

Attachment Booklet

Monday 18 September 2017

PE1, PE2, PE3 & PE4, PE5, GO1, GO3, GO4, GO5 & EN1

PE1 Attachments

1. Amended Plans submitted with the application.

Monday 18 September 2017

PE1 – Development Application No: 010.2016.00000808.001
for Multi dwelling housing containing two single storey
and 12 two storey dwellings and strata subdivision

Notes:
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 4. Window sizes are nominal only. Final window sizes by builder
 5. Dimensions are to be verified on site by builder before commencement of work.

Client Approval: _____ Date: _____

Client: **DICKINSON**
PROPERTY GROUP

Job: **Multi Dwelling Residence**

LOT: 69 & 70 DP: -
Carlton Road, Thirlmere

Drawing: **Shadow Diagrams 21st June**

Scale: **1:500** Date: **14-06-17**

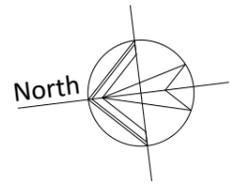
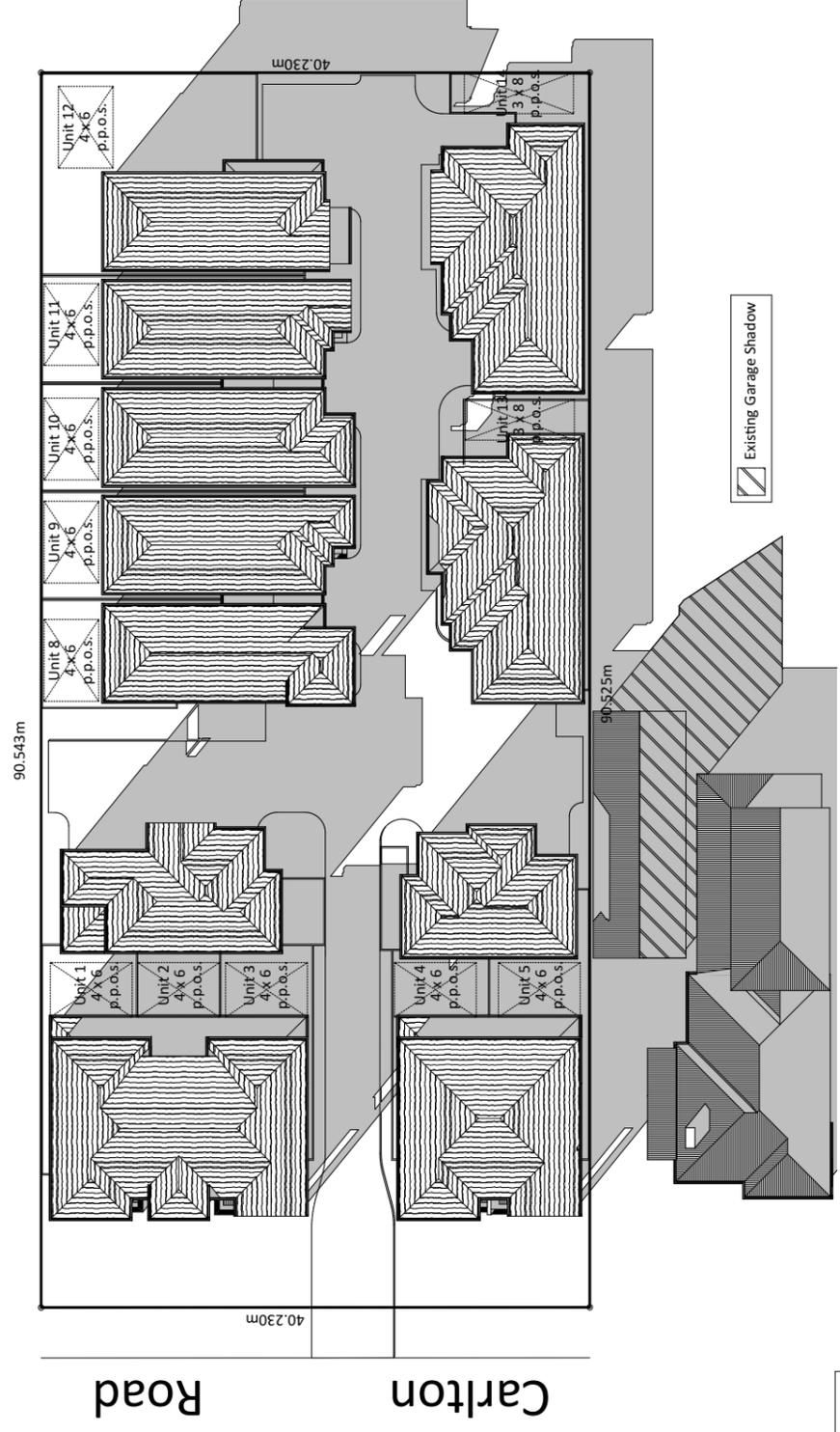
Drawing No: **14085-9** Sheet: **9/34** Issue: **H**

House Design: Custom



design and drafting

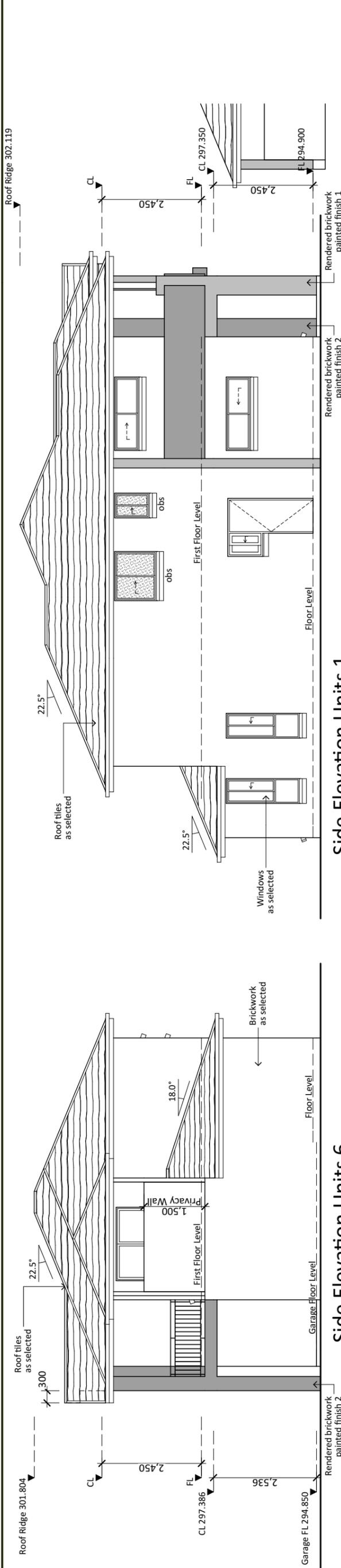
Office: 1a/10 Exchange Parade
Narellan NSW 2567
Phone : 0246472552
 Fax : 0246472553
 Email: info@accuratedesign.com.au



Shadow Diagram June 3pm
1:500

P.P.O.S. 3pm	Area	Percentage
Unit 1	10.10m ²	42.08%
Unit 2	00.00m ²	00.00%
Unit 3	00.00m ²	00.00%
Unit 4	00.09m ²	00.37%
Unit 5	00.00m ²	00.00%
Unit 8	24.00m ²	100.0%
Unit 9	24.00m ²	100.0%
Unit 10	24.00m ²	100.0%
Unit 11	24.00m ²	100.0%
Unit 12	24.00m ²	100.0%
Unit 13	03.58m ²	14.91%
Unit 14	04.65m ²	19.37%

Lot 69 &
70
 3642.17m²
 DP: -



Side Elevation Units 6
1:100

Side Elevation Units 1
1:100

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Client Approval: _____ Date: _____

Client: **DICKINSON**
PROPERTY GROUP

Job: **Multi Dwelling Residence**

LOT: 69 & 70 DP: -
Carlton Road, Thirlmere

Drawing: **Elevations Units 1, 2, 3, 6**

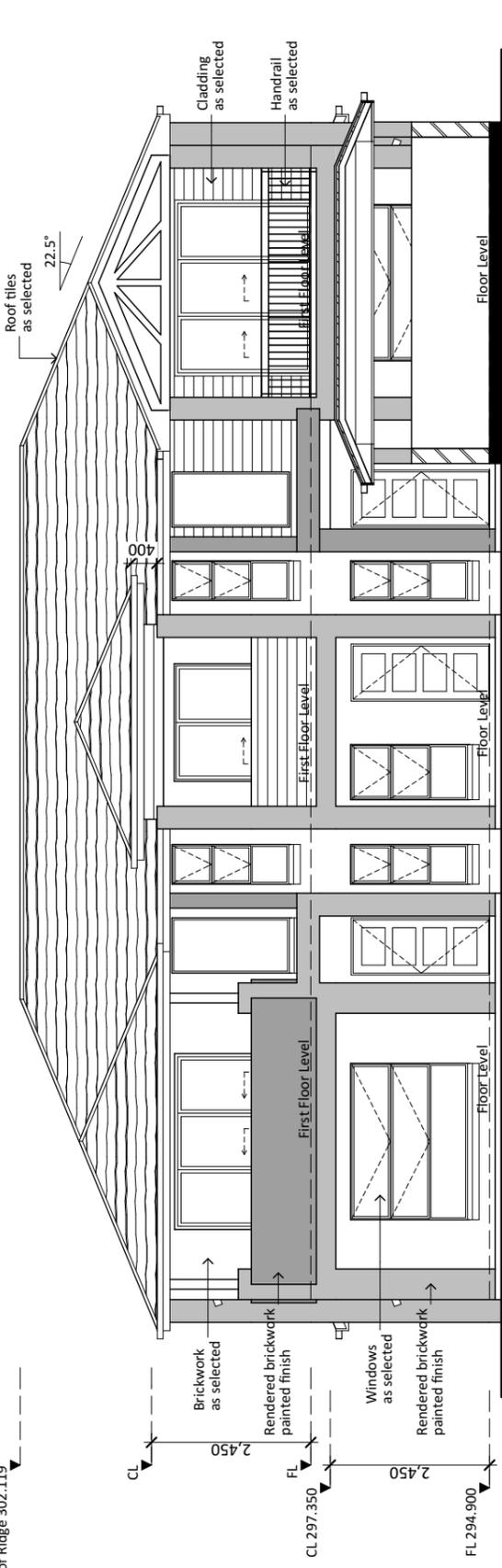
Scale: **1:100** Date: **14-06-17**

Drawing No: **14085-9** Sheet: **14/34 H** Issue: _____

House Design: Custom

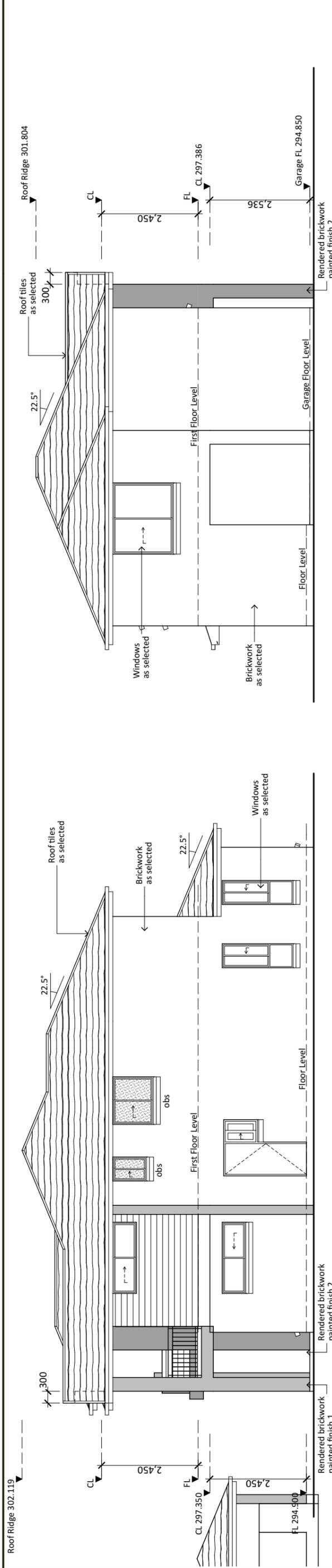
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Legend:
 ACU - Air Conditioning Unit
 AJ - Articulation Joint
 CL - Ceiling Level
 FGL - Finish Ground Line
 FL - Floor Level
 HMS - Hot Water System
 NGL - Natural Ground Line
 OBS - Obscure
 RW - Retaining Wall



Front Elevation Units 1, 2, 3
1:100

Rear Elevation Units 1, 2, 3
1:100



Side Elevation Unit 3
1:100

Side Elevation Unit 6
1:100

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Client: **DICKINSON**
PROPERTY GROUP

Job: **Multi Dwelling Residence**

LOT: 69 & 70 DP:-
Carlton Road, Thirlmere

Drawing: **Elevations Units 1, 2, 3, 6**

Scale: **1:100** Date: **14-06-17**

Drawing No: **14085-9** Sheet: **15/34** Issue: **H**

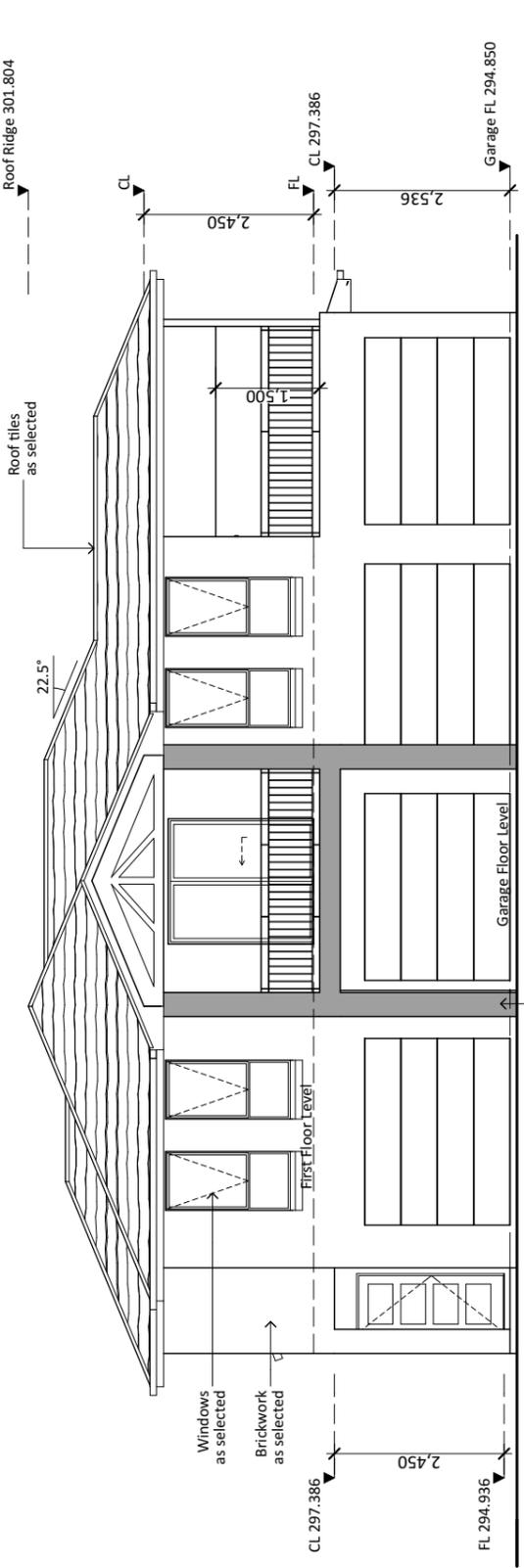
House Design: Custom



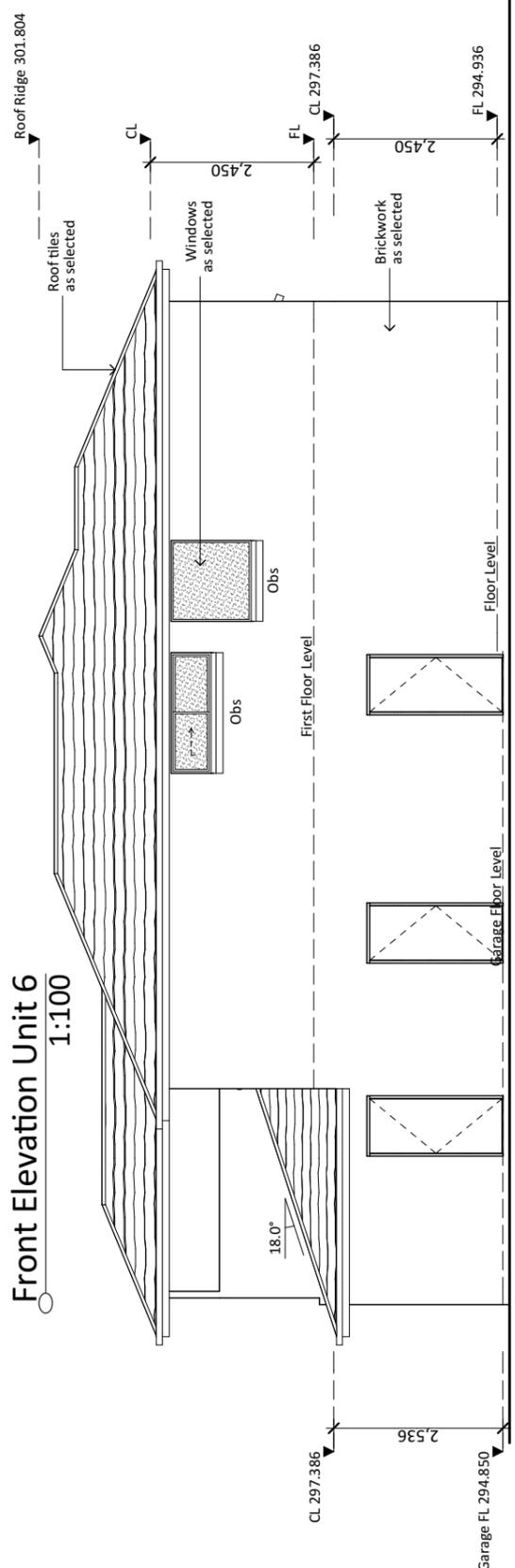
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Legend:

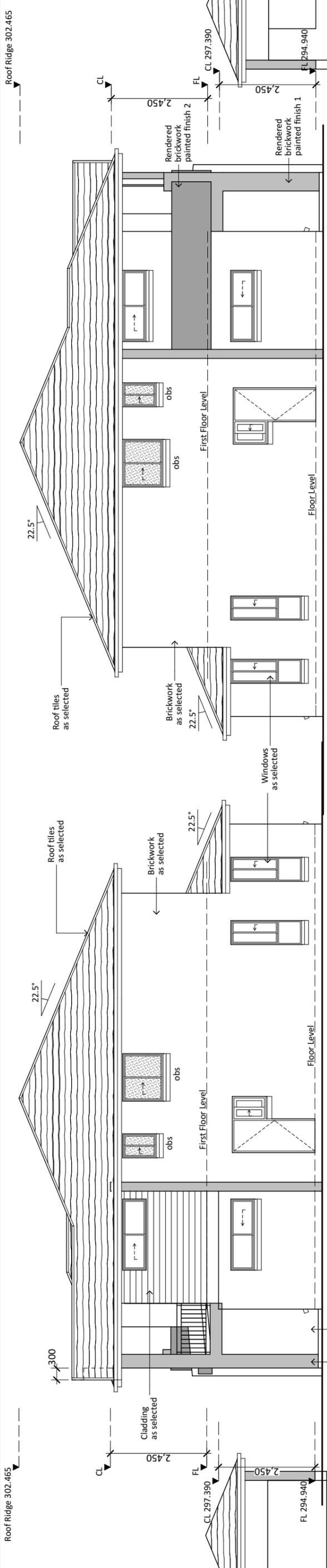
ACU	- Air Conditioning Unit
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FGL	- Finish Ground Line
FL	- Floor Level
HWS	- Hot Water System
NGL	- Natural Ground Line
OBS	- Obscure
RW	- Retaining Wall



