May 2016 which was submitted by the Developer to the Council and accepted by the Council.

Section 94 Offset Plan means the plan in Schedule 9.

Security means a Bank Guarantee, or a bond or other form of security to the satisfaction of the Council.

Stabilisation Work means Work to stabilise the Heritage Item in accordance with the document titled 'Schedule of Required Stabilisation Works' dated 17 April 2015 and the specifications prepared by NBRIS and Partners dated 19 March 2015 a copy of which is annexed in Schedule 6

Stage 1-5 Development means the part of the Development for which Development Consent is granted involving subdivision of the Stage 1 -5 Land into Final Lots and any associated work.

Stage 1 -5 Land means the part of the Land marked as 'Stage 1', 'Stage 2', 'Stage 3', 'Stage 4' and 'Stage 5' on the Staging Plan', or as otherwise as agreed in writing between the parties.

Stage 2 – 4 Land means the part of the Land marked as 'Stage 2', 'Stage 3', and 'Stage 4' on the Staging Plan', or as otherwise as agreed in writing between the parties.

Staging Plan means the plan in Schedule 5.

Subdivision Certificate has the same meaning as in the Act.

Superlot Development means the part of the Development for which Development Consent is granted involving the carrying out of any part of the Stabilisation Work and subdivision of Lot 1 in DP 1086066 into lots comprising:

- (a) the Stage 1-5 Land,
- (b) the Heritage Item Lot,
- (c) the land to the east of Abbotsford Road.

Tax means a tax, duty (including stamp duty and any other transaction duty), levy, impost, charge, fee (including a registration fee) together with all interest, penalties, fines and costs concerning them.

Wollondilly Council’s Engineering Design and Construction

Specifications means the Council’s documents titled ‘*Design Specification 2016, Subdivision & Engineering Standard*’, ‘*Construction Specification 2016, Subdivision & Engineering Standard*’, and ‘*Standard Drawings 2016, Subdivision & Engineering Standard*’, all as amended from time to time, any document that replaces those documents and any other documents adopted by the Council from time to time relating to design and construction standards in respect of roads.

Work means the physical result of any building, engineering or construction work in, on, over or under land that is required to be carried out under this Deed.

1.2 Interpretation

In this Deed unless the context clearly indicates otherwise:

- (a) a reference to this Deed or another document means this Deed or that other document and any document which varies, supplements, replaces, assigns or novates this Deed or that other document;
- (b) a reference to **legislation** or a **legislative provision** includes any statutory modification, or substitution of that legislation or legislative provision and any subordinate legislation issued under that legislation or legislative provision;
- (c) a reference to a **body** or **authority** which ceases to exist is a reference to either a body or authority that the parties agree to substitute for the named body or authority or, failing agreement, to a body or authority having substantially the same objects as the named body or authority;
- (d) a reference to the **introduction**, a **clause**, **schedule** or **annexure** is a reference to the introduction, a clause, a schedule or an annexure to or of this Deed.
- (e) **clause headings**, the **introduction** and the **table of contents** are inserted for convenience only and do not form part of this Deed;
- (f) the **schedules** form part of this Deed;

- (g) a reference to a **person** includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;
- (h) a reference to a **natural person** includes their personal representatives, servants, agents, contractors, successors and permitted assigns;
- (i) a reference to a **corporation** includes its servants, agents, contractors, successors and permitted assigns;
- (j) a reference to a right or obligation of a party is a reference to a right or obligation of that party under this Deed;
- (k) an **obligation** or **warranty** on the part of 2 or more persons binds them severally and an obligation or warranty in favour of 2 or more persons benefits them severally;
- (l) a requirement to do any thing includes a requirement to cause that thing to be done and a requirement not to do any thing includes a requirement to prevent that thing being done;
- (m) **including** and **includes** are not words of limitation;
- (n) a word that is derived from a defined word has a corresponding meaning;
- (o) **monetary amounts** are expressed in Australian dollars;
- (p) the singular includes the plural and vice-versa;
- (q) words importing one gender include all other genders;
- (r) a reference to a thing includes each part of that thing; and
- (s) neither this Deed nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

2 OPERATION AND APPLICATION OF THIS DEED

2.1 Operation

- (a) This Deed commences on the date that this Deed is signed by all the parties.
- (b) The Developer is under no obligation to provide the Development Contributions unless and until the Instrument Change commences in accordance with the Act.

2.2 Planning agreement under the Act

This Deed constitutes a planning agreement within the meaning of section 93F of the Act.

2.3 Application

This Deed applies to:

- (a) the Land; and
- (b) the Development, and
- (c) the Instrument Change.

2.4 Further Agreements

The parties may, at any time and from time to time, enter into agreements relating to the subject-matter of this Deed that are not inconsistent with this Deed for the purpose of implementing this Deed.

2.5 Surrender of right of appeal, etc.

The Developer is not to commence or maintain, or to cause or procure the commencement or maintenance, of any proceedings in any court or tribunal or similar body appealing against, or questioning the validity of this Deed, or an Approval relating to the Development in so far as the subject-matter of the proceedings relates to this Deed.

3 Application of sections 94, 94A and 94EF of the Act

- (a) The application of sections 94, 94A and 94EF of the Act are excluded to the extent stated in Schedule 1.
- (b) The benefits under this Deed are to be taken into consideration to the extent stated in Schedule 1 when determining a development contribution under s94 of the Act in relation to the Development so described in Schedule 1.

4 DEVELOPMENT CONTRIBUTION

Developer to provide Development Contribution

The Developer is to provide the Development Contributions to the Council in accordance with the provisions of Schedule 4 to this Deed, any other provision of this Deed relating to the making of Development Contributions and otherwise to the satisfaction of the Council

5. Enforcement

5.1 Developer to provide security

The Developer is to provide security to the Council for the performance of the Developer's obligations under this Deed in accordance with the terms and procedures set out in Schedule 7.

5.2 Breach of obligations

- (a) If the Council reasonably considers that the Developer is in breach of any obligation under this Deed, it may give a written notice to the Developer:
 - (i) specifying the nature and extent of the breach,
 - (ii) requiring the Developer to:
 - (1) rectify the breach if it reasonably considers it is capable of rectification, or
 - (2) pay compensation to the reasonable satisfaction of the Council in lieu of rectifying the breach if it reasonably considers the breach is not capable of rectification,
 - (iii) specifying the period within which the breach is to be rectified or compensation paid, being a period that is reasonable in the circumstances.
- (b) If the Developer fails to fully comply with a notice referred to in clause 5.2(a), the Council may, without further notice to the Developer, call-up the Security provided by the Developer under this Deed and apply it to remedy the Developer's breach.
- (c) If the Developer fails to comply with a notice given under clause 5.2(a) relating to the carrying out of Work under this Deed, the Council may step-in and remedy the breach and may enter, occupy and use any land owned or controlled by the Developer and any Equipment on such land for that purpose.
- (d) Any costs incurred by the Council in remedying a breach in accordance with clause 5.2(b) or clause 5.2(c) may be recovered by the Council by either or a combination of the following means:
 - (i) by calling-up and applying the Security provided by the Developer under this Deed, or
 - (ii) as a debt due in a court of competent jurisdiction.
- (e) For the purpose of clause 5.2(d), the Council's costs of remedying a breach the subject of a notice given under clause 5.2(a) include, but are not limited to:

- (i) the costs of the Council's servants, agents and contractors reasonably incurred for that purpose,
 - (ii) all fees and charges necessarily or reasonably incurred by the Council in remedying the breach, and
 - (iii) all legal costs and expenses reasonably incurred by the Council, by reason of the breach.
- (f) Nothing in this clause 5.2 prevents the Council from exercising any rights it may have at law or in equity in relation to a breach of this Deed by the Developer, including but not limited to seeking relief in an appropriate court.

