

GR3 – Finalisation – Abbotsford Planning Proposal & Voluntary Planning Agreement

GR3

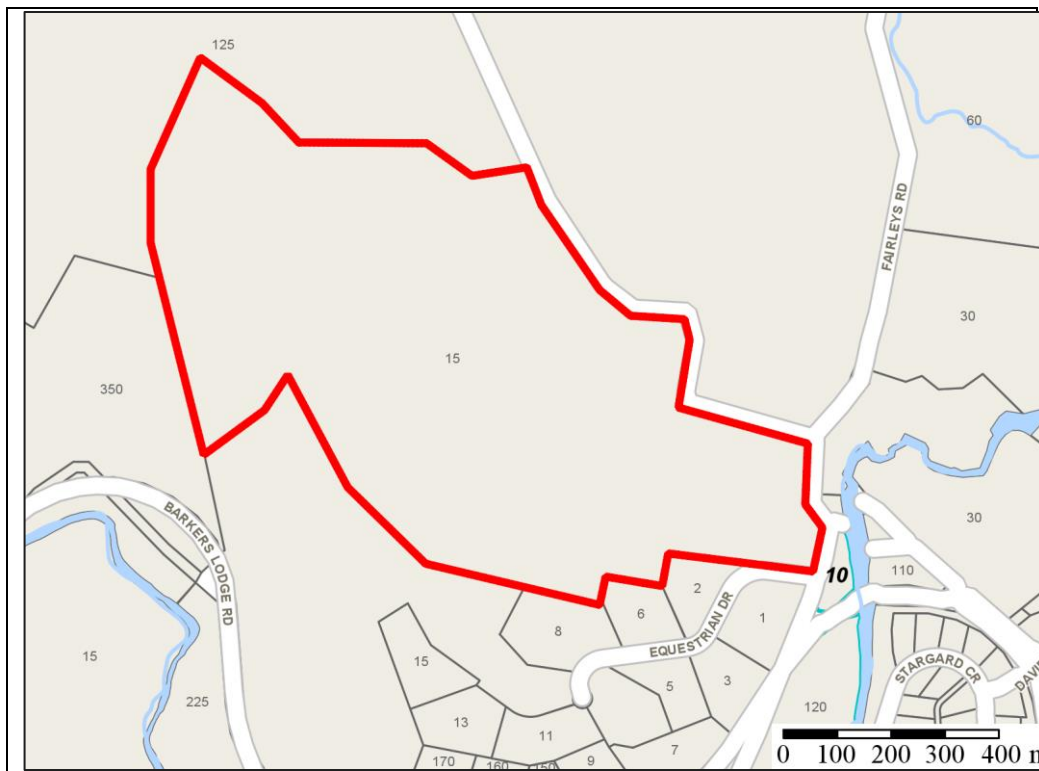
Finalisation – Abbotsford Planning Proposal & Voluntary Planning Agreement

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6497-1

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

Growth



LOCATION MAP ↑
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Stage	Completed
Preliminary notification	20 October – 11 November 2011
Gateway Determination	24 April 2012
Consultation with Public Agencies	May/June 2012
Specialist Studies	July 2013
Public exhibition/community consultation	23 August – 22 September 2017 26 October - 23 November 2017
Referred to Minister for Publication	Not yet completed

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EXECUTIVE SUMMARY

- The purpose of this report is to seek Council support to finalise the Abbotsford Planning Proposal and the associated draft Voluntary Planning Agreement.
- The Proposal seeks to amend the provisions of *Wollondilly Local Environmental Plan 2011* as they apply to part Lot 1 DP 1086066 (No. 15 Fairleys Road, Picton) to:
 - Change the zoning of the land to E4 Environmental Living
 - Change the minimum lot size to 4000sq.m and 20ha
 - Introduce a maximum building height limit of 6.8 metres
 - Identify two (2) new local heritage items being the Abbotsford Silos and the Byrne’s Exhibition Dairy.
- Eight submissions were received in response to community consultation. Of these submissions seven (7) objected or had concerns and one (1) was neutral.
- A Draft Planning Agreement was exhibited with the Planning Proposal with one (1) submission providing comment on this document.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extends to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended that:
 - Council support the Planning Proposal with amendments as described in this report
 - The planning proposal be finalised and forwarded to the Greater Sydney Commission for finalisation
 - Council support the endorsement of the Draft Planning Agreement
 - The applicant and persons who made submissions be notified of Council’s decision.