Front Elevation Unit 6
1:100



Rear Elevation Unit 6
1:100



Side Elevation Units 5
1:100

Side Elevation Units 4
1:100

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Client: **DICKINSON**
PROPERTY GROUP

Job: **Multi Dwelling Residence**

LOT: 69 & 70 DP: -
Carlton Road, Thirlmere

Drawing: **Elevations Units 4, 5, 7**

Scale: **1:100** Date: **14-06-17**

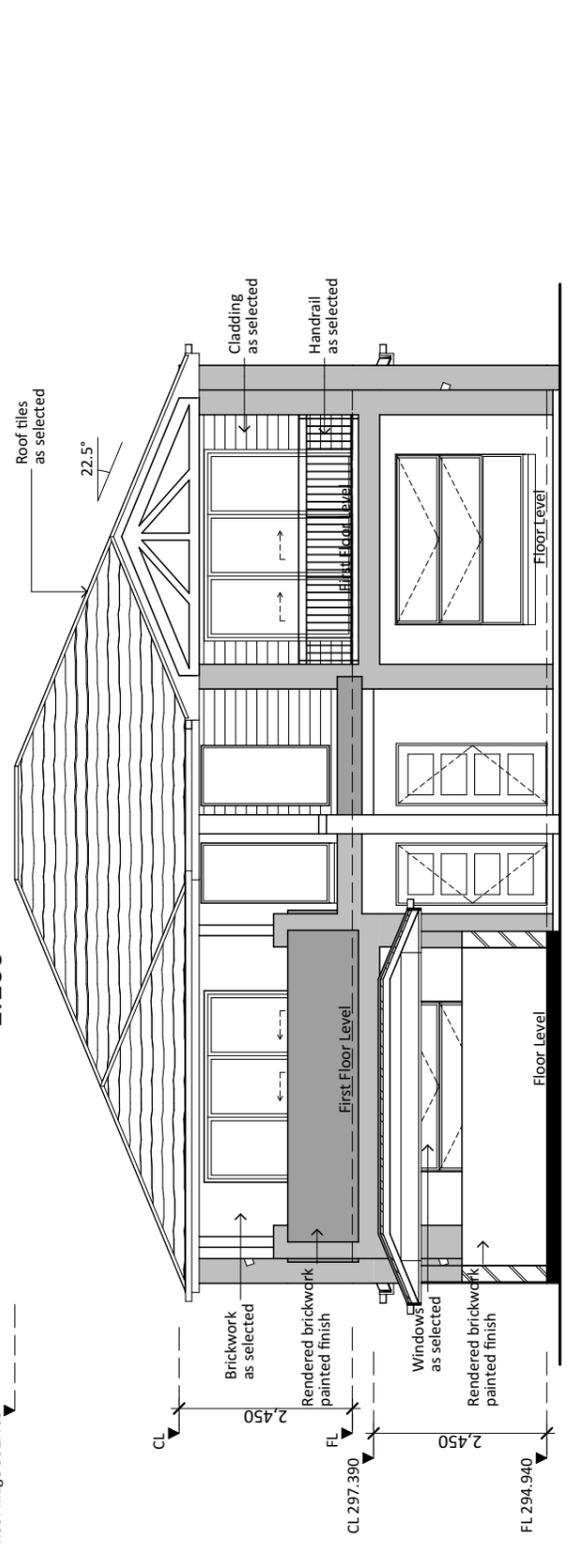
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House Design: Custom

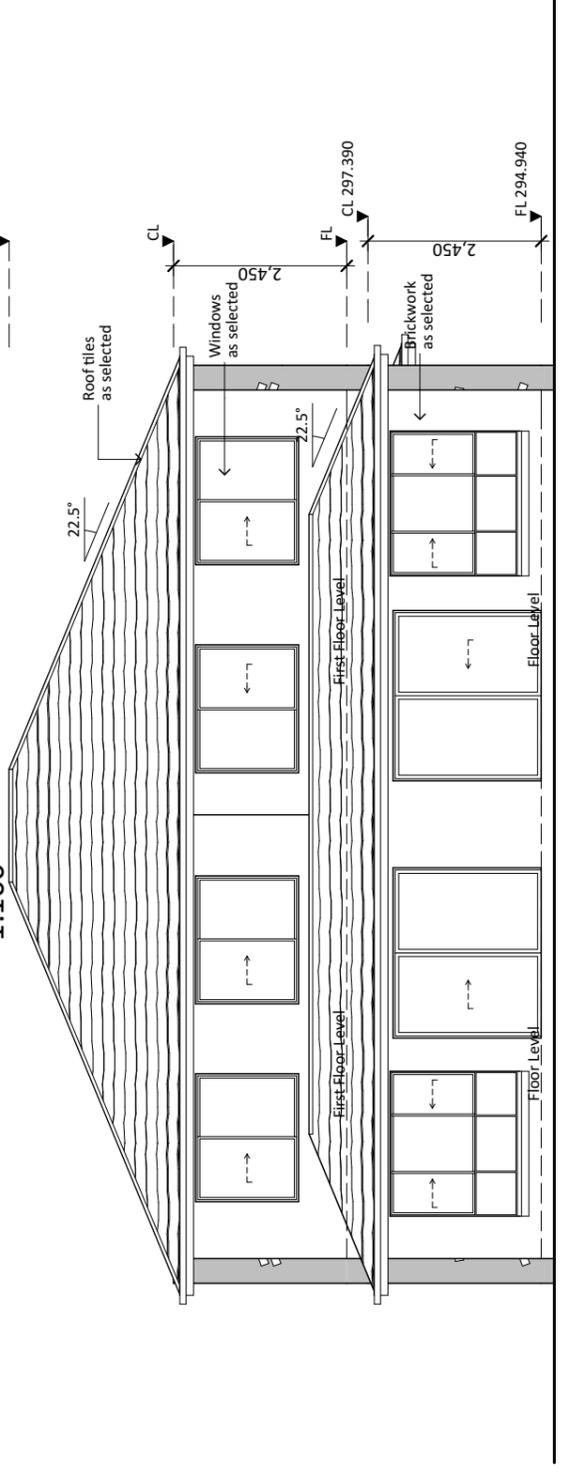


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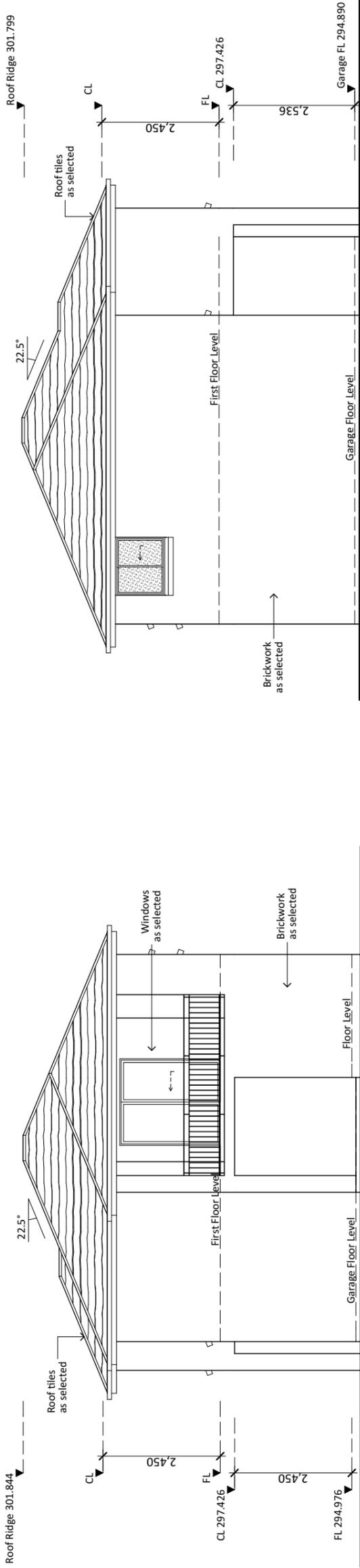
Legend:
 ACU - Air Conditioning Unit
 AJ - Articulation Joint
 CL - Ceiling Level
 FGL - Finish Ground Line
 FL - Floor Level
 HMS - Hot Water System
 NGL - Natural Ground Line
 OBS - Obscure
 RW - Retaining Wall



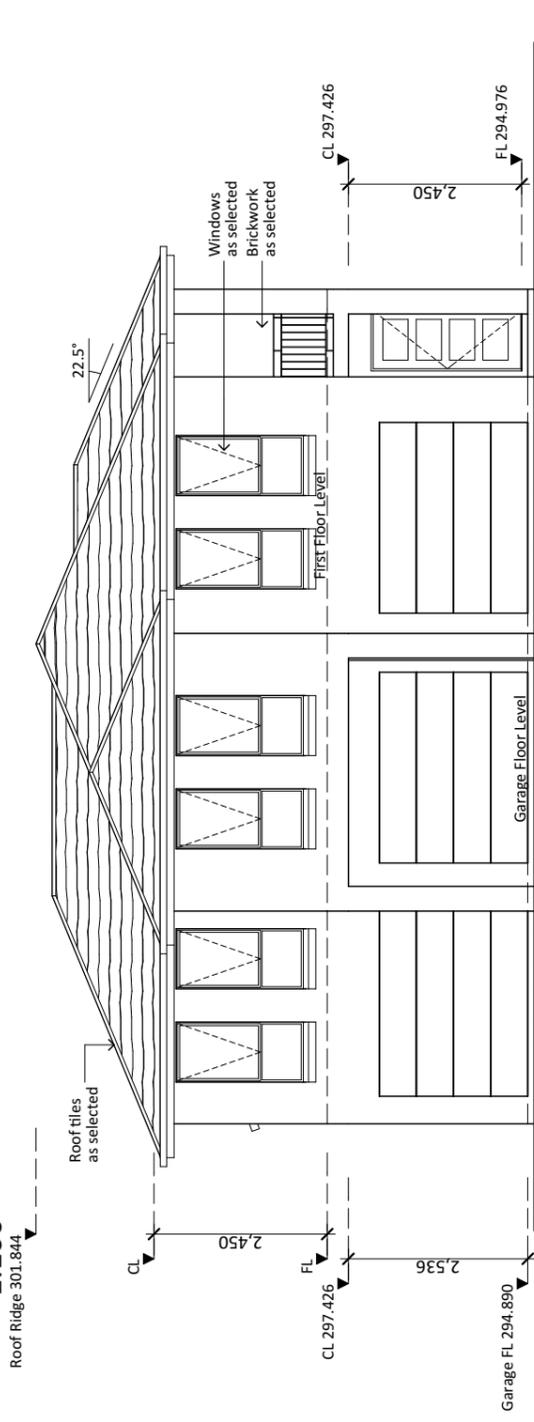
Front Elevation Units 4, 5
1:100



Rear Elevation Units 4, 5
1:100

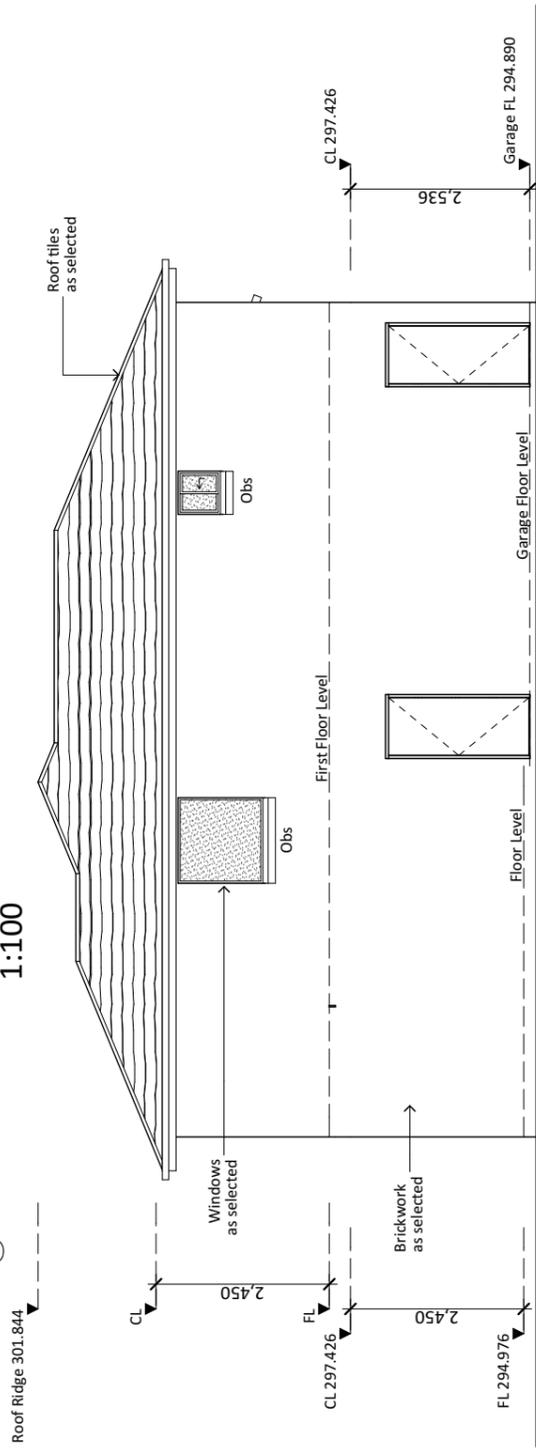


Side Elevation Units 7
1:100



Side Elevation Units 7
1:100

Front Elevation Unit 7
1:100



Rear Elevation Unit 7
1:100

Legend:

- ACU - Air Conditioning Unit
- AJ - Articulation Joint
- CL - Ceiling Level
- FGL - Finish Ground Line
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- HWS - Hot Water System
- NGL - Natural Ground Line
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Client: **DICKINSON**
PROPERTY GROUP

Job: **Multi Dwelling Residence**

LOT: 69 & 70 DP: -
Carlton Road, Thirlmere

Drawing: **Elevations Units 4, 5, 7**

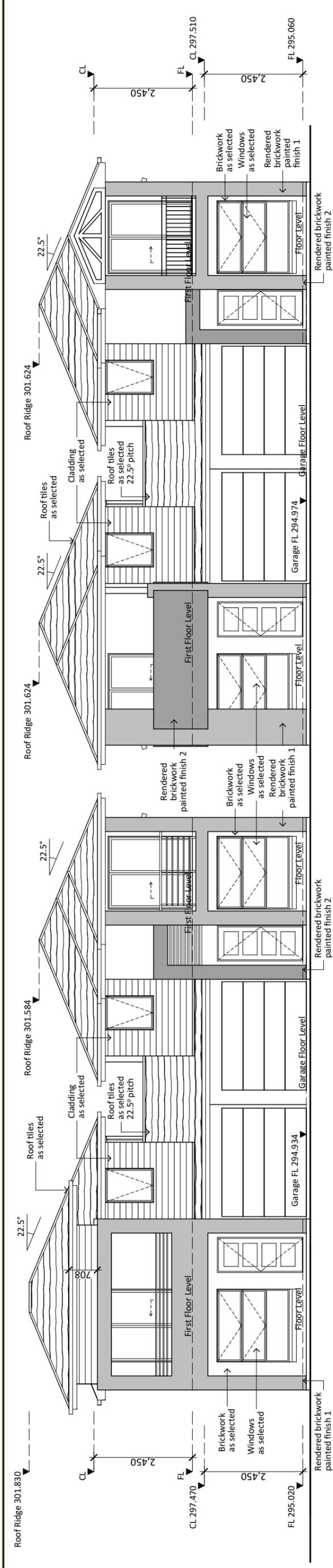
Scale: **1:100** Date: **14-06-17**

Drawing No: **14085-9** Sheet: **20/34** Issue: **H**

House Design: Custom



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Front Elevation Units 8, 9, 10, 11
1:100

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PROPERTY GROUP

Job: **Multi Dwelling Residence**

LOT: 69 & 70 DP:-
Carlton Road, Thirlmere

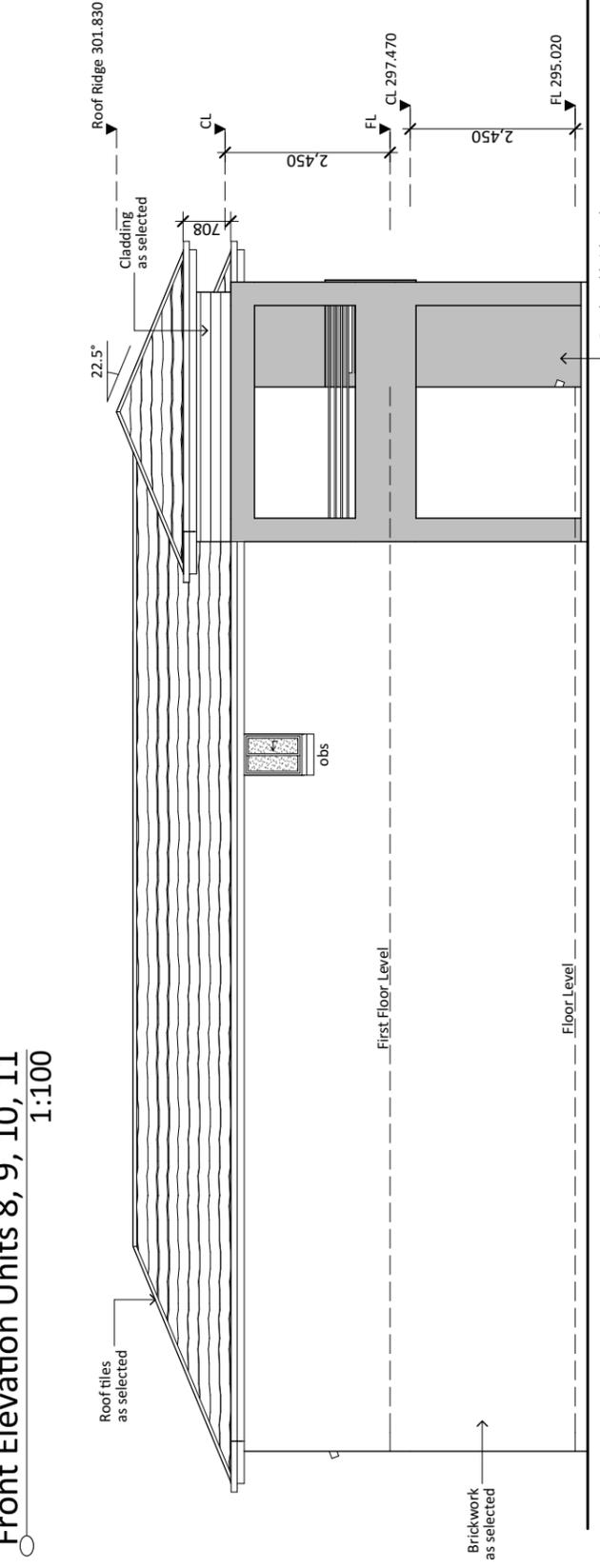
Drawing: **Elevations Units 8-12**

Scale: _____ Date: **14-06-17**

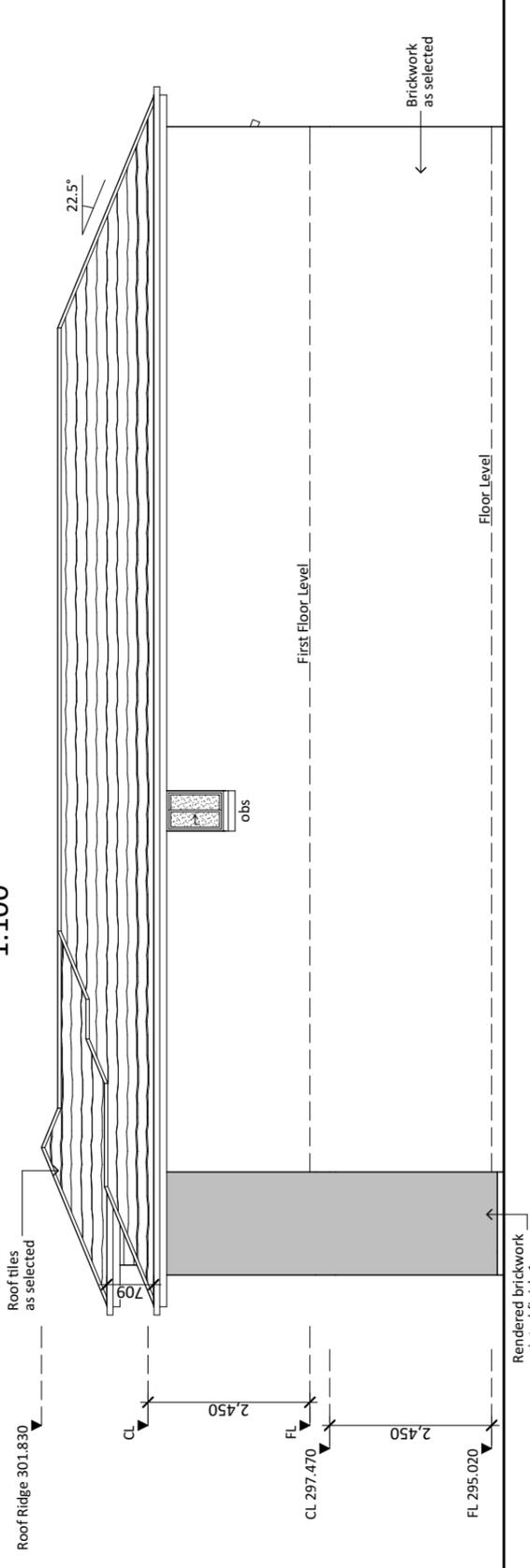
Drawing No: **14085-9** Sheet: **26/34** Issue: **H**