5.3 Enforcement in a court of competent jurisdiction

- (a) Without limiting any other provision of this Deed, the parties may enforce this Deed in any court of competent jurisdiction.
- (b) For the avoidance of doubt, nothing in this Deed prevents:
 - (i) a party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Deed or any matter to which this Deed relates, or
 - (ii) the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Deed or any matter to which this Deed relates.

6 REGISTRATION

6.1 Registration of Deed

- (a) The parties agree to register this Deed on the title to the Land for the purposes of s93H(1) of the Act.
- (b) On the commencement of this Deed, the Developer is to deliver to the Council in registrable form:
 - (i) an instrument requesting registration of this Deed on the title to the Land duly executed by the Developer and all other persons other than the Council required by the Registrar-General to execute such instrument, and
 - (ii) the written consent of each person who:

- (A) has an estate or interest in the Land registered under the Real Property Act if the Land is under the Real Property Act; or
- (B) is seized or possessed of an estate or interest in the Land if the Land is not under the Real Property Act;

to the registration of this Deed on the title to the Land.

- (c) Within 30 Business Days of receiving a copy of this Deed executed by the Council, the Developer at its own expense is to:
 - (i) produce at Land & Property Information the relevant certificates of title for the Land and written consents referred to in clause 6.1(b)(ii); and
 - (ii) lodge this Deed for registration, by the Registrar-General in the relevant folios of the Register for the Land, or in the General Register of Deeds if this Deed relates to land not under the Real Property Act.
- (d) Notwithstanding any other clause in this Deed, if the Land comprises part only of a Torrens title lot at the time that this Deed is required to be registered on title, the Developer is to give the Council an instrument that registers this Deed on the title to the whole Torrens title lot which includes the whole of the Land.
- (e) The Developer is to do such other things as are reasonably necessary to enable registration of this Deed to occur.

6.2 Evidence of registration

- (a) The Developer is to provide the Council with a copy of the registered Deed and copies of the folios of the Register for the Land within 10 Business Days of registration of this Deed.
- (b) Without limiting any other provision of this Deed, the Developer is to provide the Council with written evidence of registration of this Deed on the folio of the Register for the Land prior to the issuing of the first Subdivision Certificate for the Development.

6.3 Release and discharge of Deed

The Council agrees to do all things reasonably required by the Developer to:

- (a) execute the relevant forms to remove the registration of this Deed; and
- (b) release and discharge this Deed,

from the following parts of the Land at the following times:

- (c) if this Deed is registered on the title to any land that is not the Land pursuant to clause 6.1(d), when that land is created as a separate Torrens title lot,
- (d) from the Heritage Item Lot once that lot is created as a separate Torrens title lot and the Developer has completed its obligations under this Deed in relation to the Stabilisation Work to the reasonable satisfaction of the Council,
- (e) from the Stage 1 Land when the realignment of the part of Abbotsford Road from Equestrian Drive to Fairley's Road is completed for the purposes of this Deed,
- (f) from the Stage 2 – 4 Land and the Stage 5 Land when the realignment of the part of Abbotsford Road from Fairley's Road to the boundary between the Land and Lot 6 DP24460 is completed for the purposes of this Deed,
- (g) in relation to any other part of the Land, when the Developer has completed all its obligations under this Deed to the reasonable satisfaction of the Council.

6.4 Developer's interest in Land

The Developer represents and warrants that it is:

- (a) the owner of the Land; and
- (b) is able to fully comply with its obligations under this Deed.

7 DISPUTE RESOLUTION

7.1 Not commence

A party must not commence any court proceedings relating to a dispute under or in relation to this Deed unless it first complies with this clause 7.

7.2 Written notice of dispute

A party claiming that a dispute has arisen under or in relation to this Deed must give a written notice to the other party specifying the nature of the dispute.

7.3 Attempt to resolve

On receipt of a notice under clause 7.2, the parties must endeavour in good faith to resolve the dispute expeditiously using informal dispute resolution techniques such as mediation, expert evaluation or other techniques agreed by them.

7.4 Expert determination

- (a) If there is a Dispute as to whether a matter can be determined an appropriately qualified expert, the parties are to obtain a written opinion from the Chief Executive Officer of the professional body that represents persons who appear to have the relevant expertise to determine the Dispute of whether the Dispute can be determined by a member of that body.
- (b) If the parties agree under clause 7.3 that a matter can be determined by an appropriately qualified expert, or a Chief Executive Officer referred to in clause 7.4(a) is of the opinion is that the Dispute can be determined by a member of that body, the parties are to refer the Dispute to the President of the NSW Law Society to appoint an expert for expert determination.
- (c) The expert determination is binding on the parties except in the case of fraud or misfeasance by the expert.
- (d) Each party is to bear its own costs arising from or in connection with the appointment of the expert and the expert determination
- (e) The parties are to share equally the costs of the Chief Executive Officer, the President, the expert, and the expert determination.

7.5 Mediation

- (a) This clause applies to any Dispute arising in connection with this Deed other than a Dispute to which clause 7.4(b) applies.
- (b) If the Dispute is not resolved within 28 Business Days of receipt of notice under clause 7.2, the parties must mediate the dispute in accordance with the Mediation Program. The parties must request the president of the Law Society of NSW or the president's nominee to select the mediator and determine the mediator's remuneration.

7.6 Court proceedings

If the dispute is not resolved within 60 Business Days after notice is given under clause 7.2 then any party which has complied with the provisions of this clause 6 may in writing terminate any dispute resolution process undertaken under this clause and may then commence court proceedings in relation to the dispute.

7.7 Not use information

The parties acknowledge the purpose of any exchange of information or documents or the making of any offer of settlement under this clause 6 is to attempt to settle the dispute. No party may use any information or documents obtained through any dispute resolution process undertaken under this clause 7 in any court proceedings in relation to the dispute.

7.8 No prejudice

This clause 7 does not prejudice the right of a party to institute court proceedings for urgent injunctive or declaratory relief in relation to any matter arising out of or relating to this Deed.

8 GST

8.1 Definitions

Words used in this clause that are defined in the GST Legislation have the meaning given in that legislation.

8.2 Intention of the parties

The parties intend that:

- (a) Divisions 81 and 82 of the GST Legislation apply to the supplies made under and in respect of this Deed; and
- (b) no additional amounts will be payable on account of GST and no tax invoices will be exchanged between the parties in relation to the Development Contribution.

8.3 Reimbursement

Any payment or reimbursement required to be made under this Deed that is calculated by reference to a cost, expense, or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which any entity is entitled for the acquisition to which the cost, expense or amount relates.

8.4 Consideration GST exclusive

Unless otherwise expressly stated, all process or other sums payable or consideration to be provided under this Deed are GST Exclusive. Any consideration that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to a supply for the purposes of this clause 8.

8.5 Additional Amounts for GST

To the extent an amount of GST is payable on a supply made by a party under or in connection with this Deed (**GST Amount**), the Recipient will pay to the Supplier the GST Amount. However, where a GST Amount is payable by the Council as Recipient of the supply, the Developer will ensure that:

- (a) the Developer makes payment of the GST Amount on behalf of the Council, including any gross up that may be required; and
- (b) the Developer provides a Tax Invoice to the Minister.