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REPORT

1.1 SITE DESCRIPTION

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

The planning proposal site forms part of Lot 1 DP1086066 which is approximately 66.62ha in area and has road frontage Abbotsford Road along the eastern and northern boundaries. The site starts relatively flat at its eastern end rising gently to meet steep slopes up to the plateau in the west.

This Lot is located within a mostly rural setting with most of the area having been cleared for grazing and with only small patches of remnant trees and shrubs remaining.

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

A number of other farming structures are present on the site which remain from a previous use of the site for dairy farming.

1.2 DESCRIPTION OF PROPOSAL & DRAFT VOLUNTARY PLANNING AGREEMENT

The Planning Proposal seeks to rezone the land from its current rural zone to enable rural residential style development, while safeguarding items of historical interest across the site and facilitating the environmental management of sensitive land.

The rezoning may facilitate the delivery of 400 lots.

The presence of the state significant Abbotsford Homestead is central to the acceptability of the planning proposal as future development on the site will fund stabilisation works to the heritage item which is at risk of deterioration.

The planning proposal is accompanied by a draft Voluntary Planning Agreement which proposes a number of community benefits should the development proceed. These include stabilisation works to the state significant heritage listed Abbotsford homestead and a contribution towards the implementation of works associated with the Picton Town Centre Transport Master Plan when finalised. It also includes the realignment of Abbotsford Road.

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1.3 GATEWAY DETERMINATION

A Gateway Determination was first issued on 26 April 2012. The Determination permitted the proposal to proceed.

The conditions of the Gateway Determination are summarised in the following table with comments as to how these have been addressed in the planning proposal process.

Gateway Condition	Addressed by:
<p>Condition 1 Preparation of studies prior to the commencement of community consultation. These included:</p> <ul style="list-style-type: none"> ▪ State and regional Planning Context ▪ Biodiversity ▪ Bushfire ▪ Aboriginal and European Heritage ▪ Water Quality and Flood Risk ▪ Parking Traffic and Transport ▪ Agricultural Land Capability ▪ State and Local Infrastructure ▪ Socio-Economic Assessment ▪ Contaminated Land ▪ Salinity ▪ Geotechnical Report ▪ Onsite Wastewater Feasibility ▪ Onsite Flooding ▪ Visual Assessment Study 	Completed.
<p>Condition 2 Studies are to respond directly to the requirements of the relevant S117 Direction(s) and/or SEPP's. Any inconsistencies are to be justified and considered and addressed in the planning proposal.</p>	Completed.
<p>Condition 3 Public Exhibition is not to commence until a copy of the studies has been provided to the Department.</p>	Completed.
<p>Condition 4 The planning proposal is to be amended to reflect the outcome of the studies. A copy of the proposal is to be provided to the Department prior to public exhibition.</p>	Completed. Completion acknowledged by the Department in a letter dated 5 Feb 2016.

Growth

Sustainable and Balanced Growth
Report to the Ordinary Meeting of Council held on Monday 18 June 2018

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Gateway Condition	Addressed by:
<p>Condition 5 Community Consultation is required under the relevant legislation and Department guidance for 28 days.</p>	<p>Completed.</p> <p>See section 2.0 of this report for a summary of the submissions received and the issues raised.</p>
<p>Condition 6 Consultation is required with the following public agencies:</p> <ul style="list-style-type: none"> ▪ Department of Education and Communities ▪ Office of Environment and Heritage ▪ NSW Department of Primary Industries – Agriculture ▪ Integral energy ▪ Mine Subsidence Board ▪ Transport for NSW ▪ NSW Health ▪ NSW Rural Fire Service ▪ Roads and Maritime Authority ▪ Sydney Water ▪ Telstra ▪ Adjoining LGAs ▪ NSW Trade and Investment 	<p>Completed.</p>
<p>Condition 7 A public hearing is not required.</p>	<p>Noted.</p>
<p>Condition 8 The timeframe for completing the LEP is to be 18 months from the week following the date of the Gateway Determination.</p>	<p>This condition has been altered a number of times by the Department of Planning and Environment and the current deadline is 31 July 2018. The proposal is consistent with the condition as altered.</p>

Delegation to exercise plan making powers has not been granted to Council for the Abbotsford Planning Proposal.