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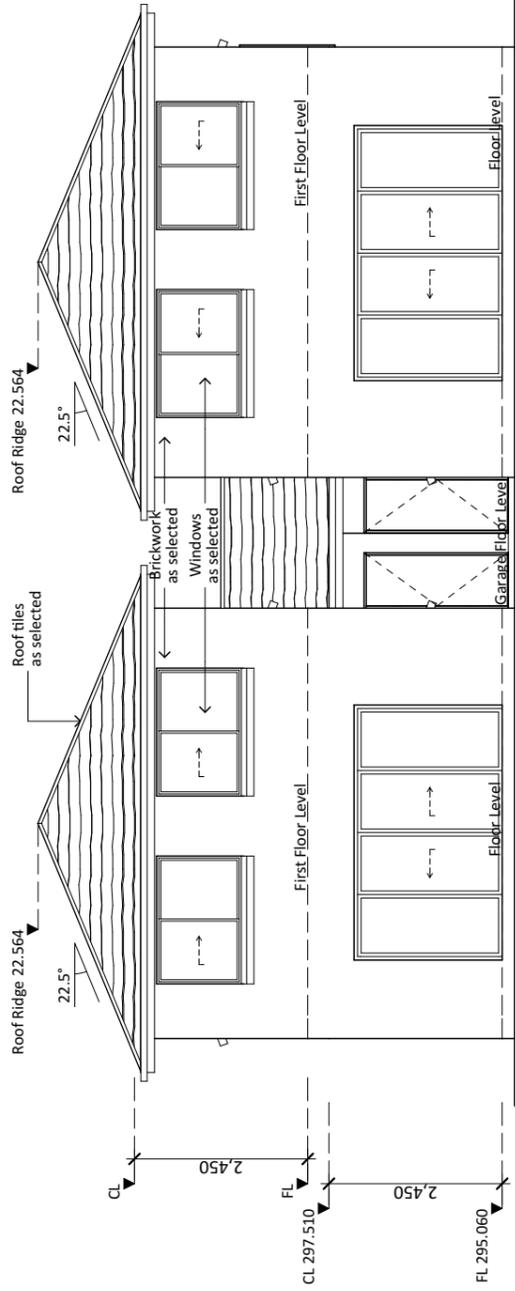


Side Elevation Unit 8
1:100

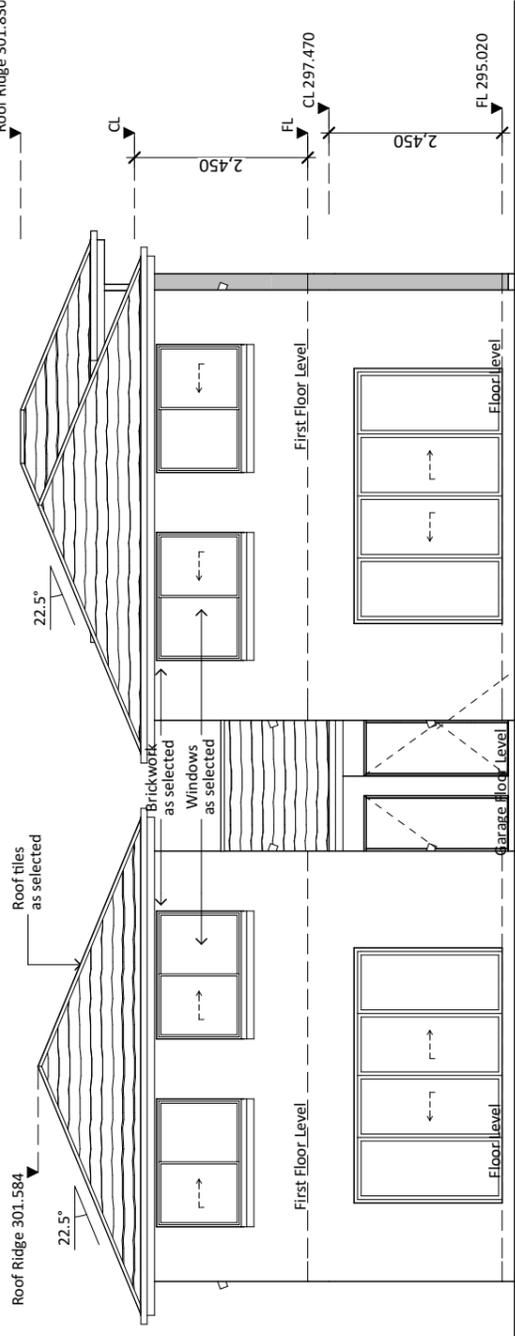


Side Elevation Unit 9
1:100

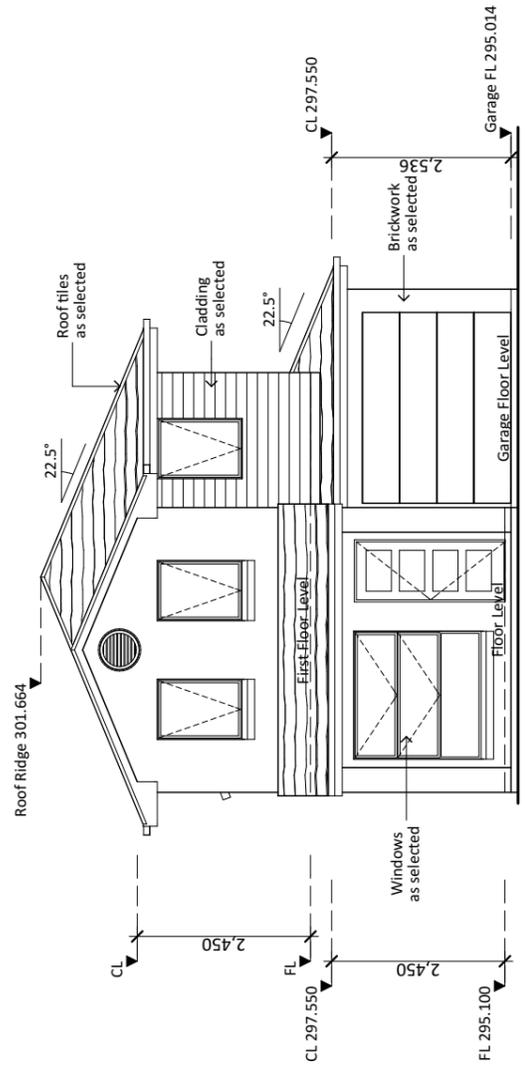
- Legend:
 ACU - Air Conditioning Unit
 AJ - Articulation Joint
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 FGL - Finish Ground Line
 FL - Floor Level
 HMS - Hot Water System
 NGL - Natural Ground Line
 OBS - Obscure
 RW - Retaining Wall



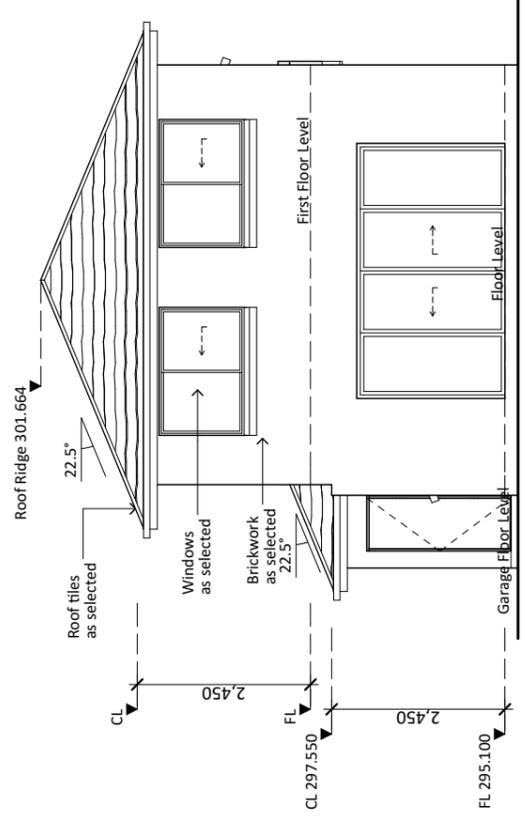
Rear Elevation Units 10, 11
1:100



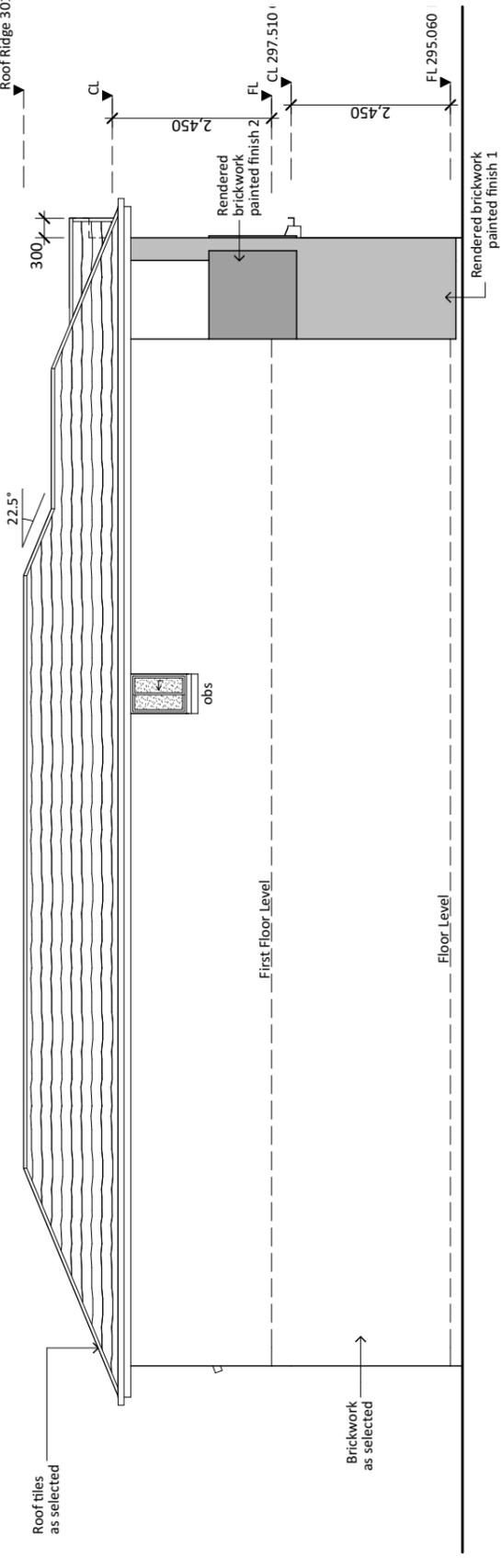
Rear Elevation Units 8, 9
1:100



Front Elevation Unit 12
1:100



Rear Elevation Unit 12
1:100



Side Elevation Unit 10
1:100

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Client: **DICKINSON**
PROPERTY GROUP

Job: **Multi Dwelling Residence**

LOT: 69 & 70 DP: -
Carlton Road, Thirlmere

Drawing: **Elevations Units 8-12**

Scale: _____ Date: **14-06-17**

Drawing No: **14085-9** Sheet: **27/34 H** Issue: _____

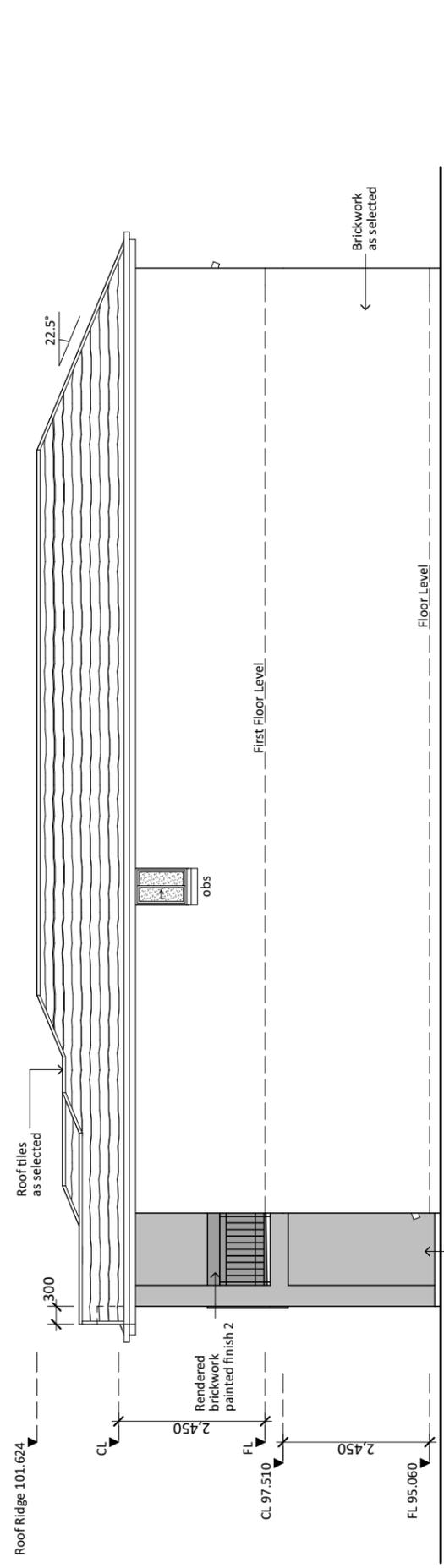
House Design: Custom



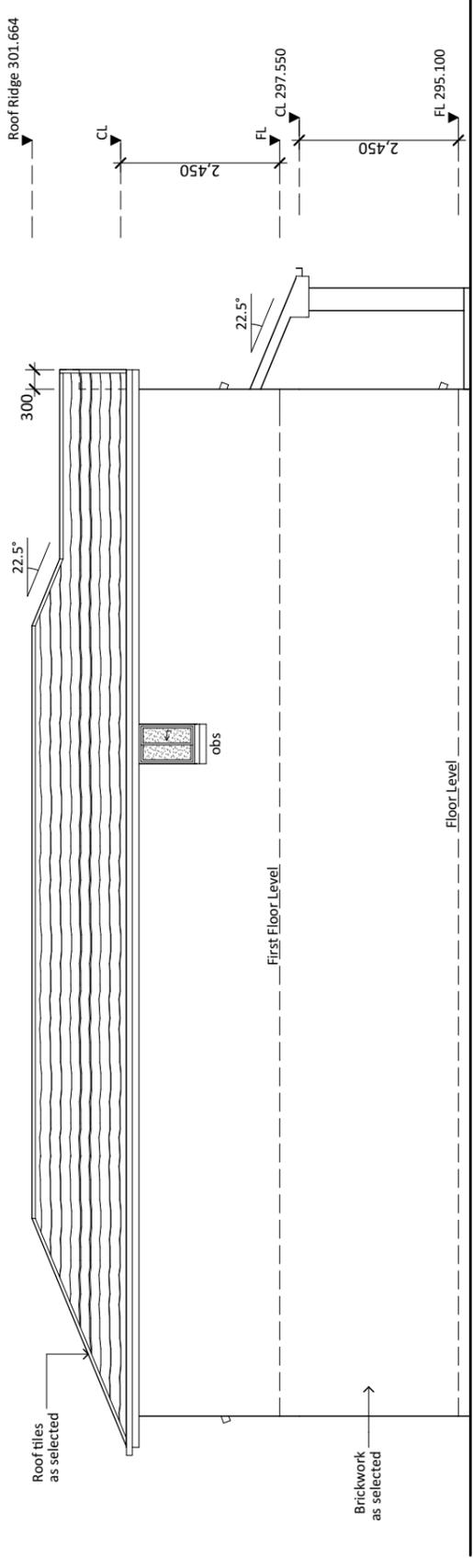
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 FGL - Finish Ground Line
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 HMS - Hot Water System
 NGL - Natural Ground Line
 OBS - Obscure
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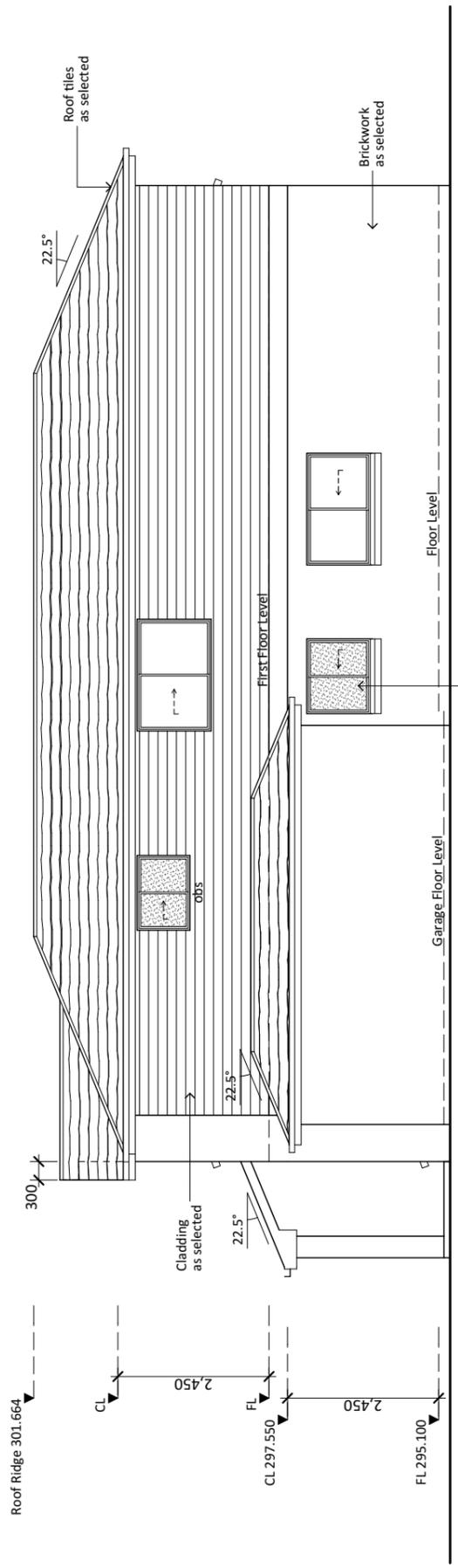
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Side Elevation Unit 11
 1:100