8.6 No merger

This clause will not merge on completion or termination of this Deed.

9 TRANSFER AND ASSIGNMENT

Developer's right to transfer, assign or novate

- (a) The Developer is not to:
 - (i) sell or transfer the Land (or any part), or
 - (ii) assign the Developer's rights or obligations under this Deed, or novate this Deed,

to any person unless the Council consents to the sale, transfer, assignment or novation, such consent not to be unreasonably withheld.

- (b) Prior to seeking the consent of the Council to a proposed sale or transfer of land or assignment or novation of its rights or obligations under this Deed, the Developer must:
 - (i) satisfy the Council (acting reasonably) that the purchaser, transferee or person to whom the Developer's rights and obligations are to be assigned or novated (**Incoming Party**) has sufficient assets, resources and expertise required in order to perform the Developer's obligations under this Deed insofar as those obligations relate to the land sold or transferred or have been assigned or novated to the Incoming Party; and
 - (ii) procure the execution of an agreement by the Incoming Party with the Council on terms satisfactory to the Council (acting reasonably) under which the Incoming Party agrees to comply with the terms and conditions of this Deed as though the Incoming Party was the Developer, and

- (iii) satisfy the Council that the Developer is not in breach of this Deed.
- (b) The Developer will pay the Council's reasonable legal costs and expenses incurred under this clause 9.

10 CAPACITY

10.1 General warranties

Each party warrants to each other party that:

- (a) this Deed creates legal, valid and binding obligations, enforceable against the relevant party in accordance with its terms; and
- (b) unless otherwise stated, it has not entered into this Deed in the capacity of trustee of any trust.

10.2 Power of Attorney

If an attorney executes this Deed on behalf of any party, the attorney declares that it has no notice of the revocation of that power of attorney.

11 GENERAL PROVISIONS

11.1 Entire Deed

This Deed constitutes the entire agreement between the parties regarding the matters set out in it and supersedes any prior representations, undertakings or arrangements made between the parties, whether orally or in writing.

11.2 Variation

This Deed must not be varied except by a later written document executed by all parties in accordance with clause 25C and 25D of the Regulation.

11.3 Waiver

A right created by this Deed cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right does not constitute a waiver of that right, nor will a waiver (either wholly or in part) by a party of a right to operate as a subsequent waiver of the same right or of any other right of that party.

11.4 Further assurances

Each party must promptly execute all documents and do every thing necessary or desirable to give full effect to the arrangements contained in this Deed.

11.5 Time for doing acts

(a) If:

(i) the time for doing any act of thing required to be done; or

(ii) a notice period specified in this Deed,

expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.

(b) If any act or thing required to be done is done after 5pm on the specified day, it is taken to have been done on the following Business Day.

11.6 Governing law and jurisdiction

(a) The laws applicable in New South Wales govern this Deed.

(b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

11.7 Severance

If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this Deed without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

11.8 Preservation of existing rights

The expiration or termination of this Deed does not affect any right that has accrued to a party before the expiration or termination date.

11.9 No merger

Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this Deed for any reason, will not merge on the occurrence of that event but will remain in full force and effect.

11.10 Counterparts

This Deed may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

11.11 Relationship of parties

Unless otherwise stated:

- (a) nothing in this Deed creates a joint venture, partnership, or the relationship of principal and agent, or employee and employer between the parties; and
- (b) no party has the authority to bind any other party by any representation, declaration or admission, or to make any contract or commitment on behalf of any other party or to pledge any other party's credit.

11.12 Good faith

Each party must act in good faith towards all other parties and use its best endeavours to comply with the spirit and intention of this Deed.

11.13 No fetter

Nothing in this Deed shall be construed as requiring the Council to do anything that would cause it to breach any of the Council's obligations at law and without limitation, nothing in this Deed shall be construed as limiting or fettering in any way the discretion of the Council in exercising any of the Council's statutory functions, powers, authorities or duties.

11.14 Explanatory note

The Explanatory Note in the Appendix must not be used to assist in construing this Deed.

11.15 Notices

- (a) Any notice, demand, consent, approval, request or other communication (**Notice**) to be given under this Deed must be in writing and must be given to the recipient at its Address for Service by being:
 - (i) hand delivered; or
 - (ii) sent by facsimile transmission; or
 - (iii) sent by prepaid ordinary mail in Australia.
- (b) A Notice is given if:

- (i) hand delivered, on the date of delivery;
 - (ii) sent by facsimile transmission during any Business Day, on the date that the sending party's facsimile machine records that the facsimile has been successfully transmitted; or
 - (iii) sent by prepaid ordinary mail within Australia, on the date that is 2 Business Days after the date of posting.
- (c) If a party gives the other party 3 Business Days notice of a change of its address, fax number or email, any notice, consent, information, application or request is only given or made by that other party if it is delivered, posted, faxed or emailed to the latest address or fax number.
 - (d) If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a Business Day, or if on a Business Day, after 5pm on that day in the place of the party to whom it is sent, it is to be treated as having been given or made at the beginning of the next Business Day.

11.16 Expenses and stamp duty

- (a) The Developer is to pay its own and the Council's reasonable legal costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this Deed.
- (b) The Developer is to pay for all costs and expenses associated with the giving of public notice of this Deed and the Explanatory Note in accordance with the Regulation.
- (c) The Developer is to pay all Taxes assessed on or in respect of this Deed and any instrument or transaction required or contemplated by or necessary to give effect to this Deed (including stamp duty and registration fees, if applicable).
- (d) The Developer is pay the Council's costs and expenses associated with the closure of any part of Abbotsford Road as referred to in clause 2 of Schedule 4 and the transfer of that land (or any part) to the Developer.
- (e) The Developer is also to pay to the Council the Council's reasonable costs of enforcing this Deed within 7 days of a written demand by the Council for such payment.
- (f) The Developer must provide the Council with bank cheques in respect of the Council's costs pursuant to clauses 11.16(a) to (e):
 - (i) where the Council has provided the Developer with written notice of the sum of such costs prior to execution, on the date of execution of this Deed; or

- (ii) where the Council has not provided the Developer with prior written notice of the sum of such costs prior to execution, within 30 Business Days of demand by the Council for payment.

11.17 Approvals and Consent

- (a) Except as otherwise set out in this Deed, and subject to any statutory obligations, a party may give or withhold an approval or consent to be given under this Deed in that party's absolute discretion and subject to any conditions determined by the party.
- (b) A party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

11.18 Joint and Individual Liability and Benefits

- (a) Except as otherwise set out in this Deed:
 - (i) any agreement, covenant, representation or warranty under this Deed by 2 or more persons binds them jointly and each of them individually, and
 - (ii) any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

SCHEDULE 1

Table 1 – Requirements under section 93F of the Act (clause 2.2)

The parties acknowledge and agree that the table set out below provides for certain terms, conditions and procedures for the purposes of the Deed complying with the Act.