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2.0 CONSULTATION

2.1 FORMAL CONSULTATION WITH COUNCIL STAFF THAT PROVIDE SPECIALIST COMMENT

The following comments on the planning proposal were received from Council staff:

Infrastructure Strategy & Planning (Stormwater)

No objection is raised to the planning proposal.

Specialist advice has been provided to consider flooding related matters raised in community submissions addressed at Attachment 2.

Infrastructure Strategy & Planning (Traffic & Transportation)

No objections raised to the planning proposal.

Specialist advice has been provided to consider traffic & transportation related matters raised in community submissions addressed at Attachment 2.

Environmental Outcomes

- No objection is raised to the planning proposal.
- Flora and fauna; Updated mapping and flora and fauna surveys are required to reflect current legislation and best practice. These matters can be addressed at the subdivision stage of the proposal. Recommends inclusion of controls for this matter to be included in a site-specific development control plan.
- Zoning; Supports the E4 Environmental Living zoning for the site given the landscape values of the overall site.
- Protection of biodiversity land; Previously recommended an E3 Environmental Management zone for areas on the site which have high and moderate conservation value but supports alternative approach to identify these areas as “sensitive land” on the Natural Resources – Biodiversity Map and associated biodiversity protection clause (i.e. clause 7.2) which form part of the local environmental plan on the basis that they’re outside the likely development area.

In response to this feedback it is proposed to amend the planning proposal to identify sensitive land on the Natural Resources – Biodiversity Map which forms part of the local environmental plan. The areas to be included on the Biodiversity Map are those areas identified as being either ‘high’ or ‘moderate’ conservation significance in Figure 22 (page 46) of the Biodiversity Study prepared by ACS Environmental Pty Ltd and dated June 2013. A copy of Figure 22 is provided at Attachment 3.

Controls are also proposed to be included within the site specific development control plan.

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Environmental Health

No objection is raised to the planning proposal subject to adequate wastewater disposal being provided for each lot. This will be addressed as part of any future development application to subdivide the land if the land is rezoned.

Heritage Advisor

Given the heritage focus of the planning proposal Council's Heritage Advisor has made a significant contribution to the form of proposal, particularly the identification of new heritage items and the schedule of required stabilisation works which forms part of the draft planning agreement.

Specific advice was sought from Council's Heritage Advisor on the public agency submission from the Heritage Council and this matter is discussed later in this report.

No objections have been raised by Council's Heritage Advisor.

2.2 CONSULTATION WITH PUBLIC AUTHORITIES

The Gateway determination required consultation with the following public authorities:

- Department of Education and Communities
- Office of Environment & Heritage
- NSW Department of Primary Industries – Agriculture
- Integral Energy
- Subsidence Advisory NSW (previously Mine Subsidence Board)
- Transport for NSW
- NSW Health
- NSW Rural Fire Service
- Roads and Maritime Authority
- Sydney Water
- Telstra
- Adjoining LGAs.

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The following summary of comments is provided:

- Department of Education; Identified that there is a cumulative impact on local schools with limited capacity.
- Department of Primary Industries – Agriculture; Provides comments on the agricultural potential of the site and suggests management of potential land use conflicts.
- Division of Resources & Geoscience; Geological Survey of NSW – It is likely that the site will be undermined in the future. Calls for development to be concentrated in the existing area of the Wollondilly Growth Management Strategy. Recommends building guidelines for future development.
- Subsidence Advisory NSW; There is unlikely to be subsidence damage to future development in this area but recommends consultation with the mine proprietor.
- Sydney Water.
- RMS; Recommends a review of the traffic study given it was prepared a number of years ago. Suggests further assessment of intersection of Abbotsford Road and Barkers Lodge Road.

The table provided at Attachment 1 summarises the feedback provided from public agencies in more detail, Councils response and whether any changes are proposed to the Planning Proposal. Feedback has not been received from all authorities invited to provide comment and this is indicated in the attachment where relevant.