Side Elevation Unit 12
 1:100



Side Elevation Unit 12
 1:100

Legend:
 ACU - Air Conditioning Unit
 AJ - Articulation Joint
 CL - Ceiling Level
 FGL - Finish Ground Line
 FL - Floor Level
 HWS - Hot Water System
 NGL - Natural Ground Line
 OBS - Obscure
 RW - Retaining Wall

Client Approval: _____ Date: _____

Client: **DICKINSON**
 PROPERTY GROUP

Job: **Multi Dwelling Residence**

LOT: 69 & 70 DP: -
 Carlton Road, Thirlmere

Drawing: **Elevations Units 8-12**

Scale: _____ Date: **14-06-17**

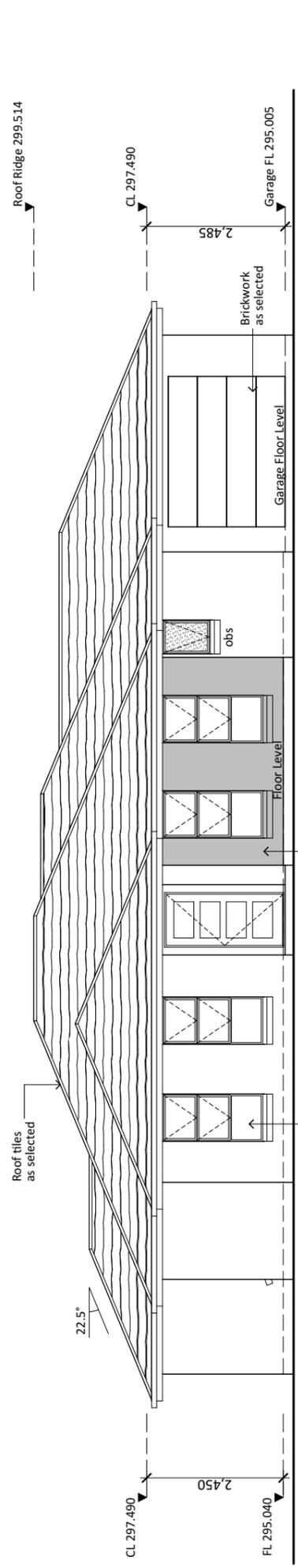
Drawing No: **14085-9** Sheet: **28/34** Issue: **H**

House Design: Custom

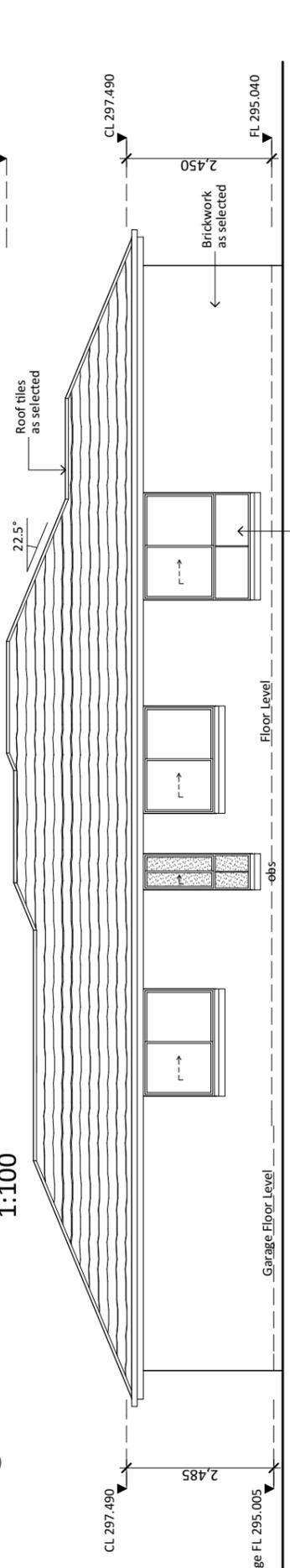


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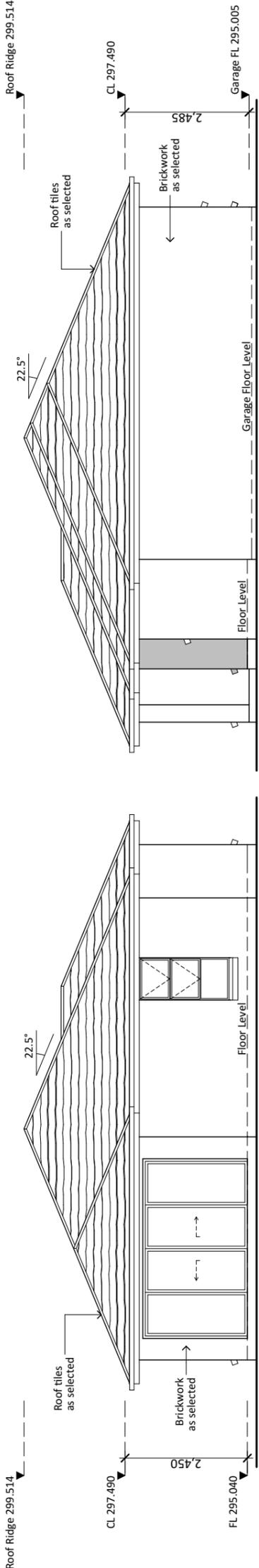
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Front Elevation Unit 13
1:100

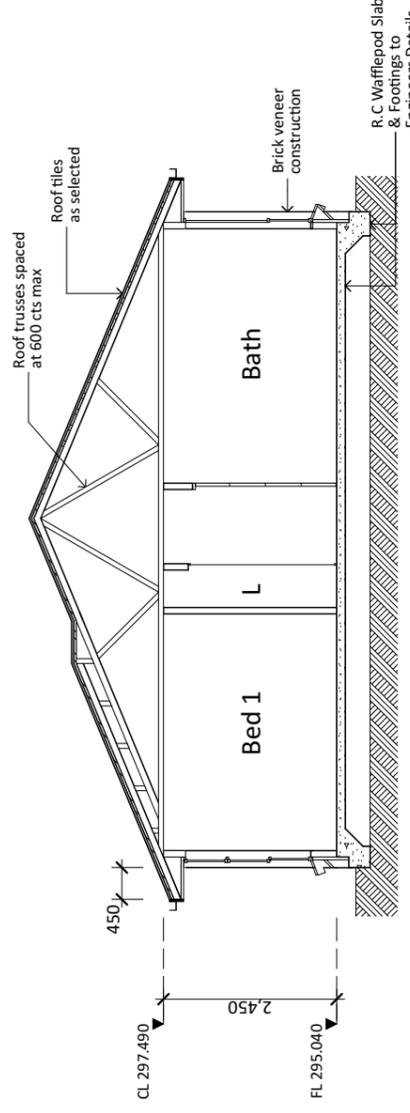


Rear Elevation Unit 13
1:100



Side Elevation Unit 13
1:100

Side Elevation Unit 13
1:100



Section H-H
1:100

Generic Sections for units 13 & 14

Legend:

ACU	- Air Conditioning Unit
AJ	- Articulation Joint
CL	- Ceiling Level
FGL	- Finish Ground Line
FL	- Floor Level
HWS	- Hot Water System
NGL	- Natural Ground Line
OBS	- Obscure
RW	- Retaining Wall

Client Approval: _____ Date: _____

Client: **DICKINSON**
PROPERTY GROUP

Job: **Multi Dwelling Residence**

LOT: 69 & 70 DP: -
Carlton Road, Thirlmere

Drawing: **Elevation & Section H-H Unit 13**

Scale: _____ Date: **14-06-17**

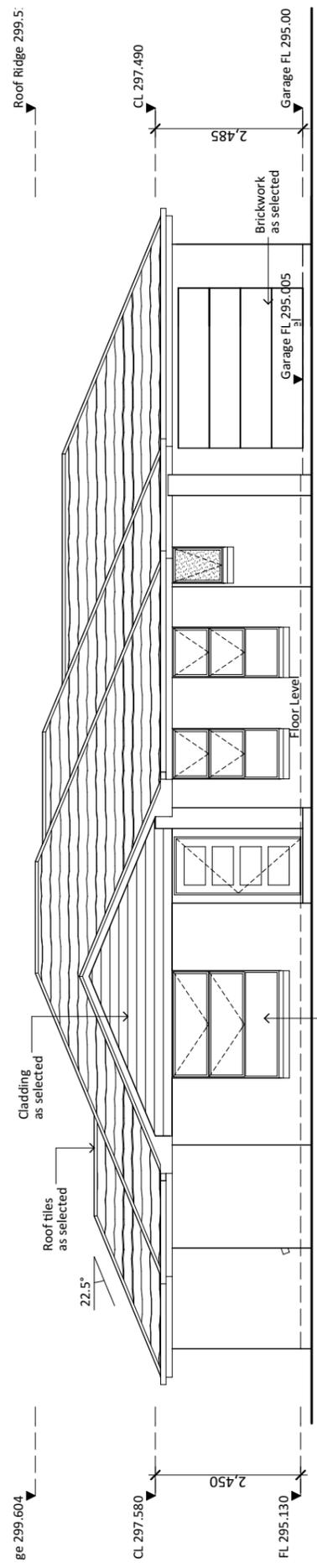
Drawing No: **14085-9** Sheet: **31/34** Issue: **H**

House Design: Custom

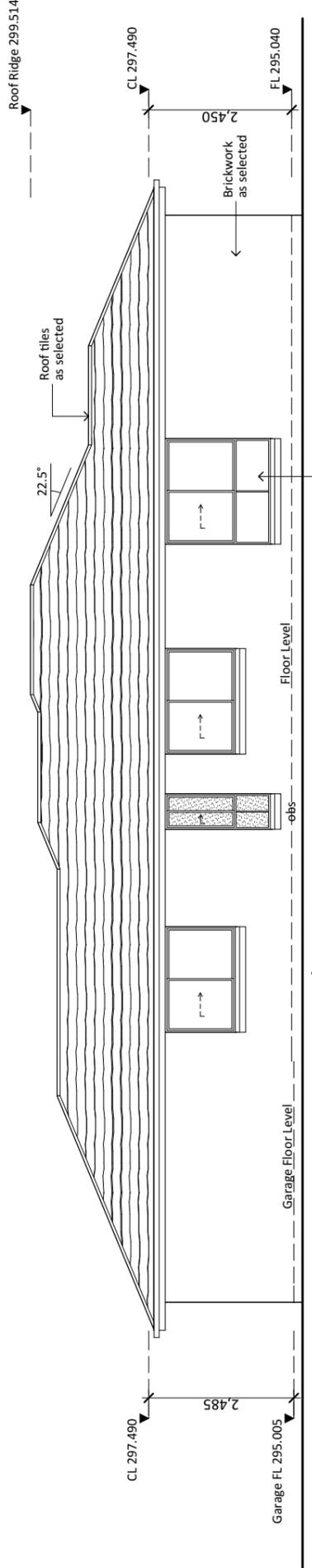


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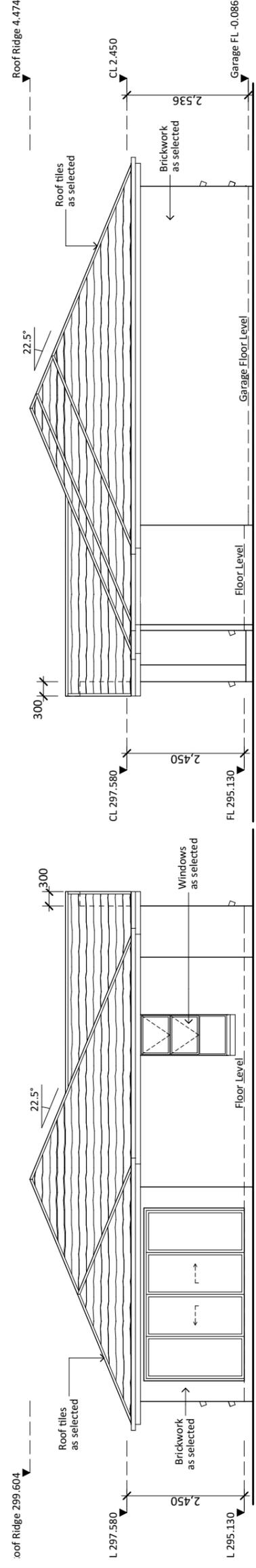
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Front Elevation Unit 14
 1:100



Rear Elevation Unit 14
 1:100



Side Elevation Unit 14
 1:100

Side Elevation Unit 14
 1:100

Legend:
 ACU - Air Conditioning Unit
 AJ - Articulation Joint
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Client Approval: _____ Date: _____

Client: **DICKINSON**
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Job: **Multi Dwelling Residence**

LOT: 69 & 70 DP: -
 Carlton Road, Thirlmere

Drawing: **Elevations Unit 14**

Scale: _____ Date: **14-06-17**

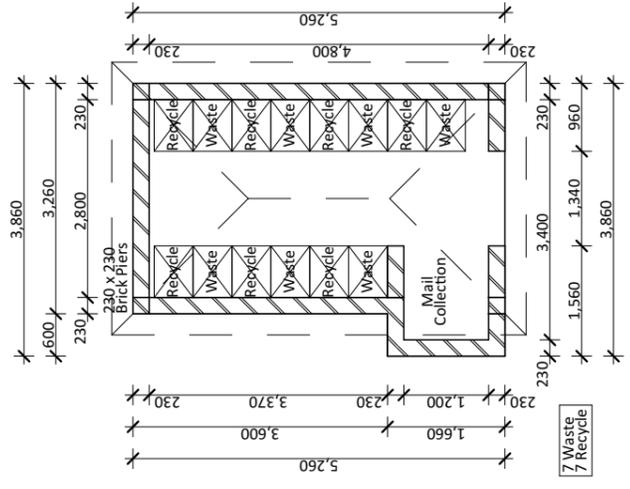
Drawing No: **14085-9** Sheet: **32/34 H** Issue: _____

House Design: Custom

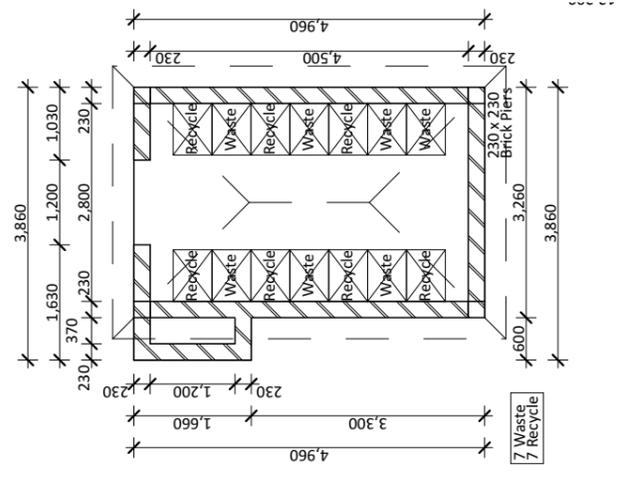
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 design and drafting

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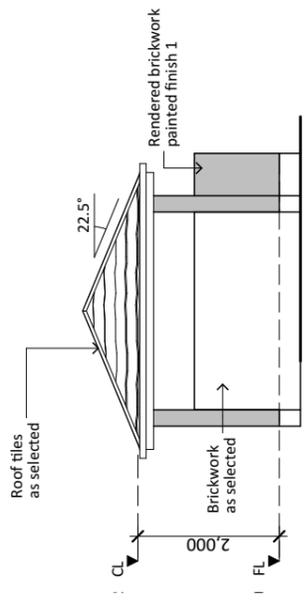
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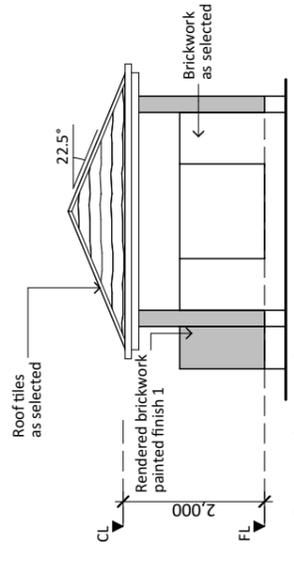
Bin Storage Units 1-7
 1:100