REQUIREMENT UNDER THE ACT	THIS DEED
<p>Planning Instrument and/or development application – (section 93F(2)):</p> <p>The Developer has:</p> <p>a) Sought a change to an environmental planning instrument.</p> <p>b) Made, or proposes to make, a Development Application.</p> <p>c) Entered into an agreement with, or is otherwise associated with, a person, to whom paragraph a) and b) applies.</p>	<p>a) Yes</p> <p>b) Yes</p> <p>c) N/A</p>
<p>Description of land to which this Deed applies (section 93F(3)(a))</p>	See Schedule 3
<p>Description of change to the environmental planning instrument to which this Deed applies – (section 93F(3)(b))</p>	See definition of Instrument Change
<p>The scope, timing and manner of delivery of contribution required by this Deed – (section 93F(3)(c))</p>	See Schedule 4
<p>Applicability of sections 94 and 94A of the Act – (section 93F(3)(d))</p>	The application of sections 94 and 94A of the Act is not excluded in respect of the Development.
<p>Applicability of section 94EF of the Act – (section 93F(3)(d))</p>	The application of section 94EF of the Act is not excluded in respect of the Development.
<p>Consideration of benefits under this Deed if section 94 applies – (section 93F(5))</p>	<p>The benefits under this Deed are not to be taken into consideration in respect of the Superlot Development.</p> <p>The benefits under this Deed are to be taken into consideration in determining a development contribution under s94 of the Act in respect of the Stage 1-5 Development but only to the extent of the Road Work Credit and provided that if the Road Work Credit exceeds the amount of development contributions under s94 of the Act in respect of the Stage 1-5 Development, no further credits or refunds are to be provided to the Developer.</p>

Mechanism for Dispute Resolution – (section 93F(3)(f))	See clause 7
No obligation to grant, consent or exercise functions – (section 93F(10))	See clause 11.13

Table 2- Other matters

REQUIREMENTS UNDER THE ACT OR REGULATION	THIS DEED
Registration of the Planning Agreement – (section 93H of the Act)	Yes (see clause 6)
Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before a construction certificate is issued – (clause 25E(2)(g) of the Regulation)	No
Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before an occupation certificate is issued – (clause 25E(2)(g) of the Regulation)	No
Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before a subdivision certificate is issued – (clause 25E(2)(g) of the Regulation)	Yes (see clause 3(b) of Schedule 4)

SCHEDULE 2

Address for Service (clause 1.1)

Council

Contact: The General Manager
Address: Wollondilly Shire Council
62-64 Menangle Street
PICTON NSW 2571
Facsimile No:

Developer: R & F Ziems Pty Limited ACN 001 747 806

Contact:
Address: 330 Princes Highway
CORRIMAL NSW
Facsimile No:

Developer: Glynnis Jean Thompson

Address: c/- Brock Partners
Suite 605, 22 Market Street
SYDNEY NSW 2000
Facsimile No: (02) 9299 7151

Developer: Neil Leonard Arber

Address: c/- Brock Partners
Suite 605, 22 Market Street
SYDNEY NSW 2000
Facsimile No: (02) 9299 7151

Developer: Bertoli Building Pty Limited ACN 68 056 658 836

Contact: Kevin Rodgers
Address: c/- Brock Partners
Suite 605, 22 Market Street
SYDNEY NSW 2000
Facsimile No: (02) 9299 7151

Developer: **Zaxmoat Pty Limited ACN 079 492 247**

Contact:

Address: c/- Brock Partners
Suite 605, 22 Market Street
SYDNEY NSW 2000

Facsimile No: (02) 9299 7151

SCHEDULE 3

Land (Clause 1.1)

Land means that part of Lot 1 in DP 1086066 located to the west of Abbotsford Road (as subdivided from time to time) being the area marked as 'Stage 1', 'Stage 2', 'Stage 3', 'Stage 4', 'Stage 5' and 'Abbotsford Homestead Lot' on the Staging Plan

SCHEDULE 4

Development Contributions (clause 4)

1. Development Contributions

(a) The Developer is to make the following Development Contributions:

Development Contribution	Public Purpose	Manner & Extent	Timing
(i) Stabilisation Work	Heritage conservation	Carrying out and completion of Work to stabilise the Heritage Item in accordance with the specifications in Schedule 6.	Completion by no later than 9 months after the date the Development Consent is granted to the Superlot Development
(ii) Realignment of Abbotsford Road	Public roads	Carrying out and completion of the realignment of Abbotsford Road in accordance with a design and specification determined in accordance with clause 5 of this Schedule	Completion prior to the earlier of: (a) the date that is 9 months after the issuing of the first Construction Certificate for the Stage 1-5 Development, (b) the issuing of the first Subdivision Certificate that creates a Final Lot on the Stage 2-4 Land, subject to clause 2 of Schedule 7
(iii) Dedication of land required for realignment of Abbotsford Road generally as shown marked with horizontal lines on the Land Dedication Plan as a public road under the Roads Act	Public roads	Dedication of land required for the realignment of Abbotsford Road as a public road free of cost to the Council	Land to be dedicated as a public road under the Roads Act on completion of the realignment of Abbotsford Road.

(iv) Monetary contribution towards the Council's costs of constructing road works and traffic management facilities identified in the document titled ' <i>Picton Traffic Study (2017)</i> ' prepared by TDG	Road works and traffic management	Payment of \$5,000 per Final Lot	Before the issuing of the first Subdivision Certificate that creates the Final Lot
--	-----------------------------------	----------------------------------	--

2. Restriction on Development

- (a) The parties acknowledge and agree that:
- (i) part of the Development is proposed to be located on land that forms part of Abbotsford Road at the date of this Deed, being the part generally shown with square hatching on the Land Dedication Plan,
 - (ii) on and from the date that Abbotsford Road is realigned under this Deed and the realignment opened as a public road under the Roads Act, the part of Abbotsford Road referred to in clause 2(a)(i) of this Schedule will become redundant as a public road ('**Redundant Road**'),
 - (iii) after the Developer lodges a Development Application for the Superlot Development and this Deed is registered on the title to the Land, the Council intends to apply to the Minister administering the Roads Act to effect the closing of the Redundant Road as a public road pursuant to the Roads Act once Abbotsford Road is realigned under this Deed and the realignment is opened as a public road, and
 - (iv) the Developer is not to carry out any Development on land comprising the Redundant Road unless and until the Redundant Road has been closed as a public road under the Roads Act and any part of the Redundant Road that is necessary for the Development has been transferred to the Developer.
- (b) The Council is to use reasonable endeavours to transfer the Redundant Road to the Developer promptly after the Redundant Road is closed as a public road under the Roads Act, on terms satisfactory to the Council.

3. Provision of Development Contribution

The parties agree that the requirement to make a Development Contribution under this Schedule before the issuing of the first Subdivision Certificate for a Stage as specified in the table to clause 1 of this Schedule is a restriction on the issuing of that Subdivision Certificate pursuant to section 109J(1)(c1) of the Act.

4. **Payment of monetary Development Contributions**

A monetary Development Contribution is made for the purposes of this Deed when the Council receives the full amount of the contribution payable under this Deed in cash or by unendorsed bank cheque or by the deposit by means of electronic funds transfer of cleared funds into a bank account nominated by the Council.

5. **Dedication of Land**

- (a) A Development Contribution comprising the dedication of land is made for the purposes of this Agreement when a deposited plan is registered in the register of plans held with the Registrar-General that dedicates land as a public road under section 9 of the *Roads Act 1993*.
- (b) The Developer is to do all things reasonably necessary to enable registration of the deposited plan to occur.
- (c) The Developer is to ensure that land dedicated to the Council under this Deed is free of all encumbrances and affectations (whether registered or unregistered and including without limitation any charge or liability for rates, taxes and charges) except as otherwise agreed in writing by the Council.
- (d) If, having used all reasonable endeavours, the Developer cannot ensure that land to be dedicated to the Council under this Deed is free from all encumbrances and affectations, the Developer may request that Council agree to accept the land subject to those encumbrances and affectations, but the Council may withhold its agreement in its absolute discretion.
- (e) Despite any other provision of this Deed, if the Developer is required to dedicate land to the Council on which the Developer is also required to carry out a Work under this Deed, the Developer is to comply with clause 5(a) of this Schedule not later than 7 days after the Work is completed for the purposes of this Deed.