Feedback from Heritage Council of NSW

Of particular note, the Heritage Council of NSW made a number of comments about the planning proposal. These can be summarised as follows:

- No objection in principle raised to the reduction of the heritage curtilage as it is still larger than the curtilage associated with the state listing of the item.
- The Curtilage Study and the Statement of Heritage Impact do not justify the removal of the western most araucaria tree on the hill top and the likely remnant hedges from the proposed heritage curtilage. It recommends to include all significant vegetation associated with Abbotsford within the 'heritage' allotment.
- The Curtilage Study provides inadequate information on the siting rationale for Abbotsford homestead in response to topographic idiosyncrasies of the land.
- Recommends that a detailed archaeological assessment be completed to inform this planning proposal.
- Recommends that the Statement of Heritage Impact provide the following:

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- An assessment of any impact the rezoning will and the resulting development will have on the ability to interpret an early pastoral property in its rural setting.
- A graphical representation of visual impact such as. Photo montages to show that the proposed development in relation to 'Abbotsford', including the visual connections of 'Abbotsford to the Vault Hill.
- A detailed discussion of other options for the subject site and why they were not viable.
- Notes that in the absence of the requested additional information it is unlikely that the potential impact of the proposed rezoning and any future development can be adequately assessed.

This summary is taken from the third submission (dated February 2018) made by the Heritage Council to the Abbotsford Planning Proposal. Previous submissions were also made in September 2017 and January 2012. The initial submission back in 2012 did not raise any concerns with the proposal and provided advice on the matters that needed to be considered as part of future development applications.

The submission from September 2017, made to the public exhibition, was the first time that any concerns were raised.

In response to the concerns, the Abbotsford Planning Proposal was exhibited with a Curtilage Study prepared by NBRSPartners date June 2013. The Curtilage Study considered the heritage significance of the site and recommended a curtilage for the Abbotsford heritage item. At present the curtilage includes all the land within the planning proposal.

In October 2014, NBRSPartners prepared a document called 'Conservation Approach' which was prepared to provide information about the commitment of the conservation of Abbotsford by the site owners.

In October 2017, in response to the Heritage Council's submission, a Statement of Heritage Impact was prepared by NBRSPartners to inform the Planning Proposal.

It is considered that sufficient information has been provided to inform the rezoning of the land. Further, it is considered to be unreasonable to request substantially more information at this late stage in the process, particularly where the original submission and the second submission did not identify concerns.

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Heritage considerations have been at the heart of this planning proposal which if finalised will ensure the stabilisation of an archaeological ruin which is of state significance. A Draft Schedule of Required Stabilisation Works formed part of the exhibition documents and the works and their timing for implementation will be ensured by the associated draft planning agreement.

In addition, the planning proposal has been amended previously to include two new local heritage items; Abbotsford Silos and Byrne's Exhibition Dairy (2 buildings). The assessment to date is considered adequate in terms of consistency with Ministerial Direction 2.3 Heritage Conservation which seeks to '*conserve items, areas, objects and places of environmental heritage significance and indigenous significance*'.

However, the following actions are proposed in response to the concerns raised by the Heritage Council:

- Amend the Planning Proposal by amending the Heritage Map to increase the existing proposed curtilage for the Abbotsford site to include the remnant hedges and include in a separate curtilage but as part of the same heritage item, the western most araucaria tree. It is noted that the heritage curtilage, both as currently proposed and with the above amendment, would still be larger than the curtilage associated with the state listing of the item.
- Review the Statement of Significance associated with 'Abbotsford' heritage listing to ensure it adequately recognises the visual connections of 'Abbotsford' to Vault Hill (identified in the September 2017) submission.
- Prepare site specific planning controls for inclusion within the Development Control Plan. These are currently under preparation and will be reported separately to Council soon.

In March 2018, Council wrote to the Department of Planning & Environment to request an extension to the Gateway timeframe on the basis that additional time was required to resolve issues raised by the Heritage Council.

In that letter concern was raised with the mounting nature of issues being raised by the Heritage Council which appear to be intensifying with each subsequent correspondence. A copy of the Heritage Council's submissions were attached along with an indication that Council may require the Department's assistance to progress the proposal swiftly.

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The Department responded 28 May 2018 and provided the following advice:

- The Department consider the Heritage Division's correspondence to be recommendations to consider prior to finalisation and not an objection
- Planning Proposals are not development applications and do not consider specific detailed matters that should form part of a development application
- It would be appropriate for a Heritage Impact Statement to be considered as part of any future development application on the site
- A Development Control Plan for the site would assist Council in the assessment of any future development application
- Encourages Council to consider proceeding to finalisation of the Planning Proposal given the extent of technical studies undertaken to date, and the time taken to finalise the proposal.