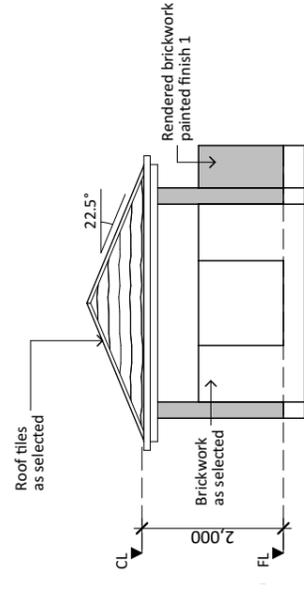
Bin Storage Units 8-14
 1:100



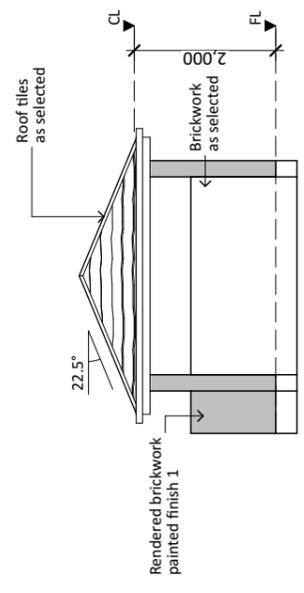
Side Elevation
 1:100



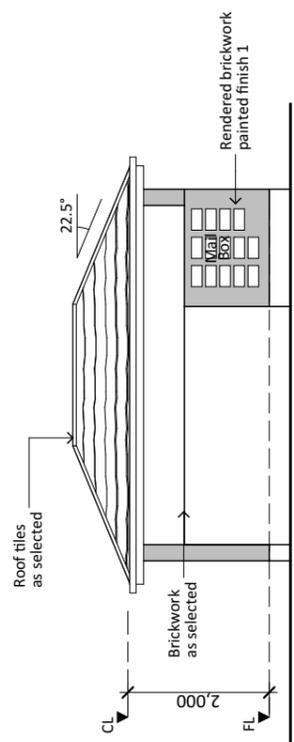
Side Elevation
 1:100



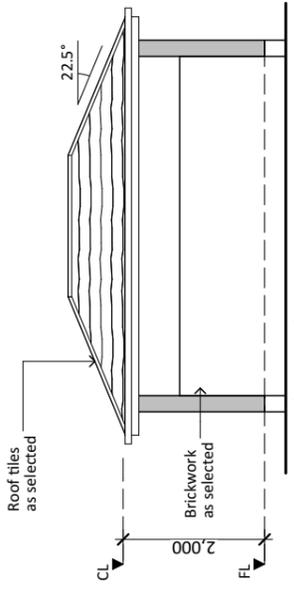
Side Elevation
 1:100



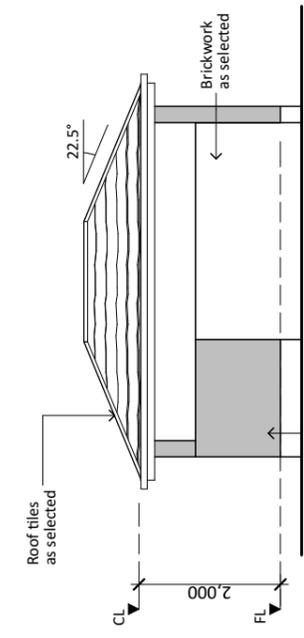
Side Elevation
 1:100



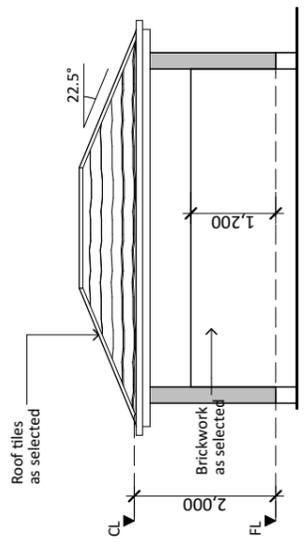
Front Elevation
 1:100



Rear Elevation
 1:100



Front Elevation
 1:100



Rear Elevation
 1:100

Client Approval: _____ Date: _____

Client: **DICKINSON**
 PROPERTY GROUP

Job: **Multi Dwelling Residence**

LOT: 69 & 70 DP: -
 Carlton Road, Thirlmere

Drawing: **Bin Storage**

Scale: _____ Date: **14-06-17**

Drawing No: **14085-9** Sheet: **33/34** Issue: **H**

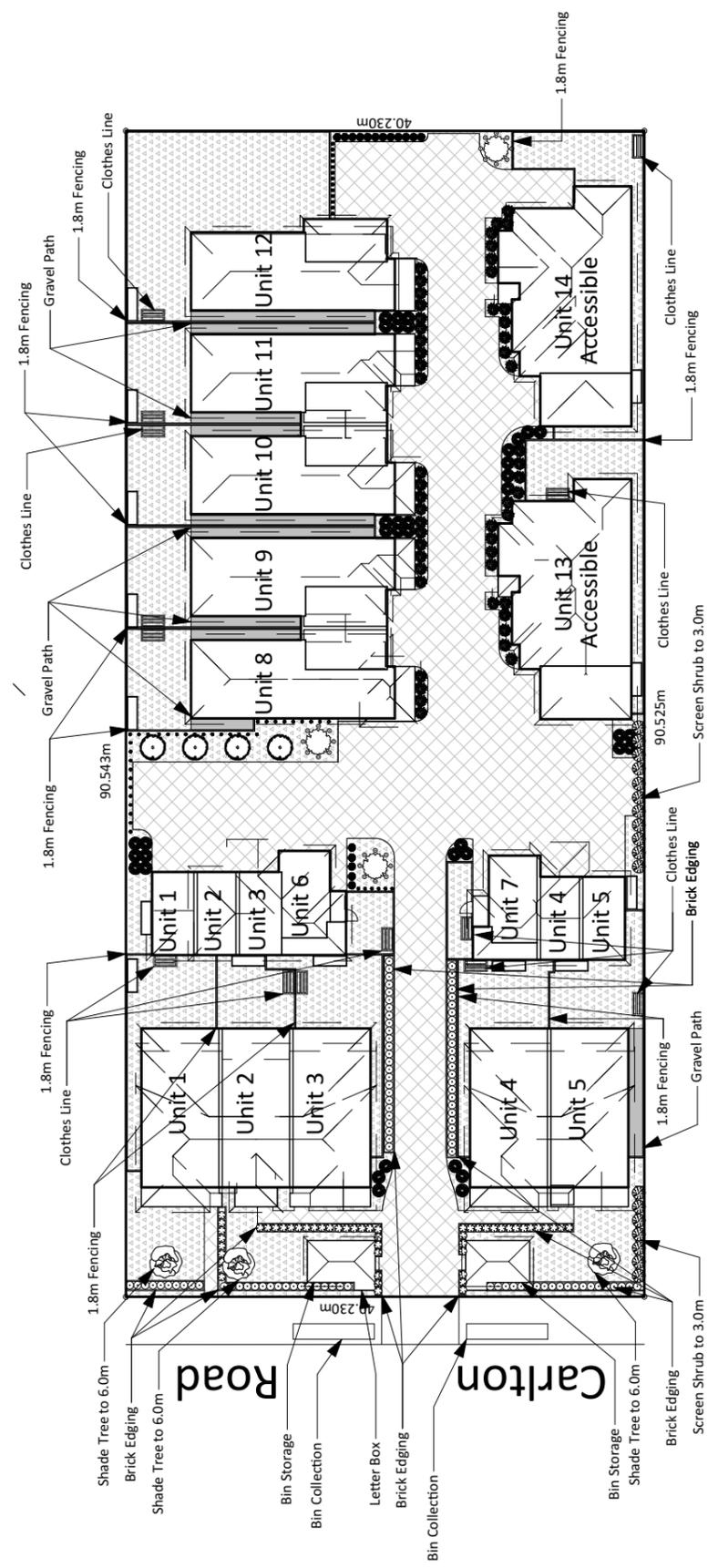
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Client Approval: _____ Date: _____
 Client: _____
 Job: **Multi Dwelling Residence**
LOT: 69 & 70 DP:-
Carlton Road, Thirlmere
 Drawing: **Landscape Plan**
 Scale: **1:500** Date: **14-06-17**
 Drawing No: **14085-9** Sheet: **34/34** Issue: **H**
 House Design: Custom

ccurate
 design and drafting
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Landscape Plan
 1:500

Lot 69 & 70
 3642.17m²
 DP: -

Key
 Turf
 Concrete driveway (plain colour)
 Decorative pebbles

Key	Species	Pot	Height	Native	Quantity
	Trachelospermum 'jasminoides'	200mm	0.4m	No	38
	Syzgium 'cascade'	200mm	3.0m	Yes	18
	Syzgium 'Royal Flame'	200mm	2.0m	Yes	17
	Syzgium 'Macarthur'	200mm	2.0m	Yes	53
	Westringia 'Zena'	200mm	1.0m	Yes	97
	Lomandra 'Tanika'	150mm	0.7m	Yes	52
	Dianella 'Tas Red'	150mm	0.6m	Yes	24
	Liriope 'Evergreen Giant'	150mm	0.3m	No	54

Key	Species	Pot	Height	Native	Quantity
	Acmenia smithii 'Minor'	25ltr	6.0m	Yes	3
	Pyrus callaryana 'Capitol'	25ltr	9.0m	No	3
	Lagarstromia indica	25ltr	5.0m	No	4



PE2 Attachments

1. Letter of Offer
2. Planning Agreement for Execution

Monday 18 September 2017

PE2 – Planning Agreement for Maintenance Contribution – 20,
30, 40 60 and 61 Marion Street, Thirlmere



Precise Planning

Planning | Development | Management

16 June 2016
Our Ref: 1281

The General Manager
Wollondilly Council
PO Box 21
PICTON NSW 2571

Dear Sir

DA 560/2015 – Marion Street Thirlmere

I refer to the above matter and note Council has requested a revised letter of offer, which notes additional items to be included in a future VPA for maintenance of the proposed bioretention basin.

The offer from the landowners is as follows:

- 1) To dedicate the land identified on the plan as lot "502" to Council as a drainage reserve (it is accepted that the dedication will form a part of the VPA);
- 2) To construct, subject to the issuing of a Construction Certificate, the proposed bioretention basin, generally in accordance with the concept stormwater management plan prepared by Martens and Associates, the conditions of consent and Council's Construction Specifications (it is accepted this construction will be a requirement of the development consent and therefore will not be contained in the VPA);
- 3) To contribute to Council, by way of a Voluntary Planning Agreement (VPA), a contribution toward the cost of maintenance of the bioretention basin, in the amount of \$207,550. This amount will be contributed to Council on the basis that it assumes maintenance of the bioretention pond from the time of payment. The contribution amount will be indexed to CPI only till the time of payment (that is, not indexed for any time beyond the payment date). The contribution amount is based on a figure of \$5,930/year for 35 years;
- 4) The VPA will specify that the contribution is to be paid prior to the issue of the subdivision certificate;
- 5) The VPA will address the mandatory requirements of the *Environmental Planning & Assessment Act 1979 (EPA Act)*;
- 6) The VPA will contain a dispute resolution clause;

P: (02) 9967 0500
E: jeff@deepriver.com.au
W: preciseplanning.com.au
A: 152 Sailors Bay Road Northbridge NSW 2063
P: PO Box 426 Northbridge NSW 1560

- 7) The proponents accept that there will be no offset for future developer contributions, payable under s94 or 94A of the EPA Act;
- 8) The proponents agree to pay Council's reasonable costs in reviewing and establishing the VPA, but do not offer to pay for Council seeking advice that it considers arises as a consequence of the VPA;
- 9) The proponents agree that the existence of the VPA will be registered on the title to each lot involved in the VPA.
- 10) The proponents agree that a security clause will be included in the VPA, enabling Council to compulsorily acquire the land for \$1.00 in the event of a breach of the VPA.

The offer contained in this letter is made pursuant to S93I(3)(a) EPA Act.

Yours faithfully

PRECISE PLANNING



Jeff Bulfin



Precise Planning

Planning | Development | Management

VOLUNTARY PLANNING AGREEMENT

Under s 93F of the *Environmental Planning and Assessment Act 1979*

WOLLONDILLY SHIRE COUNCIL

KEVIN MORRIS

DAVID GREENE PROPERTIES PTY LTD ACN 161 227
265 AS TRUSTEE FOR THE GREENE FAMILY TRUST
ABN 15301482605

PHILLIP LEONARD & LEONIE PATRICIA TURNER

FOCOPU PTY LTD ACN 003 679 203 AS TRUSTEE
FOR THE MALLAM FAMILY TRUST ABN 40479359042

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VOLUNTARY PLANNING AGREEMENT

This deed is dated

2017

Parties

Name	Wollondilly Shire Council ABN 93 723 245 808	
Short form name	<i>Council</i>	
Notice details	Post/by hand	PO Box 21 Picton NSW 2571
	Email	council@wollondilly.nsw.gov.au
	Attention	General Manager
Name	Kevin Morris	
Short form name	<i>Morris</i>	
Notice details	Post/by hand	395 Thirlmere Way Thirlmere NSW 2572
	Email	N/A
	Attention	Kevin Morris
Name	David Greene Properties Pty Ltd ACN 161 227 265 as trustee for the Greene Family Trust ABN 15301482605	
Short form name	<i>Greene</i>	
Notice details	Post/by hand	65 Jarvis Street Thirlmere NSW 2572
	Email	david@awpm.com.au
	Attention	David Greene

Name	Phillip Leonard & Leonie Patricia Turner	
Short form name	<i>Turner</i>	
Notice details	Post/by hand	40 Marion Street Thirlmere NSW 2572
	Email	leoniepatricia@live.com.au
	Attention	Phillip and Leonie Turner

Name	Focopu Pty Ltd ACN 003 679 203 as trustee for the Mallam Family Trust ABN 40479359042	
Short form name	<i>Focopu</i>	
Notice details	Post/by hand	63 Kangaroo Point Road Kangaroo Point NSW 2224
	Email	mallamr@bigpond.com
	Attention	Ross Mallam

Background

- A** Morris, Greene, Turner and Focopu (**the Developer**) are the owners of Lots 55, 57, 59 and 61 in Deposited Plan 21549 (the **Land**) as referred to in Schedule 1.
- B** The Land is located within the Wollondilly Shire local government area.
- C** The Developer lodged Development Application No. 10.2015.560.1 with the Council on 3 August 2015 for the construction of a bio-retention basin and related infrastructure works, the dedication of the Dedication Land on which the bio-retention basin is to be located to the Council for purpose of a drainage reserve, demolition of buildings and associated works.
- D** On 16 June 2016, the applicant for the Development Application issued a letter of offer to the Council setting out the terms of a future voluntary planning agreement.
- E** On 30 June 2016, the Council granted development consent to the Development Application. The consent was modified on 11 November 2016. Condition No. 3(1) of the modified consent requires that a draft voluntary planning agreement reflecting the applicant's 16 June 2016 letter be provided to the Council in a form suitable for public exhibition.
- F** As part of the Subdivision DA, the Developer has lodged DA 10.2014.153 for a 21 lot subdivision of Lot 59 DP 21549, DA 10.2014.159 for a 22 lot subdivision of Lot 61 DP 21549 and DA 10.2015.197 for a 23 lot subdivision of Lot 57 DP 21549.

- G** The Dedication Land is to be created at a future time as exempt development pursuant to clause 2.75 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
- H** Following the dedication of the Dedication Land to the Council, the Council will be responsible for the maintenance and upkeep of the Bio-Retention Basin within the Dedication Land.
- I** The estimated cost for the Council to maintain the Bio-Retention Basin within the Dedication Land is \$207,550.00 over a 35 year period.
- J** This Deed provides for the Developer paying the Council \$207,550 prior to the dedication of Dedication Land as a contribution towards the maintenance and upkeep of the Bio-Retention Basin within the Dedication Land.
- K** The Developer is not obliged to pay the Council any further contribution for the maintenance and upkeep of the Bio-Retention Basin and related infrastructure within the Dedication Land either at the conclusion of a 35 year period from the dedication of the Dedication Land to the Council or at any earlier time within which the Council exhausts the \$207,550.00 contribution for maintenance costs.

Part 1 – Preliminary

1 Definitions and interpretation

1.1 Definitions

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

Authority means the Commonwealth of Australia, the State of New Wales, or any department or agency of the Commonwealth of Australia or the State of New South Wales or any public authority within the meaning of the Act, and any court or tribunal.

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

Bio-Retention Basin means the bio-retention basin described in the Development Application and includes related infrastructure works also described in the Development Application.

Claim means any allegation, action, demand, cause of action, suit, proceeding, judgement, debt, damage, loss, cost or expense against any person, or

- (a) liability howsoever arising and whether present or future, fixed or
- (b) unascertained, actual or contingent whether at law, in equity, under statute or
- (c) otherwise.

Council means Wollondilly Shire Council.

CPI means the *Consumer Price Index (All Groups – Sydney)* published by the Australian Bureau of Statistics.

Dedication Land means the part of the Land to be created as proposed lot 502 shown on the plan in Schedule 3.

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 purpose of this Deed.

Developer means Kevin Morris (**Morris**), David Greene Properties Pty Ltd ACN 161 227 265 as trustee for the Greene Family Trust ABN 15301482605 (**Greene**), Phillip Leonard & Leonie Patricia Turner (**Turner**) and Focopu Pty Ltd ACN 003 679 203 as trustee for the Mallam Family Trust ABN 40479359042 (**Focopu**).

Development means the development the subject of the Development Application and the Subdivision DA.

Development Application means Development Application No. 10.2015.560.1 lodged with the Council on 3 August 2015.

Development Consent means a development consent or project approval within the meaning of the Act.

Development Contribution means any of the following, or any combination of them, to be used for, or applied towards, a public purpose:

- (a) a monetary contribution,
- (b) the dedication of land free of cost,
- (c) the carrying out of work, and
- (d) the provision of any other material public benefit.

Dispute means a dispute or difference between the Parties under or in relation to this Deed.

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.

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 by the Parties, not being a lot created by a subdivision of the Land:

- (a) that is to be dedicated or otherwise transferred to the Council, or
- (b) on which is situated a dwelling-house that was in existence on the date of this Agreement.

Land means the land that is, or was prior to its subdivision, described in Schedule 1, and bounded by a red line on the plan in Schedule 2.

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

Rectification Notice means a notice in writing:

- (a) identifying the nature and extent of a Defect,
- (b) specifying the works or actions that are required to Rectify the Defect,

(c) specifying the date by which or the period within which the Defect is to be rectified.

Rectify means rectify, remedy or correct.

Registrar General means the Registrar General within the meaning of the Real Property Act 1900 (NSW).

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

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

Subdivision Certificate has the same meaning as in the Act.

Subdivision DA means one or more development applications, within the meaning of the Act, for the subdivision of the Land to create lots for residential purposes.

Work means the physical result of any building, engineering or construction work in, on, over or under land.

1.2 Interpretation

- (a) Unless the context otherwise requires, a reference to:
- (i) Headings are inserted for convenience only and do not affect the interpretation of this Deed.
 - (ii) A reference to a business day means a day, other than a Saturday or Sunday, on which banks are open for business generally in Sydney.
 - (iii) If the day on which something is to be done under this Deed is not a business day, then it must be done on the next business day.
 - (iv) A reference to dollars or \$ means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.
 - (v) A reference in this Deed to a \$ value relating to a Development Contribution is a reference to the value exclusive of GST.
 - (vi) A reference to any legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
 - (vii) A reference to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
 - (viii) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Deed.
 - (ix) A reference to a person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.

- (x) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form for that word or phrase has a corresponding meaning.
- (xi) The singular includes the plural, and the plural includes the singular.
- (xii) References to the word 'include' or 'including' are to be construed without limitation.
- (xiii) A reference to a Party to this Deed includes a reference to the Party's employees, agents and contractors, and the Party's successors and assigns and includes any third party undertaking the Development for or on behalf of, or in conjunction with the Party.
- (xiv) Any schedules, appendices and attachments form part of this Deed.

2 Status of Deed

This Deed is a planning agreement within the meaning of s93F(1) of the Act.

3 Commencement of Deed

- 3.1 This Deed commences on the date on which it has been executed by all Parties.
- 3.2 The Party who executes this Deed last is to insert the date they executed this Deed on the front page and provide a copy of the fully executed and dated Deed to any other person who is a Party.

4 Application of Deed

- 4.1 This Deed applies to the Land and to the Development Application.
- 4.2 The Parties acknowledge that the Development Contributions required to be made under this Deed are to meet the expected demand for public facilities arising from the Development.

5 Commencement of Development Contributions Obligations

- 5.1 The Developer is under no obligation to make the Development Contributions provided for in this Deed unless and until a Development Consent is granted with respect to any part of the Development

6 Part Performance of Deed

- 6.1 The Council is not to raise any objection, requisition or claim, or impose any requirements beyond that provided for in this Deed in relation to any obligation imposed on the Developer under this Deed that had been

lawfully performed, whether in whole or in part, on the date this Deed commenced.

7 Further Agreements relating to this Deed

- 7.1 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.

8 Application of s.94, s.94A and s.94EF of the Act to the Development

- 8.1 This Deed does not exclude the application of s 94, s94A or s.94EF of the Act to the Development.
- 8.2 The Council will not take into consideration the benefits it receives under this agreement when determining a development contribution under section 94.

9 Provision of Development Contributions

- 9.1 The Developer is to make the following Development Contributions to the Council in accordance with this Deed:
- (a) dedication of the Dedication Land to the Council free of cost; and
 - (b) payment to the Council of \$207,550.00, indexed in accordance with clause 9.3 as a contribution towards the maintenance and upkeep by the Council of the bio-retention basin and related infrastructure on the Dedication Land.
- 9.2 The Dedication Land is to be dedicated to Council within 14 days of completion of the Bio-Retention Basin and before any Subdivision Certificate that creates a Final Lot in the Development the subject of a Development Consent to the Subdivision DA is issued.
- 9.3 The monetary Development Contributions required to be paid by the Developer are to be paid prior to the issuing of the first Subdivision Certificate that creates a Final Lot in the Development the subject of a Development Consent to the Subdivision DA.
- 9.4 The payment referred to in clause 9.1(b) is to be indexed from the date of this Deed until the date of payment in accordance with CPI.
- 9.5 The Council will use its best endeavours to apply each Development Contribution made by the Developer under this Deed towards the public purpose for which it is made and otherwise in accordance with this Deed.

Part 2 – Provisions relating to Dedication of Land

10 Procedures relating to the dedication of Land

- 10.1 A Development Contribution comprising the dedication of the Dedication Land is made for the purposes of this Deed when:
- (a) a deposited plan is registered in the register of plans held with the Registrar General that creates the Dedication Land as a drainage reserve under the *Local Government Act 1993* (NSW),
- or
- (b) the Council is given an instrument in registrable form under the *Real Property Act 1900* that is effective to transfer the title to the Dedication Land to the Council when registered.
- 10.2 For the purposes of clause 10.1(b):
- (a) the Developer is to give the Council, for execution by the Council as transferee, an instrument of transfer under the *Real Property Act 1900* relating to the Land to be dedicated, and
 - (b) within 21 days of receiving it from the Developer, the Council is to execute it and return it to the Developer, and
 - (c) within 7 days of receiving it from the Council (properly executed), the Developer is to lodge it for registration with the Registrar General, and
 - (d) the Developer is to do all things reasonably necessary to enable it to be registered, and
 - (e) the Developer is to do all things reasonably necessary to enable the certificate of title for the Land dedicated which identifies the Council as the registered proprietor of that Land, to be provided to the Council at no cost to the Council.
- 10.3 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.
- 10.4 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.
- 10.5 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 10.1 (b) not later than 7 days after the Work is completed for the purposes of this Deed.