6. **Approval of design of Works**

- (a) Council must approve the design and specifications for each Work unless otherwise agreed in writing by the Council in relation to any particular Work.
- (b) In respect of a Work for the purpose of public roads, the Developer must design and construct the Work in accordance with the Wollondilly Council's Engineering Design and Construction Specifications in so far as they relate to rural sealed standards and any written requirements from the Council's engineers.
- (c) Without limiting clause 6(b), prior to commencing design of a Work, the Developer must request that the Council provide the Developer with its

requirements for the location, design, materials and specifications for the provision of the Work.

- (d) When requesting Council's requirements under clause 6(b) the Developer may provide a proposal, including preliminary concept designs to assist Council in preparing its requirements.
- (e) Once the Developer receives the Council's requirements for the Work under clause 6(d) of this Schedule, the Developer is to provide the initial design for the Work to Council for the Council's approval.
- (f) The initial design for the Work is to include or be accompanied by such information as is required for the making of a Development Application for the Work including a detailed maintenance regime for the Work and detailed costings, prepared by a suitably qualified person, for the carrying out of the maintenance regime.
- (g) The Council is to advise the Developer in writing whether it approves of the initial design of the Work within 2 months of receiving the initial design from the Developer.
- (h) The Developer will make any change to the initial design for the Work required by the Council.
- (i) The Developer is not to lodge any Development Application for a Work unless the Council has first approved the initial design for the Work and provided its written certification that the Development Application is consistent with the approved initial design of the Work.
- (j) The Council is to provide the written certification referred to in clause 6(i) within 14 days of being provided with a copy of the proposed Development Application by the Developer, unless the Council forms the view that the proposed Development Application is not consistent with the approved initial design of the Work.
- (k) A Development Application for a Work is to be accompanied by the written certification referred to in clause 6(i) when lodged with the Council, as the consent authority.
- (l) The Developer is to bear all Costs associated with obtaining the Council's approval to the initial design of a Work under this clause.
- (m) Following Development Consent being issued for a Work, the Developer shall work with Council in the preparation of the detailed design for it and submit the detailed design to the Council for its approval.
- (n) The Developer is not to lodge any application for a Construction Certificate for a Work, with any Certifying Authority, unless the Council has first approved the detailed design for the Work, and provided its written certification that the application for a Construction Certificate is consistent with the approved detailed design of the Work.
- (o) The Council is to provide the written certification referred to in clause 6(n) within 14 days of being provided with a copy of the application for a

Construction Certificate by the Landowner, unless the Council forms the view that the application is not consistent with the approved detailed design of the Work.

- (p) Council's written certification specified in clause 6(n) shall specify any particular milestones of construction of a Work and if so, the Developer is to provide the Council with a minimum of 24 hours notice prior to commencing a particular milestone and allow the Council access to the relevant land to inspect the Work.
- (q) An application for a Construction Certificate for a Work is to be accompanied by the written certification referred to in clause 6(n) when lodged with the Certifying Authority.
- (r) For the avoidance of doubt, nothing in the clause operates to fetter the Council's discretion, as consent authority, in determining any Development Application for the Work.

7. Carrying out of Work

- (a) Without limiting any other provision of this Deed, any Work that is required to be carried out by the Developer under this Deed is to be carried out in accordance with any design or specification specified or approved by the Council, the Wollondilly Council's Engineering Design and Construction Specifications, any written requirements from the Council's engineers, any relevant Approval and any other applicable law.
- (b) 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 Deed.

8. Variation to Work

- (a) The design or specification of any Work that is required to be carried out by the Developer under this Deed may be varied by agreement in writing between the parties, acting reasonably, without the necessity for an amendment to this Deed.
- (b) Without limiting clause 8(a) of this Schedule, the Developer may make a written request to the Council to approve a variation to the design or specification of a Work in order to enable it to comply with the requirements of any Authority imposed in connection with any Approval relating to the carrying out of the Work.
- (c) The Council is not to unreasonably delay or withhold its approval to a request made by the Developer under clause 8(b) of this Schedule.
- (d) 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.

- (e) The Developer is to comply promptly with a direction referred to in clause 8(d) of this Schedule at its own cost.

9. Access to land by Council

- (a) The Council may enter any land on which Work is being carried out by the Developer under this Deed in order to inspect, examine or test the Work, or to remedy any breach by the Developer of its obligations under this Deed relating to the Work.
- (b) The Council is to give the Developer prior reasonable notice before it enters land under clause 9(a) of this Schedule.

10. Protection of people property and utilities

- (a) The Developer is to ensure to the fullest extent reasonably practicable in relation to the performance of its obligations under this Deed that:
 - (i) all necessary measures are taken to protect people and property,
 - (ii) unnecessary interference with the passage of people and vehicles is avoided, and
 - (iii) nuisances and unreasonable noise and disturbances are prevented.
- (b) Without limiting clause 10(a) of this Schedule, 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.

11. Repair of damage

- (a) The Developer is to maintain any Work required to be carried out by the Developer under this Deed until the Work is completed for the purposes of this Deed or such later time as agreed between the parties.
- (b) The Developer is to carry out its obligation under clause 11(a) of this Schedule at its own cost and to the satisfaction of the Council.

12. Completion of Work

- (a) The Developer is to give the Council written notice of the date on which it will complete Work required to be carried out under this Deed.
- (b) The Council is to inspect the Work the subject of the notice referred to in clause 12(a) of this Schedule within 14 days of the date specified in the notice for completion of the Work.
- (c) Work required to be carried out by the Developer under this Deed, or a Stage, is completed for the purposes of this Deed when the Council, acting reasonably, gives a written notice to the Developer to that effect.

- (d) If the Council is the owner of the land on which Work the subject of a notice referred to in clause 12(c) of this Schedule 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.
- (e) Before the Council gives the Developer a notice referred to in clause 12(c) of this Schedule, 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.
- (f) The Developer, at its own cost, is to promptly comply with a direction referred to in clause 12(d) of this Schedule.

13. Rectification of defects

- (a) The Council may give the Developer a Rectification Notice during the Defects Liability Period.
- (b) 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.
- (c) 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 13(a) of this Schedule.

14. Works-As-Executed Plan

- (a) No later than 60 days after Work is completed for the purposes of this Deed, the Developer is to submit to the Council a full works-as-executed-plan in respect of the Work.
- (b) The Developer, being the copyright owner in the plan referred to in clause 14(a) of this Schedule, gives the Council a non-exclusive licence to use the copyright in the plans for the purposes of this Deed.

15. Removal of Equipment

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

16. Risk

The Developer performs this Deed at its own risk and its own cost.

17. Release

The Developer releases the Council from any Claim it may have against the Council arising in connection with the performance of the Developer's obligations under this

Deed except if, and to the extent that, the Claim arises because of the Council's negligence or default.