A copy of the letter is provided at Attachment 9. It is noted that the letter refers to Council 'proceeding to finalisation under the existing delegation'. After reviewing previous correspondence from the Department it is not considered that Council has delegation for this proposal.

In any case, in light of the concerns raised with heritage, it is considered more procedurally robust to forward the Planning Proposal to the Department to make the plan.

2.3 COMMUNITY CONSULTATION

The planning proposal was publicly exhibited at the same time as the associated Draft Planning Agreement and was held from 23 August 2017 until 22 September 2017. The Gateway determination specified a 28 day period of consultation and public exhibition.

During this time the planning proposal, specialist studies, Draft Planning Agreement and other documents as required by the Gateway determination were made available for public viewing on Council's website, at Council's Administration Building and at Wollondilly Library. A public notice was also placed in the local newspaper.

Letters were sent to nearby landowners and occupiers notifying them of the exhibition and where to find more information.

An adjoining landowner was accidentally missed in the initial notification and so the planning proposal and Draft Planning Agreement were exhibited for a further period from 26 October until 23 November 2017. During this time the relevant documentation for the planning proposal and Draft Planning Agreement were made available on Council's website, at Council's Administration Building and at Wollondilly Library. However, no public notice was placed in the local newspaper for the additional period.

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A meeting was also held with representatives from the Valley View Community Association at their request to discuss the planning proposal and understand their concerns better. Valley View estate is located at the end of Abbotsford Road approximately 1.8km further along from the planning proposal site.

Eight submissions were received in response to the community consultation. Of these submissions seven objected or had concerns and one submission was neutral.

The issues raised, in order, can be summarised as follows:

- Traffic & Transportation - raised in 7 of the 8 submissions
 - Adequacy of study
 - Age of study
 - Traffic from Picton Sportsground
 - Intersection of Argyle Street and Barkers Lodge Road
 - Intersection of Abbotsford and Barkers Lodge Road
 - Additional traffic from development
 - Abbotsford Road
 - Identified need for a bridge over the causeway
 - Suggested solutions
- Studies (age/accuracy) – raised in 7 submissions
- Stormwater drainage – raised in 5 submissions
 - Flood study does not reflect on the ground flooding
 - Adequacy of flood study
 - Identified need for a bridge over the causeway
 - Age of study
 - Development will exacerbate runoff from the site
 - Sections of Abbotsford Road which require improvements
- Growth & character of local area – raised in 3 submissions
 - Planning proposal in its current form falls short of ensuring minimal impact upon the existing locality
 - Effect to the 'rural aspects' of Wollondilly
 - No support for significant amount of residential growth in the last 30 years in Wollondilly
- Essential Services – raised in 2 submissions
 - Whether the development will be connected to town water
 - Water pressure has dropped and whether it will be impacted from further subdivision
 - Whether the development will come with a full sewerage system

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- Contamination – raised in 2 submissions
 - Potential contamination of the existing site
- Draft Planning Agreement – raised in 2 submissions
 - Seeks additional road upgrades to be included
- Mining – raised in 1 submission
- Heritage – raised in 1 submission
 - Support for heritage protection
 - Development needs to be sympathetic so the feel of the area doesn't change
- Other matters – raised in 1 submission
 - Consideration of current use of Abbotsford Road as a stock route

A table is provided at Attachment 2 with more detail on all the issues raised during the consultation and should be referred to for a better understanding of the community views about this proposal.

In summary, the matters raised in submissions are not considered to warrant a change to the planning proposal.

However, where relevant, the matters raised in submissions can be dealt with through inclusion of site specific planning controls within the Wollondilly Development Control Plan 2016 or can be dealt with as part of the assessment of future development applications.

3.0 PLANNING PROPOSAL

The planning proposal has been prepared in accordance with former Section 55 (now 3.33) to the EP&A Act, 1979 and the guidelines published by the Department. It is proposed to revise the planning proposal from the publicly exhibited version in response to matters raised through consultation.

Council's options are:

1. Resolve to support the planning proposal in the form as described in Section 5.1 to this report.
2. Resolve to support the planning proposal in another form. With this option a new Gateway determination, amended specialist studies and a new public exhibition period may be required.