Part 3 –Maintenance of Work Pre Dedication

11 Carrying out of Work

- 11.1 Without limiting any other provision of this Deed, the Bio-Retention Basin is to be carried out in accordance with the Development Consent for the Development Application, any other applicable law and this Deed to the extent that it is not inconsistent with the Development Consent for the Development Application and any law.

Note: The construction of the Bio-Retention Basin forms part of the Development Application and must take place as part of the Development Consent for the Development Application. The provisions of Part 3 are supplementary to obligations to be fulfilled in satisfaction of the Development Consent for the Development Application.

- 11.2 For the avoidance of doubt, the Council becomes the owner of the Bio-Retention Basin upon the dedication of the Dedication Land

12 Variation to Work

- 12.1 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.
- 12.2 Without limiting clause 12.1, 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.
- 12.3 The Council is not to unreasonably delay or withhold its approval to a request made by the Developer under clause 12.2.

13 Maintenance of Work

- 13.1 Prior to the dedication to the Council of the Dedication Land, the Developer owns the Bio-Retention Basin works, must maintain the Bio-Retention Basin in a safe and functional manner consistent with its design and all Approvals and bears all risk and responsibility for the works.
- 13.2 If as a result of the Developer's maintenance obligations under this clause, the Developer has cause to amend the design of the Bio-Retention Basin in any way, it must seek the Council's prior approval for that amendment and obtain any necessary Approvals.

14 Access for Inspections

- 14.1 The Developer must permit the Council, its officers, employees, agents and contractors to enter the Dedication Land or any other land at any time prior to dedication, upon giving reasonable prior notice, to inspect, examine or test any structure within the Dedication Land or to remedy any

breach by the Developer of its obligations under this Deed relating to the Work.

15 Protection of people, property & utilities

- 15.1 The Developer is to ensure to the fullest extent reasonably practicable in relation to the performance of its obligations under this Deed that:
- (a) all necessary measures are taken to protect people and property,
 - (b) unnecessary interference with the passage of people and vehicles is avoided, and
 - (c) nuisances and unreasonable noise and disturbances are prevented.
- 15.2 Without limiting clause 15.1, the Developer is not to obstruct, interfere with, impair or damage any public road, public footpath, public cycleway or other public thoroughfare, or any pipe, conduit, drain, watercourse or other public utility or service on any land except as authorised in writing by the Council or any relevant Authority.

16 Completion of Work

- 16.1 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 or any Stage.
- 16.2 The Council is to inspect the Work the subject of the notice referred to in clause 16.1 within 14 days of the date specified in the notice for completion of the Work.
- 16.3 Work required to be carried out by the Developer under this Deed, is completed for the purposes of this Deed when the Council, acting reasonably, gives a written notice to the Developer to that effect.
- 16.4 Before the Council gives the Developer a notice referred to in clause 16.3, it may give the Developer a written direction to complete, rectify or repair any specified part of the Work to the reasonable satisfaction of the Council.
- 16.5 The Developer, at its own cost, is to promptly comply with a direction referred to in clause 16.4.

17 Rectification of defects

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

18 Works-As-Executed-Plan

- 18.1 No later than 60 days after Work is completed for the purposes of this Deed, the Developer is to submit to the Council a full works-as-executed-plan in respect of the Work.
- 18.2 The Developer, being the copyright owner in the plan referred to in clause 18.1, gives the Council a non-exclusive licence to use the copyright in the plans for the purposes of this Deed.

Part 4 –Maintenance of Work Post Dedication

19 Maintenance of Work Post Dedication

- 19.1 The parties acknowledge that following the dedication of the Dedication Land to the Council, the Council as the owner of that land and the Bio-Retention Basin will be responsible at law for the maintenance and upkeep of the Bio-Retention Basin within the Dedication Land.
- 19.2 The Developer is not obliged to pay the Council any further contribution for the maintenance and upkeep of the Bio-Retention Basin and related infrastructure within the Dedication Land either at the conclusion of a 35 year period from the dedication of the Dedication Land to the Council or at any earlier time within which the Council exhausts the \$207,550.00 contribution for maintenance costs.

Part 5 – Security, Enforcement and Disputes

20 Security for the Dedication of Land

- 20.1 Subject to clause 22, if the Developer does not dedicate the Dedication Land, or any part thereof, at the time at which it is required to be dedicated, the Developer consents to the Council compulsorily acquiring that land for compensation in the amount of \$1.00 without having to follow the pre-acquisition procedures under the Just Terms Act.
- 20.2 The Council is to only acquire land pursuant to clause 20.1 if it considers it reasonable to do so having regard to the circumstances surrounding the failure by the Developer to dedicate the Dedication Land.
- 20.3 Clause 20.1 constitutes an agreement for the purposes of section 30 of the Just Terms Act.
- 20.4 If, as a result of an acquisition referred to in clause 20.1, the Council is required to pay compensation to any person other than the Developer, the Developer is to reimburse the Council for that amount upon a written request being made by the Council.
- 20.5 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 that is required to be dedicated under this Deed.

- 20.6 The Developer is to promptly do all things necessary, and consent to the Council doing all things necessary, to give effect to this clause 20, including without limitation:
- (a) signing any documents or forms;
 - (b) giving land owner's consent for the lodgement of any Development Application;
 - (c) producing certificates of title to the Registrar-General under the *Real Property Act 1900* (NSW); and
 - (d) paying the Council's costs arising from this clause 20.
- 20.7 In this clause, Just Terms Act means the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW).

21 No Security for Monetary Contribution

- 21.1 No security is required for the monetary contribution required by clause 9.1(b) of this Deed if the monetary contribution is paid in accordance with this Deed at the time required by this Deed.

22 Breach of other obligations

- 22.1 This clause applies to a breach of an obligation under this Deed by the Developer.
- 22.2 If the Council reasonably considers that the Developer is in breach of an obligation under this Deed, it may give a written notice to the Developer:
- (a) specifying the nature and extent of the breach,
 - (b) requiring the Developer to:
 - (i) rectify the breach if it reasonably considers it is capable of rectification, or
 - (ii) 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,
 - (c) specifying the period within which the breach is to be rectified or compensation paid, being a period that is reasonable in the circumstances.
- 22.3 If the Developer fails to comply with a notice given under clause 22.2 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.
- 22.4 Any costs incurred by the Council in remedying a breach in accordance with clause 22.3 may be recovered by the Council as a debt due in a court of competent jurisdiction.

- 22.5 For the purpose of clause 22.4, the Council's costs of remedying a breach the subject of a notice given under clause 22.1 include, but are not limited to:
- (a) the costs of the Council's servants, agents and contractors reasonably incurred for that purpose,
 - (b) all fees and charges necessarily or reasonably incurred by the Council in remedying the breach, and
 - (c) all legal costs and expenses reasonably incurred by the Council, by reason of the breach.

23 Enforcement in court

- 23.1 The Parties may enforce this Deed in any court of competent jurisdiction.
- 23.2 For the avoidance of doubt, nothing in this Deed prevents:
- (a) 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; and/or
 - (b) 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.

24 Dispute resolution – expert determination

- 24.1 This clause applies to a Dispute between any of the Parties to this Deed concerning a matter arising in connection with this Deed that can be determined by an appropriately qualified expert if:
- (a) the Parties to the Dispute agree that it can be so determined, or
 - (b) the Chief Executive Officer of the professional body that represents persons who appear to have the relevant expertise to determine the Dispute gives a written opinion that the Dispute can be determined by a member of that body.
- 24.2 A Dispute to which this clause applies is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- 24.3 If a notice is given under clause 24.2, the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- 24.4 If the Dispute is not resolved within a further 28 days, the Dispute is to be referred to the President of the NSW Law Society to appoint an expert for expert determination.
- 24.5 The expert determination is binding on the Parties except in the case of fraud or misfeasance by the expert.
- 24.6 Each Party is to bear its own costs arising from or in connection with the appointment of the expert and the expert determination.
- 24.7 The Parties are to share equally the costs of the President, the expert, and the expert determination.

25 Dispute resolution - mediation

- 25.1 This clause applies to any Dispute arising in connection with this Deed other than a Dispute to which clause 24 applies.
- 25.2 Such a Dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- 25.3 The Parties are then to meet within 14 days of the notice to try to resolve the Dispute.
- 25.4 If the Dispute is not resolved within a further 28 days, the Parties must mediate the Dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time, and must request the President of the Law Society, or the President's nominee, to select a mediator.
- 25.5 If the Dispute is not resolved by mediation within a further 28 days, or any longer period that may be needed to complete any mediation process which has been started, then the Parties may exercise their legal rights in relation to the Dispute, including by taking legal proceedings in a court of competent jurisdiction in New South Wales.

26 Registration of this Deed

- 26.1 The Parties agree to register this Deed for the purposes of s93H(1) of the Act.
- 26.2 By or before the commencement of this Deed, the Developer is to deliver to the Council in registrable form:
- (a) 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 an instrument, and
 - (b) the written irrevocable consent of each person referred to in s93H(1) of the Act to that registration.
- 26.3 The Developer is to do such other things as are reasonably necessary to enable registration of this Deed to occur.
- 26.4 The Parties are to do such things as are reasonably necessary to remove any notation relating to this Deed from the title to the Land:
- (a) in so far as the part of the Land concerned is a Final Lot,
 - (b) in relation to any other part of the Land, once the Developer has completed its obligations under this Deed to the reasonable satisfaction of the Council or this Deed is terminated or otherwise comes to an end for any other reason.

27 Assignment, Sale of Land etc.

- 27.1 Unless the preconditions specified in clause 27.2 are satisfied, the Developer must not:

- (a) transfer the Land or any part of it, other than a Final Lot, to any person; or
- (b) assign its rights or obligations under this Deed, or novate this Deed, to any person.

27.2 The preconditions to be satisfied under clause 27.1 are:

- (a) the Developer has, at no cost to the Council procured the execution by the person to whom the Developer proposes to sell or transfer the Land or to whom the Developer's rights or obligations under this Deed are to be assigned or novated (Third Party), of an agreement in favour of the Council to the effect that the Third Party is bound as if a party to this Deed; and
- (b) the Developer is not in breach of this Deed.

28 Discharge and Termination of this Deed

28.1 This Deed will be discharged upon the Developer satisfying all of the obligations imposed on it under this Deed.

28.2 This Deed may be rescinded and therefore terminated by either Party by written notice to the other Party to that effect upon:

- (a) all Development Consent/s for the Subdivision DA lapsing within the meaning of s.95 of the Act, being revoked under s.96A of the Act, being surrendered under s.104A of the Act except if any Development the subject of the Development Consent has been carried out, or being declared by a Court to be invalid under s.123 of the Act, or any combination thereof, such that no Development Consent for the Subdivision DA remained.

29 Force Majeure

29.1 In this clause, Force Majeure Event means any physical or material restraint beyond the reasonable control of a Party claiming the Force Majeure Event.

29.2 If a Party is unable by reason of a Force Majeure Event to carry out wholly or partly its obligations under this Deed, it must:

- (a) give to the other Party prompt notice of the Force Majeure Event with reasonably detailed particulars of it, and
- (b) suggest a reasonable alternative method, if any, of satisfying its obligations under this Deed.

29.3 If a Party is unable to satisfy its obligations under this Deed by an alternative method, the obligations of the Parties so far as they are affected by the Force Majeure Event are suspended during continuance of the Force Majeure Event and any further period as may be reasonable in the circumstances.

29.4 The Party giving notice under this clause must use all reasonable effort and diligence to remove the Force Majeure Event or ameliorate its effects as quickly as practicable.

- 29.5 If the Parties are unable to agree on the existence of a Force Majeure Event or the period during which the obligations of the Parties are suspended during the continuance of the Force Majeure Event, then the dispute resolution clauses apply.

30 Obligation to Act in Good Faith

- 30.1 The Parties must at all times:
- (a) cooperate and use their best endeavours to professionally give effect to the rights and obligations of the Parties set out in this Deed,
 - (b) not unreasonably delay any action, approval, directions, determination or decision which is required of it,
 - (c) make decisions that are required of it in good faith and in a manner consistent with the completion of the transactions set out in this Deed, and
 - (d) be just and faithful in its activities and dealings with the other Parties.

31 Notices

- 31.1 A notice, consent, information, application or request (Notification) that must or may be given or made to a Party under this Deed must only be given or made if it is in writing and sent in one of the following ways:
- (a) delivered or posted to that Party at its address set out in the Parties section of this Deed; or
 - (b) emailed to that Party at its email address set out in the Parties section of this Deed.
- 31.2 A Party may change its address or email address by giving the other Party 3 business days' notice of the change, in which case the new address email address is treated as the address or number in the Parties section of this Deed.
- 31.3 A Notification is to be treated as given or made if it is:
- (a) delivered, when it is left at the relevant address;
 - (b) sent by post, 2 business days after it is posted;
 - (c) sent by email, and the sender does not receive a delivery failure message from the sender's internet service provider within a period of 24 hours of the email being sent.
- 31.4 If a Notification 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.

32 Approvals and consent

- 32.1 In this clause, a reference to an approval or consent does not include a reference to a Development Consent.
- 32.2 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.
- 32.3 A Party must give its reasons for giving or withholding consent or for giving consent subject to conditions.

33 Costs

- 33.1 The Developer is to pay the Council's costs of preparing, negotiating, executing and stamping this Deed and any document related to this Deed within 7 days of a written demand by the Council for such payment.

34 Entire Deed

- 34.1 This Deed contains everything to which the Parties have agreed in relation to the matters it deals with.
- 34.2 No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Deed was executed, except as permitted by law.

35 Further Acts

- 35.1 Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to effect, perfect or complete this Deed and all transactions incidental to it.

36 Power of Attorney

- 36.1 Any attorney who executes this Deed on behalf of a Party declares that it has no notice of:
- (a) the revocation or suspension of the power of attorney by the grantor, or
 - (b) the death of the grantor.

37 Governing law and jurisdiction

- 37.1 This Deed is governed by the law of New South Wales.
- 37.2 The Parties submit to the non-exclusive jurisdiction of its courts, and are not to object to the exercise of jurisdiction by those courts on any basis.

38 Joint and individual liability and benefits

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

39 No Fetter

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

40 Representations and warranties

- 40.1 The Parties represent and warrant that they have power to enter into this Deed and to comply with their obligations under the Deed, and that entry into this Deed will not result in the breach of any law.
- 40.2 Notwithstanding clause 40.1, Greene and Focopu each warrant that:
- (a) it is the sole trustee of the trust it is specified in the Parties section of this Deed to be the trustee for, and no action has been taken to remove or replace it,
 - (b) it is authorised under the trust deed of the relevant trust to enter the Deed,
 - (c) it is not in breach of the trust deed of the relevant trust, and
 - (d) it has the power under the deed constituting the relevant trust to execute and perform its obligations under this Deed and all necessary action has been taken to authorise the execution and performance of this Deed under the trust deed constituting the relevant trust.

41 Severability

- 41.1 If a clause or part of a clause can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.

- 41.2 If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part of it is to be treated as removed from this Deed, but the rest of this Deed is not affected.

42 Modification

- 42.1 No modification of this Deed has any effect unless it is in writing and signed by the Parties.

43 Waiver

- 43.1 A Party does not waive any of the other Party's obligation or breach of obligation merely by failing to do, or delaying in doing, something under this Deed.
- 43.2 A waiver by a Party is effective only if it is in writing.
- 43.3 A written waiver by a Party is effective only in relation to the particular obligation or breach for which it is given. It is not to be taken as an implied waiver of any other obligation or breach, or as an implied waiver of that obligation or breach in relation to any other occasion.

44 GST

- 44.1 In this clause:
- (a) Adjustment Note, Consideration, GST, GST Group, Margin Scheme, Money, Supply and Tax Invoice have the meaning given by the GST Law.
 - (b) GST Amount means in relation to a Taxable Supply the amount of GST payable for the Taxable Supply.
 - (c) GST Law has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.
 - (d) Input Tax Credit has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a Party includes an Input Tax Credit for an acquisition made by that Party but to which another member of the same GST Group is entitled under the GST Law.
 - (e) Taxable Supply has the meaning given by the GST Law, excluding (except where expressly agreed otherwise) a supply for which the supplier chooses to apply the Margin Scheme in working out the amount of GST on that supply.
- 44.2 Subject to clause 44.4, if GST is payable on a Taxable Supply made under, by reference to or in connection with this Deed, the Party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.
- 44.3 Clause 44.2 does not apply to the extent that the Consideration for the Taxable Supply is expressly stated in this Deed to be GST inclusive.

- 44.4 No additional amount is payable by the Council under clause 44.2 unless, and only to the extent that, the Council (acting reasonably and in accordance with the GST Law) determines that it is entitled to an Input Tax Credit for its acquisition of the Taxable Supply giving rise to the liability to pay GST.
- 44.5 If there are Supplies for Consideration which is not Consideration expressed as an amount of Money under this Deed by one Party to the other Party that are not subject to Division 82 of the *A New Tax System (Goods and Services Tax) Act 1999*, the Parties agree:
- (a) to negotiate in good faith to agree the GST inclusive market value of those Supplies before issuing Tax Invoices for those Supplies;
 - (b) that any amounts payable by the Parties in accordance with clause 44.2 (as limited by clause 44.4) to each other for those Supplies will be set off against each other to the extent that they are equivalent in amount.
- 44.6 No payment of any amount under this clause 44, and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided the recipient with a Tax Invoice or Adjustment Note as the case may be.
- 44.7 Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a Party, must exclude the amount of any Input Tax Credit entitlement of that Party in relation to the relevant cost, expense or other liability.
- 44.8 This clause continues to apply after expiration or termination of this Deed.