18. Indemnity

The Developer indemnifies the Council from and against all Claims that may be sustained, suffered, recovered or made against the Council arising in connection with the performance of the Developer's obligations under this Deed except if, and to the extent that, the Claim arises because of the Council's negligence or default

19. Insurance

- (a) The Developer is to take out and keep current to the satisfaction of the Council the following insurances in relation to Work required to be carried out by the Developer under this Deed up until the Work is taken to have been completed in accordance with this Deed:
 - (i) contract works insurance, noting the Council as an interested party, for the full replacement value of the Works (including the cost of demolition and removal of debris, consultants' fees and authorities' fees), to cover the Developer's liability in respect of damage to or destruction of the Works,
 - (ii) public liability insurance for at least \$20,000,000.00 for a single occurrence, which covers the Council, the Developer and any subcontractor of the Developer, for liability to any third party,
 - (iii) workers compensation insurance as required by law, and
 - (iv) any other insurance required by law.
- (b) If the Developer fails to comply with clause 19(a) of this Schedule, the Council may effect and keep in force such insurances and pay such premiums as may be necessary for that purpose and the amount so paid shall be a debt due from the Developer to the Council and may be recovered by the Council as it deems appropriate including:
 - (i) by calling upon the Security provided by the Developer to the Council under this Deed, or
 - (ii) recovery as a debt due in a court of competent jurisdiction.
- (c) The Developer is not to commence to carry out any Work unless it has first provided to the Council satisfactory written evidence of all of the insurances specified in clause 19(a) of this Schedule.

SCHEDULE 6
Stabilisation Work (clause 1.1)

See the following pages.

SCHEDULE 7
Security terms (clause 5)

1. Bank Guarantee for Stabilisation Work

- (a) Upon lodgement of a Development Application for the Superlot Development, the Developer is to provide Security to the Council in the form of a Bank Guarantee for a face value equivalent to the sum of 120% of the estimated cost to complete the Stabilisation Work as determined by the Council acting reasonably (**Stabilisation Work Security Amount**) to secure the carrying out of the Stabilisation Work.
- (c) Upon the completion of the Stabilisation Work in accordance with this Deed, the Developer is to provide Security to the Council in the form of a Bank Guarantee for a face value equivalent to the sum of 5% of the Stabilisation Work Security Amount (**Stabilisation Work Defects Security Amount**) to secure the Developer's obligations during the Defects Liability Period for the Stabilisation Work.

2. Bank Guarantee for Road Realignment Work

- (a) If the Developer forms the view at any time, that it is unable to complete the realignment of Abbotsford Road by the time specified in the table to clause 1 of Schedule 4, then the Developer must provide:
 - (i) written notice to the Council to that effect and,
 - (ii) Security to the Council in the form of a Bank Guarantee for a face value equivalent to the sum of 120% of the estimated cost to construct the realignment of Abbotsford Road as determined by the Council acting reasonably (**Road Realignment Security Amount**) to secure the carrying out of the realignment of Abbotsford Road.
- (b) If the Developer complies with clause 2(a) of this Schedule, then:
 - (i) the Developer will not be considered to be in breach of this Deed as a result of a failure to complete all or part of the realignment of Abbotsford Road by the time specified in the table to clause 1 of Schedule 4, and
 - (ii) the time for completion of the realignment of Abbotsford Road will be taken to be the date that is 3 months after the date of provision of the Security.
- (c) Upon the completion of the realignment of Abbotsford Road for the purposes of this Deed, the Developer is to provide Security to the Council in the form of a Bank Guarantee for a face value equivalent to the sum of 5% of the Road Realignment Security Amount (**Road Realignment Defects Security Amount**) to secure the Developer's obligations during the Defects Liability Period for the road realignment.

3. Claims under the Bank Guarantee

- (a) The Council may call upon a Bank Guarantee in accordance with clause 5.2 of the Deed where:
- (i) the Developer is in breach of any obligation under this Deed; or
 - (ii) the Developer has failed to provide one or more Bank Guarantees to ensure that at all times the value of the Security held by the Council is for a face value equivalent to the Security Amount, or
 - (iii) without limiting any other provision, in respect of the Road Realignment Security Amount the Council has provided the Developer with a written notice that it intends to compulsorily acquire the land required for the realignment of Abbotsford Road and carry out the work itself,

and retain and apply such monies towards the costs and expenses incurred by the Council in rectifying any default by the Developer under this Deed notwithstanding any other remedy it may have under this Deed, under any Act or otherwise at law or in equity.

- (c) If:
- (i) the Council calls upon a Bank Guarantee; and
 - (ii) applies all or part of such monies towards the costs and expenses incurred by the Council in rectifying any default by the Developer under this Deed;

then the Developer must provide to the Council a replacement Bank Guarantee to ensure that at all times until the date that the Developer has provided the Development Contribution in full, the Council is in possession of a Bank Guarantee for a face value equivalent to the sum of the Stabilisation Work Security Amount and Road Realignment Security Amount.

4. Release of Bank Guarantee

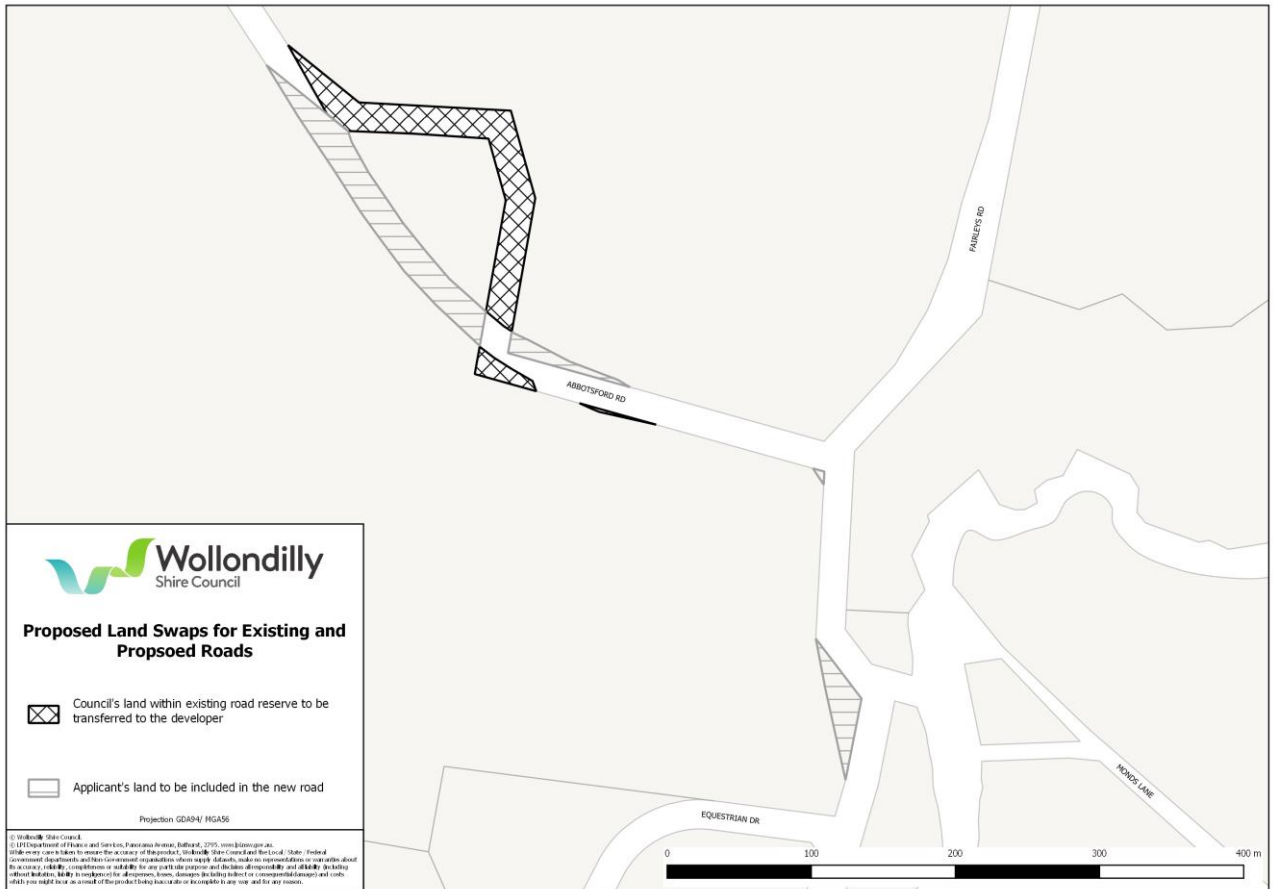
- (a) The Council is entitled to retain a Bank Guarantee from the date the Bank Guarantee is provided to the date the Council is required to release the Bank Guarantee in accordance with this clause 4 of this Schedule 7.
- (b) If:
- (i) the Developer has satisfied all of its obligations under this Deed secured by a Bank Guarantee; and
 - (ii) the whole of the monies secured by the Bank Guarantee have not been expended and the monies accounted for in accordance with clause 3 of this Schedule 7,