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3. Resolve not to support the planning proposal. With this option there is no further action to be taken on the planning proposal other than to inform the applicant, submitters and the Department that the planning proposal has been terminated. The applicant could choose to submit a new planning proposal. There are no appeal rights through the Land and Environment Court against Council' refusal to support the planning proposal at this stage of the process.

Option 1 is the recommendation of this report.

4.0 METROPOLITAN PLAN FOR SYDNEY TO 2036 (2010) & DRAFT SOUTH WEST SUBREGIONAL STRATEGY (2007)

At the time the Abbotsford planning proposal was initially submitted in 2011, the relevant regional plan and strategy was the *Metropolitan Plan for Sydney 2036* and the Draft South West Subregional Strategy.

The Metropolitan Plan & Subregional Strategy acknowledged the need for additional housing and also the need to undertake development with consideration of the physical environment, heritage and natural resources. This planning proposal is considered to provide local growth adjoining the existing Picton town centre.

Both of these policies have now been superseded.

4.1 SECTION 117 MINISTERIAL DIRECTIONS

All relevant Ministerial Directions have been considered and are addressed satisfactorily in the planning proposal.

4.2 STATE ENVIRONMENTAL PLANNING POLICIES

All relevant State Environmental Planning Policies have been considered and are addressed satisfactorily in the planning proposal.

4.3 SYDNEY REGION PLAN (2018) & WESTERN CITY DISTRICT PLAN (2018)

The Greater Sydney Region Plan "A Metropolis of Three Cities" and the Western City District Plan were only released in March 2018 which was after the completion of the public exhibition.

It is considered that limited weight should be given to the Region and District Plan in the assessment of the Abbotsford planning proposal as it is at an advanced stage in the Gateway process. In particular, the proposal should not be penalised because it was not reported to Council before the release of the final plans. Since the public exhibition Council has been trying to resolve concerns raised by the Heritage Council of NSW.

Notwithstanding, the Abbotsford site, along with most of Wollondilly is located within the Metropolitan Area (MRA).

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The District Plan indicates that rural-residential development is generally not supported. However, it also provides that “*limited rural residential development could be considered where there are no adverse impact on the amenity of the local area and the development provides incentives to maintain and enhance the environmental, social and economic values of the Metropolitan Rural Area*”.

The Abbotsford planning proposal seeks to enable the development of the site for rural-residential style development. However, rezoning the land provides an incentive to secure the stabilisation of the state heritage listed Abbotsford Homestead and this is considered consistent with the values of the Metropolitan Rural Area. Subsequently, the proposal is considered to be consistent with this aspect of the Region (Strategy 29.1) and District Plans (Action 78).

The planning proposal is considered to be generally consistent with the Region and District Plans in all other respects.

4.4 WOLLONDILLY GROWTH MANAGEMENT STRATEGY 2011 (GMS)

Although the site is not identified as a ‘potential residential growth area’ on the structure Plan for Picton which forms part of the GMS previous assessments of the planning proposal against the GMS key policy directions have concluded that the planning proposal is generally consistent with the Strategy’s aims.

In reaching this conclusion, significant consideration and weight has been given to the public benefit proposed by the stabilisation of the state significant heritage listed ‘Abbotsford group’ of structures and grounds and the fact that the Abbotsford site is located in close proximity to Picton and is not a dispersed site.

In planning terms, development of this site provides a robust defensible western boundary to the Picton settlement in the form of the steep terrain which will prevent further development to the west of the site. The historic context of the site is considered to tip the balance of merit on the site of development and should not predispose the development of adjacent land to the north for similar purposes.

5.0 FINAL FORM OF PLANNING PROPOSAL

Outlined below is the final form of the planning proposal.

5.1 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP 2011)

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

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- Identify environmentally sensitive land on the Natural Resources – Biodiversity Map.
- Expand the proposed heritage curtilage for the Abbotsford homestead heritage item to include remnant hedging and to include the western most tree in a separate curtilage.

The planning proposal seeks amendments to WLEP 2011 as described below:

- Amend the Land Zoning Map from zone RU2 Rural Landscape to zone E4 Environmental Living as shown in the comparison map at Attachment 4.
- Amend the Lot Size Map from a minimum lot size category of 40 hectares to a minimum lot size of 4,000sq.m for lower areas and 20ha across the upper area of the site as shown on the comparison map at Attachment 5.
- Amend the Height of Buildings Map to introduce a maximum permissible height of 6.8 metres as shown on the comparison map at Attachment 6.
- Amend the Heritage Map to include two (2) new heritage items and to amend the curtilage for the existing listed archaeological site for the state significant Abbotsford Homestead as shown on the comparison map at Attachment 7.
- Amend the Natural Resources – Biodiversity Map to identify sensitive land on the site. The areas to be included are shown on the map at Attachment 3.