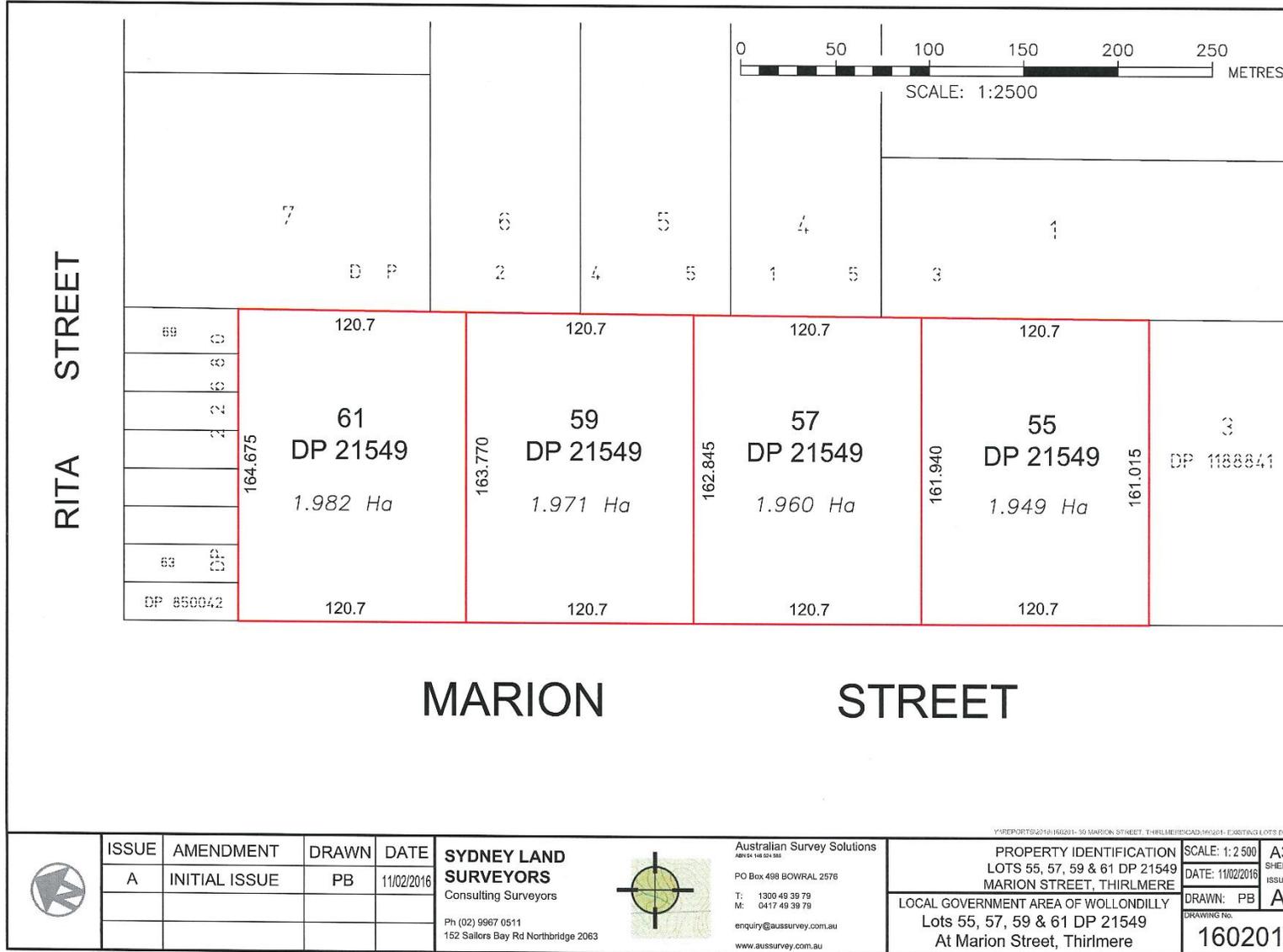
45 Explanatory Note Relating to this Deed

- 45.1 The Appendix contains the Explanatory Note relating to this Deed required by clause 25E of the Regulation.
- 45.2 Under clause 25E (7) of the Regulation, the Parties agree that the Explanatory Note in the Appendix is not to be used to assist in construing this Deed.

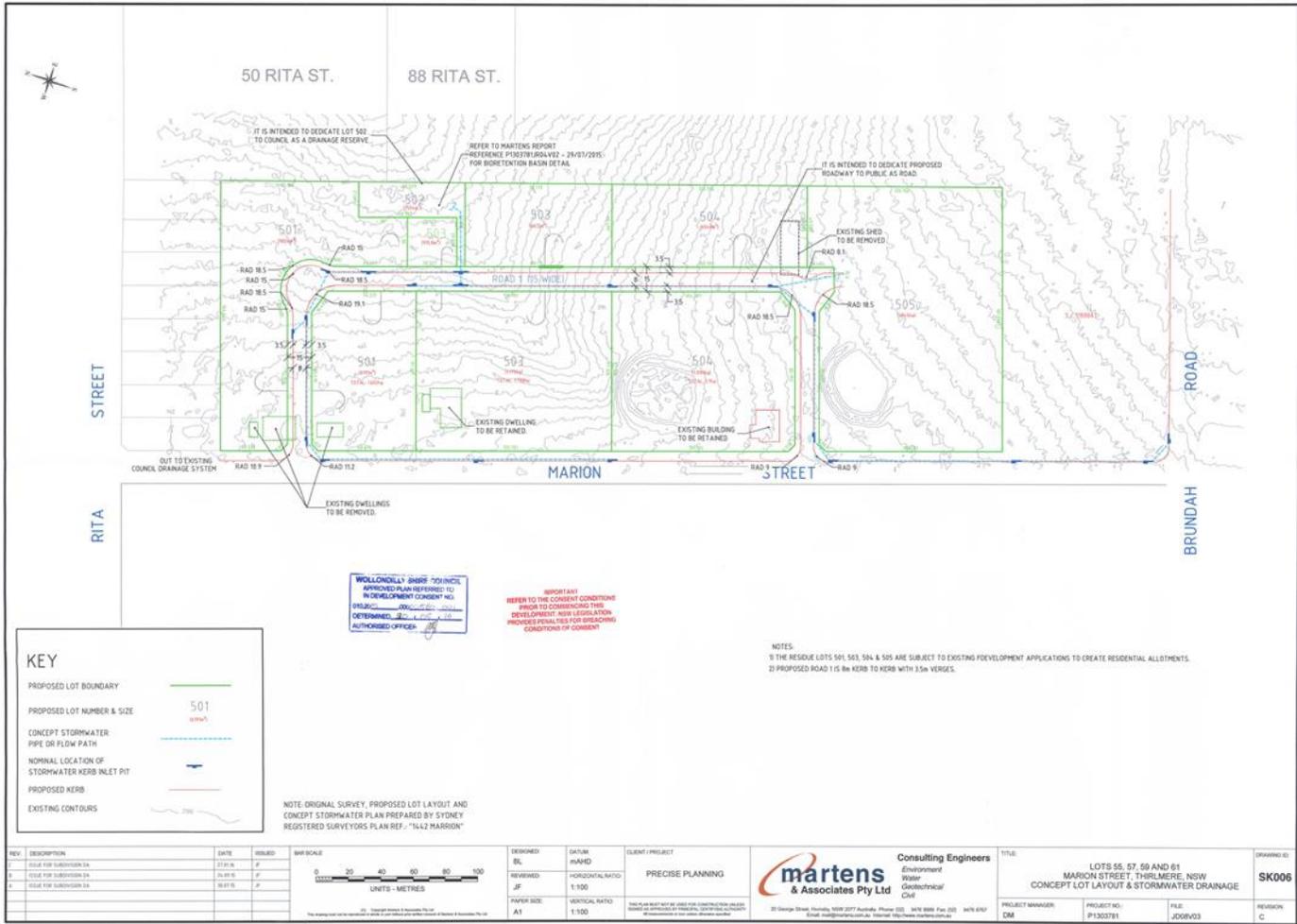
Schedule 1 Land (Clause 1.1)

Title Reference	Owner
55 / 21549	Morris
57 / 21549	Greene
59 / 21549	Turner
61 / 21549	Focopu

Schedule 2 Plan Showing the Land (Clause 1.1)



Schedule 3 Dedication Land (Clause 1.1)



Signing page(s)

Executed as a deed on behalf of **Wollondilly Shire Council** ABN 93 723 245 808

.....
Signature of General Manager

.....
Signature of witness

.....
Name of General Manager

.....
Name of witness:

Executed as a deed by Kevin Morris

.....
Signature of Kevin Morris

.....
Signature of witness

KEVIN MORRIS

.....
Name of witness:

Executed as a deed by **David Greene Properties Pty Ltd ACN 161 227 265** as trustee for the **Green Family Trust ABN 15301482605** in accordance with section 127 of the *Corporations Act 2001*

.....
Signature of director

.....
Signature of director/secretary

.....
Name of director – BLOCK LETTERS

.....
Name of director/secretary – BLOCK LETTERS

Executed as a deed by Phillip Leonard Turner and Leonie Patricia Turner

.....
Signature

PHILLIP LEONARD TURNER

.....
Signature of witness

.....
Name of witness:

.....
Signature

LEONIE PATRICIA TURNER

.....
Signature of witness

.....
Name of witness:

**Executed as a deed by Focopu Pty Ltd ACN 003 679 203 as trustee for the Mallam Family Trust
ABN 40479359042 in accordance with section 127 of the *Corporations Act 2001***

.....
Signature of director

.....
Name of director – BLOCK LETTERS

.....
Signature of director / secretary

.....
Name of director/secretary – BLOCK LETTERS

Annexure A Appendix (Clause 46)

Environmental Planning and Assessment Regulation 2000 (Clause 25E)

Explanatory Note

Draft planning agreement under s93F of the Environmental Planning and Assessment Act 1979. The explanatory note has been prepared jointly by all the parties to the draft planning agreement.

Parties

Wollondilly Shire Council ABN 93 723 245 808

of 62-64 Menangle Street, Picton, New South Wales 2571 (Council)

Kevin Morris

of 395 Thirlmere Way, Thirlmere NSW 2572

David Greene Properties Pty Ltd ACN 161 227 265 ATF The Greene Family Trust ABN 15301482605

of 65 Jarvis Street, Thirlmere NSW 2572

Phillip Leonard Turner and Leonie Patricia Turner

of 40 Marion Street, Thirlmere NSW 2572

Focopu Pty Ltd ACN 003 679 203

of 63 Kangaroo Point Road, Kangaroo Point NSW 2223

Description of the Land to which the Draft Planning Agreement Applies

Land described in Schedule 1.

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 provide for the dedication to Council of land to Council to be used for drainage purposes and to fund the maintenance costs for works within the dedicated land for a period of 35 years.

Nature of Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under s93F of the Environmental Planning and Assessment Act 1979 (Act). 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 various public purposes (as defined in s93F(2) of the Act).

Effect of the Draft Planning Agreement

The Draft Planning Agreement relates to:

- (a) the carrying out by the Developer of the Development,
- (b) does not exclude the application of s94, s94A or s94EF of the Act to the Development,
- (c) requires a monetary contribution and the dedication of land free of cost.

- (d) is to be registered on the title to the Land,
- (e) imposes restrictions on the Developer transferring the Land or part of the Land or assigning an interest under the agreement,
- (f) provides a dispute resolution method for a dispute under the agreement, being mediation and expert determination,
- (g) provides that the agreement is governed by the law of New South Wales, and
- (h) provides that the A New Tax System (Goods and Services Tax) Act 1999 (Cth) applies to the agreement.

Assessment of the Merits of the Draft Planning Agreement

The Planning Purposes Served by the Draft Planning Agreement

The Draft Planning Agreement:

- (a) promotes and co-ordinates of the orderly and economic use and development of the Land to which the agreement applies,
- (b) provides land, free of cost, for public purposes in connection with the Development, and
- (c) provides for a monetary contribution whereby the Council (and therefore the public via rate revenue) will not incur maintenance costs for an estimated 35 year period.

The agreement provides for a reasonable means of achieving the above purposes.

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 5(c) of the Act by ensuring the provision of land to accommodate public drainage infrastructure and by providing a mechanism for the ongoing maintenance of such land.

Planning Authorities:

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

N/A, the Council is not a Development Corporation.

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 Elements of the Council's Charter

The Draft Planning Agreement promotes the elements of the Council's charter by:

- (a) providing services and facilities for the community, and
- (b) ensuring the public facilities provided by the Developer are transferred to and managed by the Council or are otherwise subject to the Council's control.

Whether the Draft Planning Agreement Conforms to the Council's Capital Works Program

The works under the Draft Planning Agreement are not included in the Council's capital works program. Therefore, this Draft Planning Agreement does not conform with the Council's capital works program.

Whether the Draft Planning Agreement specifies that certain requirements must be complied with before issuing a construction certificate, subdivision certificate or occupation certificate

The draft agreement does not specify that certain requirements must be complied with before the issuing of a construction certificate, subdivision certificate or occupation certificate. The draft agreement does include requirements to be satisfied at or prior to the registration of land to be dedicated to the Council.

PE3 Attachments

1. Report and Minutes from the Ordinary Meeting of Council held on 18 July 2016
2. Report and Minutes from the Ordinary Meeting of Council held on 17 October 2016
3. Gateway Determination dated 8 December 2016
4. Gateway Alteration dated 20 July 2017.
5. Department of Planning and Environment Briefing Report
6. PAC Advice and Recommendation

Monday 18 September 2017

PE3 – Outcome of Gateway Review – The Oaks North
Planning Proposal

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 18 July 2016

PE7 – Draft Planning Proposal – The Oaks North, Silverdale Road, The Oaks

PE7

Draft Planning Proposal – The Oaks North, Silverdale Road, The Oaks

265508

TRIM 9004

Proponent:

Willowtree Planning Pty Ltd

Owner:

A H Clinch Investments Pty Ltd



LOCATION MAP ↑ N

Stage	Completed
Preliminary notification	Wednesday 21 March 2016
Gateway Determination	Not yet completed
Consultation with Public Agencies	Not yet completed
Specialist Studies	Not yet completed
Public exhibition/community consultation	Not yet completed
Referred to Minister for Publication	Not yet completed

Planning & Economy

PE7 – Draft Planning Proposal – The Oaks North, Silverdale Road, The Oaks

EXECUTIVE SUMMARY

- The purpose of this report is to seek Council's position on a draft planning proposal to rezone land located at 80 Silverdale Road, The Oaks for the purpose of residential development.
- The proposal seeks changes to the Wollondilly Local Environmental Plan, 2011 to amend the Land Zoning on the south-western portion of the land from RU2 Rural Landscape to R2 Low Density Residential.
- The proposal has been subject to initial notification and six (6) submissions were received objecting to the proposal.
- The developer has also carried out their own consultation and a summary of the points raised has been provided to Council.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirement 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:
 - the draft planning proposal be supported in a form different to that submitted by the proponent as detailed in this report.
 - the existing electricity transmission line form the northern boundary to residential development for The Oaks on the site.
 - site specific development controls be included in the Wollondilly Development Control Plan 2016 to guide future development on the site.

REPORT

1.1 SITE DESCRIPTION

The subject land is currently zoned RU2 Rural Landscape and has a total area of 31.87 hectares. The proposal seeks changes to approximately six (6) hectares of land located in the south-western portion of the site fronting Silverdale Road to the west and Browns Road to the south.

The site comprises of pasture, farm dams, farm dwellings, outbuildings and scattered vegetation.

The north, east and west of the site adjoins other rural properties zoned RU2 Rural Landscape with the south of the site bordering the northern urban boundary of low density residential development.

A high voltage transmission line passes through the site and is associated with an easement approximately 30.48m wide which runs in an east-west direction.

PE7 – Draft Planning Proposal – The Oaks North, Silverdale Road, The Oaks

To the east the proposed site is constrained by an escarpment and includes water bearing layers in excess of 40m below ground within a sandstone aquifer. The escarpment and high points on the site boasts views of the Sydney skyline.

1.2 DESCRIPTION OF PROPOSAL

The proposal seeks to rezone the south-western portion of Lot 3 DP 1201486 comprising an area of approximately six (6) hectares with the intent to facilitate the future subdivision and development of the land for residential development.

This proposal would enable approximately 60 new lots to be created. The objective of the draft Planning Proposal, as submitted to Council, is to:

- *Amend the Wollondilly Local Environment Plan (Wollondilly LEP 2011) Land Zoning Map to rezone a portion of the site from RU2 Rural Landscape to R2 Low Density Residential.*
- *Amend the Wollondilly LEP 2011 Lot Size Map to reduce the minimum lot size from the current 40 hectares to 700 square metres.*
- *Amend the Wollondilly LEP 2011 Height of Buildings map to include a height limit of nine (9) metres for the proposed R2 low density Residential zone.*

CONSULTATION

2.1 FORMAL CONSULTATION WITH COUNCIL STAFF THAT PROVIDE SPECIALIST COMMENT

A preliminary meeting was held with council staff which identified some constraints associated with the site in relation to an existing electrical easement and the historical use of the property that may impede development. A summary of all initial observations are provided below:

Topic	Summary of Comments
Drainage & Flooding	<ul style="list-style-type: none"> ▪ A stormwater assessment will be required which includes a NorBE assessment. (i.e. a single drainage/stormwater study which also includes a NorBE assessment rather than two (2) standalone studies). The drainage assessment must also consider the impact on ground water. ▪ The site is located on a groundwater aquifer and so existing Bore Water Licences should be investigated.

PE7 – Draft Planning Proposal – The Oaks North, Silverdale Road, The Oaks

Easements	<ul style="list-style-type: none"> ▪ An electrical easement runs from east to west across the southern end of the site. This has been identified as a high voltage line and strict conditions in relation to setbacks and siting of lots need to be worked out at the strategic stage to ensure the proposal meets these requirements. ▪ The presence of the high voltage line is likely to sterilise same land from residential development. ▪ It may be appropriate to plan for a recreation area in the middle of the site with development either side of the easement however further investigation will need to be carried out.
Flora & Fauna	<ul style="list-style-type: none"> ▪ Areas along the ridgeline just outside of the proposal have been identified as Cumberland Plain Woodland and so a Flora and Fauna study is required to establish if the proposal will impact on this area (including drainage). ▪ The study will also need to identify if any native grasslands are situated on the site and potential impacts.
Site Contamination	<ul style="list-style-type: none"> ▪ The site has previously been used as a quarry ▪ Council has also previously used the site for rubbish disposal.
Traffic & Transport	<ul style="list-style-type: none"> ▪ A road safety audit must be carried out within the traffic study which should include consideration of the potential impact on Merlin Street and Big Hill Road ▪ Heavy traffic is likely to be a problem. ▪ There may be issues with traffic travelling north from the site seeking to go to Camden using Big Hill Road as a 'back road'. ▪ There is concern with the capacity of the existing road network connection to Burraborang Road. ▪ A pedestrian connection will be required from the site into The Oaks. The developer should contribute towards a new footpath into the town centre either through a monetary contribution or physical works.
Planning	<ul style="list-style-type: none"> ▪ The land is partially situated on the Sydney Drinking Water catchment ▪ The lot size will need to respond to the sites constraints rather than simply being a continuation of what already exists.
Odour	<ul style="list-style-type: none"> ▪ The site adjoins an existing poultry farm and so an odour study will need to be prepared.
Geotechnical	<ul style="list-style-type: none"> ▪ A Geotechnical assessment is required for the whole site. The assessment will need to consider uncontrolled fill.

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 18 July 2016

PE7 – Draft Planning Proposal – The Oaks North, Silverdale Road, The Oaks

Bushfire	<ul style="list-style-type: none"> ▪ A Bushfire assessment will be required. ▪ It is anticipated that a second access to Silverdale Road will be required to adequately address bushfire risks.
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Planning & Economy

2.2 CONSULTATION WITH PUBLIC AGENCIES

Only Endeavour Energy has submitted preliminary feedback in regard to the Planning Proposal.

There is an easement over the site benefitting Endeavour Energy and the site is opposite The Oaks Zone Substation at 45 Silverdale Road, The Oaks.

Endeavour Energy have no objection to the proposal, however their submission raised a number of issues that will need to be considered further if the draft proposal progresses. These include noise of the power lines, safety clearances, easement management and network access, earthing, Electromagnetic Field (EMF) exposure, vegetation management and public safety.

Endeavour Energy has recommended Council adopt a policy of prudent avoidance in regard to minimising exposure to EMF by the siting of more sensitive uses such as habitable rooms away from any electricity infrastructure.

Future residential development will also need to be located away from the transmission line and careful consideration is likely to be required to site layout, the orientation and design of dwellings in order to minimise the potential impacts on health and urban amenity. It is anticipated that design guidance would need to be incorporated into the development control plan for development near overhead lines.

One option to respond to this constraint would be to restrict residential development to the proposal area which adjoins Browns Road as it provides a logical and robust boundary for growth to the north of The Oaks. A location plan is provided at Attachment 1 to this report to illustrate the extent of land which would be rezoned for residential development with this approach.

Should the proposal be supported by Council and forwarded to the Minister for Planning and Environment, any subsequent Gateway Determination will outline the formal consultation requirements with government agencies.

PE7 – Draft Planning Proposal – The Oaks North, Silverdale Road, The Oaks

2.3 COMMUNITY CONSULTATION

In accordance with Council's notification policy, initial community consultation has been undertaken. The application was made available on Council's website and The Oaks Newsagency. Letters were also sent to owners and occupiers of adjoining and potentially affected properties.

A total of six (6) submissions were received and of these submissions. The issues raised in submissions that are relevant to the assessment of the application are summarised in the following table.