then the Council will promptly return the Bank Guarantee (less any costs, charges, duties and taxes payable), or the remainder of the monies secured by the Bank Guarantee (as the case may be), to the Developer

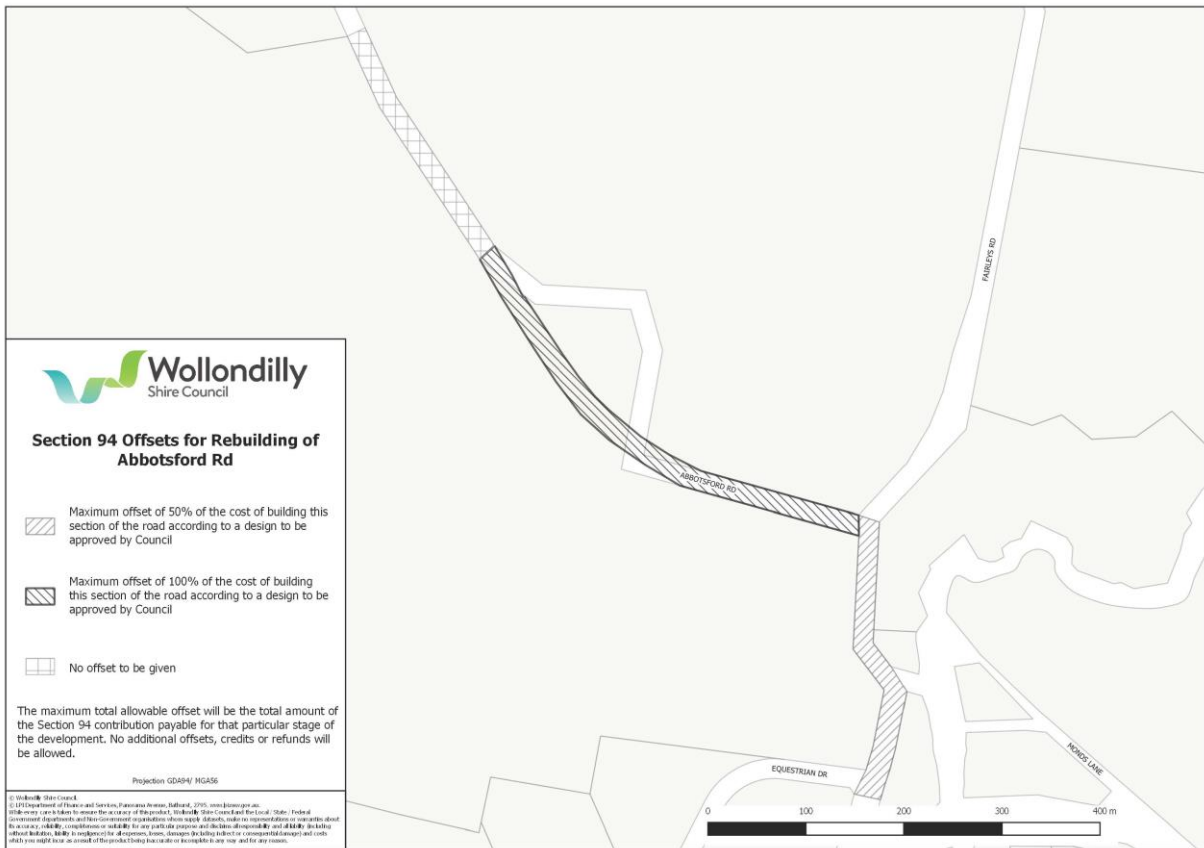
5. Acquisition of land required to be dedicated

- (a) The Developer consents to the Council compulsorily acquiring land required to be dedicated under this Deed for compensation in the amount of \$1 without having to follow the pre-acquisition procedure under the Just Terms Act if:
- (i) the Developer does not dedicate land required to be dedicated under this Deed at the time at which it is required to be dedicated, or
 - (ii) the Council has given the Developer written notice that it requires the land in order to carry out and complete the realignment of Abbotsford Road.
- (b) The Council is to only acquire land pursuant to clause 5(a)(i) of this Schedule if it considers it reasonable to do so having regard to the circumstances surrounding the failure by the Developer to dedicate the land required to be dedicated under this Deed.
- (c) Clause 5(a) of this Schedule constitutes an agreement for the purposes of s30 of the Just Terms Act.
- (d) If, as a result of the acquisition referred to in clause 5(a) of this Schedule, the Council is required to pay compensation to any person other than the Developer, the Developer is to reimburse the Council that amount, upon a written request being made by the Council, or the Council can call on any Security provided under this Deed.
- (e) The Developer indemnifies and keeps indemnified the Council against all Claims made against the Council as a result of any acquisition by the Council of the whole or any part of the land concerned except if, and to the extent that, the Claim arises because of the Council's negligence or default.
- (f) The Developer is to promptly do all things necessary, and consents to the Council doing all things necessary, to give effect to this clause, including without limitation:
- (i) signing any documents or forms,
 - (ii) giving land owner's consent for lodgement of any Development Application,
 - (iii) producing certificates of title to the Registrar-General under the Real Property Act, and
 - (iv) paying the Council's costs arising under this clause.

SCHEDULE 8 Land Dedication Plan (clause 1.1)



SCHEDULE 9 Section 94 Offsets Plan (clause 1.1)



Execution

Executed as a Deed

Dated:

Executed on behalf of the Council

Signed by Wollondilly Shire Council (ABN 93 723 245 808) by the General Manager pursuant to delegation granted by resolution on **[DATE]**.