5.2 WOLLONDILLY DEVELOPMENT CONTROL PLAN, 2016

It is proposed to include site specific planning controls within the development control plan (DCP) to guide future development on the site. However, these are not at a stage ready for reporting to Council at this time.

Planning controls are considered necessary to guide the subdivision as well as future houses and associated structures on the site. Subsequently amendments are proposed to Volume 3 – Subdivision of Land and Volume 4 – Residential Development. Site specific planning controls would be in addition to existing controls within the DCP which ordinarily apply to subdivision of land and new houses.

Site specific planning controls within the DCP are also required in response to concerns raised by the NSW Heritage Council in their submission. OEH consider the existing controls within the DCP are inadequate to control the impacts of the future development in the vicinity of the state heritage listed 'Abbotsford' homestead.

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It is anticipated that the planning controls will cover the following matters as a minimum:

- Architectural standards for houses and associated structures so that future development is sympathetic to the heritage assets on the site
- Protection of key vistas to and from the Abbotsford homestead
- Encouragement for adaptive re-use of new heritage items on the site
- Ensuring development progresses in a landscaped setting
- Ensuring development is appropriate in terms of contamination
- Ensuring development is appropriate in terms of potential flood risk.

The draft planning controls will be reported to Council in the near future to seek support and to commence consultation with the local community and key stakeholders.

5.3 FINAL FORM OF PLANNING AGREEMENT

The planning proposal has been determined to generate the need for public works and services in addition to those planned in the Wollondilly Development Contributions Plan 2010. These works and services have been negotiated in a VPA placed on public exhibition at the same time as the planning proposal. The schedule of works and services is included in Attachment 8.

The key elements of the Planning Agreement are as follows:

- **Heritage Works:** It is expected that upon rezoning, a DA will be lodged which will involve initially the subdivision of the land into 3 superlots.

One of these lots will be occupied by the historic Abbotsford Rd homestead, which is listed on the State Heritage Register and is significant for its associations with the early settlement of the Picton area and its links with prominent colonial figure George Harper and the Antill family. It is however in a rather poor condition and under the terms of the Planning Agreement, the developer will be required to stabilise the homestead before development on the other lots can occur. This will help ensure the preservation of this important heritage item and hence will be a benefit to Council and the community.

The estimated value of these works in 2015 was approximately \$223,233.

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- **Road Works and Road Safety Improvements.** One of the lots will be developed in stages into approximately 40 rural residential lots, and when this occurs, the other benefits to be provided under the Draft Planning Agreement will be triggered. Specifically, the developer will be required to stabilise and reconstruct Abbotsford Rd along a partially new alignment. This will provide a benefit to Council and the community by creating a safer road, given the road presently has a pronounced kink along the carriageway. The road is also very close to a watercourse, the bank of which is gradually eroding and in some locations is threatening to undermine and given the collapse of the road, which in some locations is only about 3 metres from the watercourse. Council has undertaken some remedial action on the affected sections of the road but at some point some major road reconstruction will be required. It is a good opportunity for Council to have this road reconstructed by the developer through this Planning Agreement as it will mean that Council will not have to expend its own funds in doing the works.

In exchange for these works, the applicant has requested a complete offset of the Section 94 contribution payable for the development and which is estimated at approximately \$800,000. This has been agreed because the road works would be expected to cost significantly more than \$800,000 if Council was to do them, and because they will result in immediate improvements to public safety by improving this stretch of road. The offset also includes the land value of some of the developer's land being included to remake the road along a slightly new alignment. The road works will be done to a design that is approved by Council and as a result Council will be able to ensure that we are getting the full value of the Section 94 offset.

The agreement also provides for the payment to Council of \$5,000 per lot to implement the findings of the Draft Picton Town Centre Transport Master Plan. This study is currently being reviewed by Council staff and is expected to result in recommendations for works to help ease future traffic in the Picton town centre, and which may also address the future development of this part of Picton. However given the length of time that this planning proposal has been in progress it was not considered reasonable to delay this Planning Agreement until the master plan has been finalised so a contribution of \$5000 per lot has been negotiated.

The proposed Planning Agreement will provide a beneficial result for Council by providing for the rebuilding of Abbotsford Rd which is subject to an erosion hazard. It will also provide for the stabilisation and protection of an important historic building, and will also receive money that can help fund the recommendations of the Draft Picton Town Centre Transport Master Plan once finalised.

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One community submission made a comment about the draft planning agreement and indicated that additional road upgrades needed to be included to ensure safer environment for all users including residents and the community who access Abbotsford and Fairleys Roads. This matter, along with other matters raised in submissions, is addressed at Attachment 2. The draft Planning Agreement is considered to provide fair and reasonable works in kind and monetary contributions towards road works and road safety improvements.

The Draft Agreement has been given a final review by Council's legal representatives and they have confirmed that the Draft Agreement is suitable for Execution.

As a result, it is being recommended that the Draft Agreement be executed by the General Manager for the Council by way of delegated authority granted to the General Manager.

FINANCIAL IMPLICATIONS

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

The Draft Planning Agreement as described in Section 5.3 to this report is considered appropriate to address matters specific to the Planning Proposal.

In terms of direct financial benefits from the Draft Planning Agreement, the Draft Agreement will provide a net financial gain to Council by offsetting approximately \$800,000 in Section 94 contributions, in exchange for road works to the value of about \$1.2 million (cost estimated by the developer). A further \$200,000 (approximately) will be received which can be used to carry out road works to help manage traffic resulting from the future growth of Picton and surrounding areas.

ATTACHMENTS IN SEPARATE BOOKLET

1. Table Summarising Public Agency Feedback on the Abbotsford Planning Proposal
2. Table Summarising Community Submissions 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

GR3 – Finalisation – Abbotsford Planning Proposal & Voluntary Planning Agreement

10. Letter from Department of Planning & Environment – Alteration to Gateway Determination

RECOMMENDATION

1. That Council support the Abbotsford Planning Proposal for Part Lot 1 DP 1086066 (No. 15 Fairleys Road, Picton) to amend Wollondilly Local Environmental Plan, 2011 as follows:
 - Amend the Land Zoning Map from zone RU2 Rural Landscape to zone E4 Environmental Living across the site
 - Amend the Lot Size Map to provide the following minimum lot sizes:
 - 4,000 square metres for lower areas
 - 20 hectares for the upper area
 - Amend the Height of Buildings Map to introduce a maximum building height of 6.8 metres across the site
 - Amend the Heritage Map to amend the curtilage for the existing archaeological site for the state significance Abbotsford Homestead (Item No A7) and to include two new heritage items (Abbotsford Silos and Byrne’s Exhibition Dairy (2 buildings))
 - Amend Schedule 5 Environmental heritage; part Heritage Items to include the two new heritage items
 - Amend the Natural Resources – Biodiversity Map to identify areas of sensitive land across the site.
2. That in accordance with Section 3.36 to the Environmental Planning and Assessment Act, 1979 the Planning Proposal be forwarded to the Greater Sydney Commission (or their delegate) with a request to make arrangements for the drafting of the amended Local Environmental Plan and that the Commission make the Plan in the form as detailed in this report and in the Planning Proposal or in a form the Commission may determine appropriate to account for the issues outstanding for the Heritage Council of NSW.
3. That the applicant and persons who made submissions regarding the Planning Proposal be notified of Council’s decision.
4. That Council support the endorsement of the Voluntary Planning Agreement between Wollondilly Shire Council and R & F Ziems Pty Limited ACN 001 747 806, Glynnis Jean Thomspson, Neil Leonard Arber, Bertoli Building Pty Limited AABN 68 056 658 836, and Zaxmoat Pty Limited CAN 079 492 247 as exhibited or as amended as included in Attachment 9 and that a copy of the endorsed Voluntary Planning Agreement be forwarded to the Secretary of the Department of Planning and Environment.

Sustainable and Balanced Growth
Report to the Ordinary Meeting of Council held on Monday 18 June 2018

GR3 – Finalisation – Abbotsford Planning Proposal & Voluntary Planning Agreement

5. That a report be brought to Council detailing proposed site specific planning controls for inclusion within the Wollondilly Development Control Plan 2016 to guide development on the Abbotsford site.