General Manager

Witness

Executed on behalf of R & F Ziems Pty Limited in accordance with s127(1) of the Corporations Act (Cth) 2001

Name/Position

Name/Position

Executed by Glynis Jean Thompson

Glynis Jean Thompson

Witness

Executed by Neil Leonard Arber

Neil Leonard Arber

Witness

Executed on behalf of Bertoli Building Pty Limited in accordance with s127(1) of the Corporations Act (Cth) 2001

Name/Position

Name/Position

Executed on behalf of Zaxmoat Pty Limited in accordance with s127(1) of the Corporations Act (Cth) 2001

Name/Position

Name/Position

Appendix

(Clause 11.14)

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

Explanatory Note

Draft Planning Agreement

Under s93F of the *Environmental Planning and Assessment Act 1979*

Parties

WOLLONDILLY SHIRE COUNCIL ABN 93 723 245 808 of 62-64 Menangle Street, Picton NSW 2571
(Council)

R & F ZIEMS PTY LIMITED ACN 001 747 806 of 330 Princes Highway, Corrimal NSW

GLYNIS JEAN THOMPSON c/- Brock Partners, Suite 605, 22 Market Street, Sydney NSW 2000

NEIL LEONARD ARBER c/- Brock Partners, Suite 605, 22 Market Street, Sydney NSW 2000

BERTOLI BUILDING PTY LIMITED ABN 68 056 658 836 of Suite 605, 22 Market Street, Sydney NSW 2000

ZAXMOAT PTY LIMITED ACN 079 492 247 c/- Brock Partners, Suite 605, 22 Market Street, Sydney NSW 2000

(together the Developer)

Description of the Land to which the Draft Planning Agreement Applies

The part of Lot 1 in DP 1086066 located to the west of Abbotsford Road.

Description of Proposed Development and Instrument Change

Any development within the meaning of Act that is made permissible by the taking effect of the Instrument Change and which is envisaged to include subdivision of the Land generally in accordance with the Staging Plan.

Summary of Objectives, Nature and Effect of the Draft Planning Agreement

Objectives of Draft Planning Agreement

The objective of the Draft Planning Agreement is to require stabilisation works to be undertaken in respect of a heritage item and road works and dedication of land to realign Abbotsford Road. Part of the value of these works and land to be dedicated (Road Work Credit) will offset the Section 94 contributions that would otherwise be payable when the site is developed but only up to the extent of the Road Work Credit.

Nature of Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under s93F of the *Environmental Planning and Assessment Act 1979* (Act). It is an agreement between the Council and the Developer. The Draft Planning Agreement is a voluntary agreement under which Development Contributions (as defined in clause 1.1 of the Draft Planning Agreement) are made by the Developer for public purposes (as defined in s93F(3) of the Act).

Effect of the Draft Planning Agreement

The Draft Planning Agreement:

- relates to the carrying out of the Development (as defined in clause 1.1 of the Draft Planning Agreement) on the Land by the Developer,
- does not exclude the application of s94 and s94A of the Act to the Development,
- does not exclude the application of s94EF of the Act to the Development,
- allows some of the benefits under this Deed to be taken into consideration in determining a development contribution under s94 of the Act,
- is to be registered on the title to the Land,
- requires provision of various securities at various times to secure the Developer's obligations under the agreement,
- imposes restrictions on the parties transferring the Land or part of the Land or assigning, or novating an interest under the agreement,
- provides two dispute resolution methods for a dispute, being expert determination and mediation,

- provides that the agreement is governed by the law of New South Wales, and
- provides that the A New Tax System (Goods and Services Tax) Act 1999 (Cth) applies to the agreement, and
- provides that:
 - after the realigned Abbotsford Road is opened as a public road the old part of Abbotsford Road will become redundant,
 - after the Developer lodges a Development Application for the Superlot Development and this Deed is registered on the title to the Land the Council intends to apply to close the part of Abbotsford Road that will become redundant,
 - part of the Development will be located on the redundant part of Abbotsford Road and the Developer is not to carry out any Development on that land unless and until that land has been closed as a public road and transferred to the Developer,
 - the Council will use reasonable endeavours to transfer the redundant part of Abbotsford Road to the Developer after that part is closed as a public road.

Assessment of the Merits of the Draft Planning Agreement

The Planning Purposes Served by the Draft Planning Agreement

The Draft Planning Agreement:

- promotes and co-ordinates the orderly and economic use and development of the land to which it applies,
- provides increased opportunity for public involvement and participation in environmental planning and assessment of the Development,
- ensures the provision and co-ordination of community services and facilities, in particular the realignment of a road required to mitigate the risk to public safety.

How the Draft Planning Agreement Promotes the Public Interest

The draft Planning Agreement promotes the public interest by promoting the objects of the Act as set out in s5(a)(ii)(v) and (c) of the Act.

For Planning Authorities:

Development Corporations - How the Draft Planning Agreement Promotes its Statutory Responsibilities

N/A

Other Public Authorities – How the Draft Planning Agreement Promotes the Objects (if any) of the Act under which it is Constituted

N/A

Councils – How the Draft Planning Agreement Promotes the Principles for Local Government Contained in Chapter 3 of the Local Government Act 1993

The Draft Planning Agreement promotes the principles for local government by:

- keeping the local and wider community informed about its activities,
- enabling the Council to secure appropriate services and facilities for local community needs. In this case the Draft Planning Agreement provides for the relocation of a road required to mitigate the risk to public safety and the stabilisation of a building of heritage significance at no cost to Council.

All Planning Authorities – Whether the Draft Planning Agreement Conforms with the Authority’s Capital Works Program

The works proposed under the Draft Planning Agreement have not been identified under the Council’s current capital works program. However, should the planning proposal proceed, and development of the land occur, the works identified under the Draft Planning Agreement will help improve the safety and amenity of a road and will secure the stabilisation of a building of heritage significance.

All Planning Authorities – Whether the Draft Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

Yes. The Draft Planning Agreement requires monetary contributions for a Final Lot to be paid before the issuing of the subdivision certificate for the Final Lot and part of the works be carried out before the issuing of a subdivision certificate for a Final Lot on the Stage 2-4 Land (subject to any extension).



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

Dear Mr Johnson

Planning proposal PP_2011_WOLLY_017_00 – Alteration of Gateway determination

I refer to your letter in relation planning proposal PP_2011_WOLLY_017_00, seeking a four month extension to complete planning the proposal for the rezoning of land at Fairley's and Abbotsford Road, Picton (Part Lot 1 DP 1086066) for residential, environmental management and public recreation land uses.

I have determined as the delegate of the Greater Sydney Commission, in accordance with section 3.34(7) of the *Environmental Planning and Assessment Act 1979*, to alter the Gateway determination dated 24 April 2012 for PP_2011_WOLLY_017_00 (as altered).

I have also reviewed the submission from the Heritage Division of the Office of Environment and Heritage to Council dated 20 September 2017. The Heritage Division has not objected to the proposal, but made recommendations to Council to consider prior to finalisation.

The Department's *A Guide to Preparing Planning Proposals* notes that *a planning proposal relates only to a LEP amendment. It is not a development application nor does it consider specific detailed matters that should form part of a development application.* While the Department supports any measure to ensure better heritage outcomes in relation to future development on the site, it is considered appropriate that a Heritage Impact Statement be considered if necessary, as part any future Development Application on the site.

Further, a Development Control Plan will assist Council in the assessment of any future Development Application, and provide further guidance to applicants when preparing their application documentation. However, in relation to the current Planning Proposal, given the extent of technical studies undertaken to date, and the time taken to finalise this proposal, I encourage Council to consider proceeding to finalisation under the existing delegation.

Alternatively, should Council consider the Heritage Division's submission an unresolvable objection to the proposal, Council may decide not exercise delegation.

In these circumstances Council should forward the proposal to the Department for finalisation without further delay. As such, I have provided Council with the requested 4-month extension to either finalise the proposal under delegation, or forward the proposal to the Department for finalisation. The Alteration of Gateway Determination is enclosed.

If you have any questions in relation to this matter, I have arranged for Mr Adrian Hohenzollern to assist you. Mr Hohenzollern can be contacted on (02) 9860 1505.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ann-Maree Carruthers', written in a cursive style.

Ann-Maree Carruthers
Director, Sydney Region West
Planning Services

Encl: Alteration of Gateway determination