Issue Raised	Assessment Comment
<p>Capacity of Village to support Growth</p> <ul style="list-style-type: none"> ▪ The Oaks is a small town with development already in progress on the Vanderville estate. ▪ The town is not equipped to sustain that many homes ▪ Concern that a small village is about to be bombarded with urban development on both flanks 	<ul style="list-style-type: none"> ▪ If the planning proposal proceeds a number of specialist studies and consultation with public agencies will inform an assessment on the areas ability to accommodate further growth. ▪ It is noted that the housing targets in the GMS 2011 for The Oaks and Oakdale have already been met in terms of land that is rezoned and that is currently being assessed for rezoning (including this proposal).
<p>Property values will decrease</p> <ul style="list-style-type: none"> ▪ Development will devalue existing properties due to the loss of the rural outlook 	<ul style="list-style-type: none"> ▪ The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.
<p>Current condition of existing road assets</p> <ul style="list-style-type: none"> ▪ The current roads already have pot holes, and are constantly being worked on. ▪ Silverdale Road (which provides direct access to the proposed development) is constantly being repaired, ripped up and patched. ▪ Strain on current road infrastructure 	<ul style="list-style-type: none"> ▪ The cumulative impact on road infrastructure will be considered as part of negotiations with the developer should the proposal proceed. ▪ If the planning proposal progresses a traffic study would be required including a road safety audit to consider the potential impacts on traffic and transport infrastructure.

PE7 – Draft Planning Proposal – The Oaks North, Silverdale Road, The Oaks

Issue Raised	Assessment Comment
<ul style="list-style-type: none"> ▪ Concern that infrastructure is already stretched by the "Vanderville Estate" and Montpellier Drive" developments and the proposal will put further pressure on the roads. ▪ Silverdale Road surface is in a very poor state of repair, the road is trafficked by many heavy vehicles 24 hours a day, 7 days a week and speeding along the section of Silverdale Road near the proposed development is already a significant problem 	
<p>Impact on environment and water quality</p> <ul style="list-style-type: none"> ▪ Concern that the development will have an impact on the amount of pollution infiltrating Werri berri creek. ▪ We live in pristine water catchment, and it is a precious resource. ▪ Effect on wildlife 	<ul style="list-style-type: none"> ▪ As part of the site is located within the Sydney Drinking Water Catchment a NorBE assessment will be required to establish that the development will have a neutral or beneficial impact on water quality. ▪ The proposal will also need to be referred to Water NSW who have developed strategic land and water capability assessments (SLWCA) for land in the catchment to inform zoning decision. ▪ In terms of wildlife, if the planning proposal progresses a flora and fauna assessment will be required to consider the potential impacts on flora and fauna.
<p>A lack of supporting infrastructure</p> <ul style="list-style-type: none"> ▪ There is no infrastructure or public transport to support such a large influx to a small ▪ The proposed development will increase the demand for public transport ▪ There are no formed footpaths from the area of the proposed development to the shops in 	<ul style="list-style-type: none"> ▪ The cumulative impact on infrastructure and community facilities from the current and any future rezoning would need to be assessed. ▪ If the site was rezoned it is anticipated that any future development of the site would need

PE7 – Draft Planning Proposal – The Oaks North, Silverdale Road, The Oaks

Issue Raised	Assessment Comment
<p>the village centre and as such residents who need assistance to walk cannot use their mobility scooters.</p>	<p>to contribute towards a new pedestrian connection from the site into The Oaks.</p>
<p>Development is not in keeping with the country feel of the Village</p> <ul style="list-style-type: none"> ▪ Loss of space and country feel of the Village ▪ The small block sizes are not in keeping with the village/rural characteristics of the northern fringe. ▪ The proposal indicates triple the amount of dwellings on an equivalent sized area, ▪ Similar development in proposed site was refused by Council some years ago due to it being seen as "ribbon development" along Silverdale Road and not in harmony with The Oaks as being seen as a village environment. ▪ Increased density will increase pop of village losing the village appeal. 	<ul style="list-style-type: none"> ▪ The GMS Structure Plan for The Oaks identifies land to the immediate north of The Oaks residential precinct as having potential for urban growth. The GMS 2011 was prepared in consultation with the community and has been adopted by Council. ▪ Further consideration will need to be given to the final minimum lot sizes in relation to the constraints of the site. ▪ The minimum lot size proposed in the submitted draft planning proposal is the same as that which applies to adjoining land to the south which is already zoned R2 Low Density Development. ▪ The lot size only sets the minimum size for subdivision and it does not always follow that the resulting lots will be created at the minimum size. Development should respond to the site context and any development application for subdivision will be subject to a merit based assessment.
<p>Community Safety</p> <ul style="list-style-type: none"> ▪ Existing issue with little police presence with cars hooning around and people taking drugs. ▪ The larger and higher density the population the increase in the crime rate in the oaks which is virtually non-existent at 	<ul style="list-style-type: none"> ▪ Higher densities are not an indication of crime risk. ▪ Should the proposal proceed further consultation may need to be carried out with the Local Area Command in relation to community safety.

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PE7 – Draft Planning Proposal – The Oaks North, Silverdale Road, The Oaks

Issue Raised	Assessment Comment
<p>present.</p> <ul style="list-style-type: none"> ▪ Concerns there will be an increase in speeding and irresponsible driving. ▪ Existing concern of teen gangs and vandalism. ▪ Young people already gather in the Browns road reserve and drink etc. and an increase in population will increase the number young people that will possibly congregate in the reserve and impact Browns road residents 	
<p>Capacity of the local Primary School</p> <ul style="list-style-type: none"> ▪ Local school cannot support the influx of potentially hundreds of students ▪ The school will change to a large school that will not be properly resourced which will disadvantage existing students and families. ▪ No capacity of the local school to cater for an increase in 60 potential families (no room for expansion) 	<ul style="list-style-type: none"> ▪ Should the planning proposal proceed, the NSW Department of Education will be consulted.
<p>A lack of local services to support additional people</p> <ul style="list-style-type: none"> ▪ Impact of potential social housing in the new development ▪ There is already an issue with teenagers not having anything to do ▪ No services to occupy and engage young people and increase their productivity in the community. 	<ul style="list-style-type: none"> ▪ The objective of the proposal is to rezone the land for residential development. Affordable housing has not been the objective for the draft proposal in the proponent submission. ▪ Should the planning proposal proceed, the NSW Department of Education, South West Sydney Local Health District and the Department of Family and Community Services will be consulted.
<p>Traffic and Road Safety</p> <ul style="list-style-type: none"> ▪ Vehicular access is proposed 	<ul style="list-style-type: none"> ▪ Traffic and noise assessments

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PE7 – Draft Planning Proposal – The Oaks North, Silverdale Road, The Oaks

Issue Raised	Assessment Comment
<p>to be provided from Browns Road will mean the road will change from being a "No Through Road" servicing approximately 22 houses to a "T intersection" servicing over 80 houses,</p> <ul style="list-style-type: none"> ▪ Concerns there will be an increase in people using main roads to travel to and from work. ▪ The location is usually the site of cars overtaking each other on the opposite side of Silverdale Road, which will be hazard for people needing to slow down to turn right into Browns Road ▪ Existing safety issue when entering Silverdale Road from Browns road with cars often overtaking each other across double lines. ▪ The 50 km/hr. zone will need to be moved further north which will exacerbate the illegal overtaking manoeuvres' currently practised by some drivers. ▪ Current residents of Browns Road, including school age children must walk to the shops in The Oaks village to buses to and from school. ▪ There is already an issue with not enough parking ▪ Concern that the existing residents of Brown Road will have to "give way" to all traffic exiting the subdivision 	<p>would be required as part of a Road Safety Audit should the planning proposal proceed to determine what impacts are likely on the local road system, the town centre and on neighbouring properties.</p> <ul style="list-style-type: none"> ▪ If the land was rezoned to residential it is most likely that an extended 50km speed limit would be required but it would be a decision by Roads and Maritime Services on request by Council. ▪ It is considered that Silverdale Road is safe when vehicles travel to the sign posted speeds and to the conditions. ▪ If the planning proposal progresses a traffic study would be required to consider potential impacts of the development on traffic.

PE7 – Draft Planning Proposal – The Oaks North, Silverdale Road, The Oaks

Issue Raised	Assessment Comment
<p>Planning</p> <ul style="list-style-type: none"> ▪ Proposed lot size is a reduction of a 63% compared to Browns Road subdivision. ▪ There has not been any indication that similar by- laws set up for the neighbouring estate will be followed in the proposed development ▪ Moved to the area because of the water catchment zoning and the belief that this would prevent further urban sprawl. 	<ul style="list-style-type: none"> ▪ There is an existing private covenant on the estate adjoining the proposal which was more than likely imposed by the developer to control development of the estate. It is not considered appropriate for Council to impose the same development controls for this site. ▪ The site has been identified as a location for potential residential growth in Council's Growth Management Strategy.
<p>Unhealthy land</p> <ul style="list-style-type: none"> ▪ Concern about the health of the land due to Council dumping waste on the site in previous years ▪ Concern that transmission lines will impact on health of future residents. 	<ul style="list-style-type: none"> ▪ The proponent has provided an addendum to a Phase Two Detailed Environmental Assessment that was carried out for the site in 2010, the document states that "no remediation would be required to be undertaken to make the site suitable for residential land use". However should the proposal progress a new phase two assessment is required to ensure the findings in the 2010 study comply with the new thresholds. ▪ Currently there is no evidence that EMF exposure is detrimental to health however the owner of the easement (Endeavour Energy) have recommended that Council adopt a policy of prudent avoidance in regard to minimising exposure. ▪ Therefore setbacks and sighting of lots will need to be considered further if the proposal progresses.
<p>Noise</p> <ul style="list-style-type: none"> ▪ Noise of the development will upset and destroy the peaceful nature of the street. 	<ul style="list-style-type: none"> ▪ Further consideration of noise will need to be given to the planning proposal if it progresses. This may

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PE7 – Draft Planning Proposal – The Oaks North, Silverdale Road, The Oaks

Issue Raised	Assessment Comment
<ul style="list-style-type: none"> ▪ Concern about noise pollution during development, construction and the ongoing noise from occupation together with the increase in traffic. ▪ Current residents of Browns Road are protected somewhat from traffic noise due to Silverdale Road as Browns Road is 7 to 10 metres lower and the majority of traffic noise travels over residences ▪ As the proposed development is somewhat more level with Silverdale Road traffic noise is a concern. 	<p>include the need for a noise study to be undertaken.</p>
<p>Privacy</p> <ul style="list-style-type: none"> ▪ Impact on privacy due to increased foot traffic and rural fencing. 	<ul style="list-style-type: none"> ▪ Rezoning the land itself will not impact on privacy. ▪ Privacy concerns can usually be dealt with through sensitive design at the Development Application stage should the proposal proceed.

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2.4 PREPARATION OF A PLANNING PROPOSAL

Should Council resolve to support the application, a Planning Proposal will be prepared in accordance with Section 55 to the *Environmental Planning and Assessment Act, 1979* and guidelines published by the Department of Planning and Environment. The Planning Proposal is then forwarded to the Minister for Planning and Environment for a Gateway Determination.

In deciding to forward a Planning Proposal to the Gateway process, it is deemed to be Council’s Planning Proposal.

Council’s options are:

1. Resolve to support the application in its original form and prepare a Planning Proposal accordingly. Matters can be more fully investigated and resolved with future specialist studies as determined by the Gateway process.

PE7 – Draft Planning Proposal – The Oaks North, Silverdale Road, The Oaks

2. Resolve that a Planning Proposal be prepared in a form different to the application (and as described in Section 2.9 of this report). Matters can be more fully investigated and resolved with future specialist studies as determined by the Gateway process.
3. Resolve not to support a Planning Proposal for this site. The applicant can choose to apply for a Pre-Gateway Review as a result of this option.

Option 2 is the recommendation of this report.

Note: The application has been with Council for more than 90 days. Accordingly the applicant can apply for a pre-Gateway review in accordance with the Environmental Planning & Assessment Regulations, 2000.

2.5 RELEVANT CONSIDERATIONS

Metropolitan Plan for Sydney 2036

The Planning Proposal seeks growth to The Oaks village and is not of a scale to conflict with the objectives of A Plan for Growing Sydney.

A Plan for Growing Sydney seeks to accelerate housing supply across Sydney and although its focus is on areas of significant housing growth it also notes that all suburbs will need additional housing over the next 20 years. New locations for housing around established centres are encouraged.

Section 117 Ministerial Directions

Further information is required to establish that the proposed amendments to the Wollondilly LEP 2011 are consistent with all relevant s117 Ministerial Directions.

If a Gateway Determination is issued for the Planning Proposal specialist studies would be required to inform the Planning Proposal and address the requirements of relevant Directions.

State Environmental Planning Policies

State Environmental Planning Policy No 55 - Remediation of Land is relevant to this proposal as the proposal would permit a change of use of the land.

It is noted that a previous preliminary contamination study concluded that the land was unsuitable for residential development. The proponent has provided an addendum to the contamination study, prepared by the same consultant who prepared the original study, which concludes that the site is now considered suitable for residential development.

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This change in position is due to amendments to the *National Environment Protection (Assessment of Site Contamination) Measure 1999* which came into effect in 2013. The amendments involved changes to the thresholds for certain measures and the site is now within the acceptable threshold for future residential use and remediation is not required.

Should the proposal progress an up-to-date assessment should be required in line with current guidelines as part of the specialist study requirements post-gateway.

Other SEPP's

Further information is required to establish the proposed amendments to the Wollondilly LEP 2011 are consistent with all other relevant SEPP's.

If a Gateway Determination is issued for the Planning Proposal specialist studies may be required to inform the Planning Proposal and address the requirements of the relevant SEPP's.

2.7 WOLLONDILLY GROWTH MANAGEMENT STRATEGY

Key Policy Direction	Comment
General Policies	
P1 All land use proposals need to be consistent with the key Policy Directions and Assessment Criteria contained within the GMS in order to be supported by Council.	This Planning Proposal is generally considered to be consistent with the key Policy Directions and Assessment Criteria contained within the GMS. Further information is required to establish the Planning Proposal's suitability against key policy directions P15, P16 and P21.
P2 All land use proposals need to be compatible with the concept and vision of "Rural Living" (defined in Chapter 2 of the GMS).	This Planning Proposal is consistent with the concept and vision of 'Rural Living' as it proposals additional housing directly adjoining an existing rural village.
P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.	A total of six (6) submissions were received during the initial consultation objecting to the proposed proposal. The outcomes of this consultation have been considered and are discussed in Section 2.3 of this report.
P4 The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.	One submission has been received by Council raising concerns the development will negatively impact on existing property values. This is not considered to be a relevant planning consideration on the proposals suitability.

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Key Policy Direction	Comment
<i>P5 Council is committed to the principle of appropriate growth for each of our towns and villages. Each of our settlements has differing characteristics and differing capacities to accommodate different levels and types of growth (due to locational attributes, infrastructure limitations, geophysical constraints, market forces etc.).</i>	<p>The Structure Plan for The Oaks, which forms part of the GMS 2011, identifies an area to the north of Browns Road on the subject site as a 'potential growth area'.</p> <p>The growth potential of the site is limited by physical constraints in the form of the escarpment towards the east of the proposal area and a transmission line which passes through the site. Further investigation is required to establish the land capability of the site for development in terms of these and other constraints.</p> <p>However, the transmission line and easement is considered to constrain development in terms of the potential impacts on human health and urban amenity. This report recommends that the transmission easement should form the northern boundary to residential development for The Oaks on this site.</p>
Housing Policies	
<i>P6 Council will plan for adequate housing to accommodate the Shire's natural growth forecast.</i>	This Planning Proposal will make a contribution to housing targets across the Shire.
<i>P8 Council will support the delivery of a mix of housing types to assist housing diversity and affordability so that Wollondilly can better accommodate the housing needs of its different community members and household types.</i>	The proposed R2 Low Density Residential land use zone would allow development of the site for additional housing.
<i>P9 Dwelling densities, where possible and environmentally acceptable, should be higher in proximity to centres and lower on the edges of towns (on the "rural fringe").</i>	The proposal is consistent with this direction as it proposes Low Density residential which is consistent with adjoining land use zones.
<i>P10 Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.</i>	The subject site directly adjoins the northern boundary to The Oaks urban area and is consistent with this key policy direction.

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Key Policy Direction	Comment
Macarthur South Policies	
<i>Key Policy Directions P11, P12, P13 and P14 are not applicable to this planning proposal. The subject land is not with the Macarthur South area.</i>	The site is not located in the Macarthur South area.
Employment Policies	
<i>P15 Council will plan for new employment lands and other employment generating initiatives in order to deliver positive local and regional employment outcomes.</i>	The draft proposal does not include any employment lands, however the additional population will support the economic viability of local businesses.
<i>P16 Council will plan for different types of employment lands to be in different locations in recognition of the need to create employment opportunities in different sectors of the economy in appropriate areas.</i>	See comment for P15. If the land is rezoned it may create short-term employment opportunities through the construction jobs associated with the civil and building works.
Integrating Growth and Infrastructure	
<i>P17 Council will not support residential and employment lands growth unless increased infrastructure and servicing demands can be clearly demonstrated as being able to be delivered in a timely manner without imposing unsustainable burdens on Council or the Shire's existing and future community.</i>	The site adjoins the existing urban area for The Oaks which will minimise the need for new/additional infrastructure. However, if the proposal progresses further consideration will be necessary to ensure the adequate infrastructure is or can be made available to service residential development on the site. It is noted that if the site was rezoned and development approval for residential subdivision would require development contributions towards the provision of new and/or augmented facilities to meet the additional demand for public facilities and services provided by Council. The proposal is unlikely to be significant enough to be designated as an Urban Release Area and necessitate State Infrastructure Contributions.
<i>P18 Council will encourage sustainable growth which supports our existing towns and villages, and makes the provision of services and infrastructure more efficient and viable – this means a greater emphasis on concentrating new housing in and around our</i>	The Planning Proposal is consistent with this key policy direction as the subject site adjoins the existing urban area for The Oaks.

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Key Policy Direction	Comment
<i>existing population centres.</i>	
P19 <i>Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.</i>	The Planning Proposal is consistent with key policy direction as the subject site adjoins the existing urban area for The Oaks.
P20 <i>The focus for population growth will be in two key growth centres, being the Picton/Thirlmere/Tahmoor Area (PTT) area and the Bargo Area. Appropriate smaller growth opportunities are identified for other towns.</i>	Although the site is not located within a key growth centre it provides an opportunity for smaller growth in a location identified within the Structure Plan for The Oaks as a potential residential growth area.
Rural and Resource Lands	
P21 <i>Council acknowledges and seeks to protect the special economic, environmental and cultural values of the Shire's lands which comprise waterways, drinking water catchments, biodiversity, mineral resources, agricultural lands, aboriginal heritage and European rural landscapes</i>	The site is partially located in the Sydney Drinking Water Catchment and the potential impact on water quality will need further investigation if a Gateway Determination is issued for the site. Further studies will also be required to consider the potential impacts associated with bushfire prone land, flora and fauna and loss of agricultural land.
P22 <i>Council does not support incremental growth involving increased dwelling entitlements and/or rural lands fragmentation in dispersed rural areas. Council is however committed to maintaining where possible practicable, existing dwelling and subdivision entitlements in rural areas.</i>	The subject site is not located in a dispersed rural area and directly adjoins the existing urban area of The Oaks.

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2.8 RECOMMENDED FORM OF PLANNING PROPOSAL

Following consideration of responses from initial consultation and notification and preliminary assessment of the application, it is considered that the Planning Proposal should take the form as detailed below.

2.9 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP, 2011)

The proposed amendments to WLEP 2011 are described below:

- *Amend the Land Zoning Map from land use zone RU2 Rural Landscape to R2 Low Density Residential for land between Browns Road up to the transmission easement.*

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- *Amend the Height of Buildings Map to introduce a Maximum Building Height Category of 9m metres.*

An appropriate lot size cannot be determined at present until further information is available to inform a position on the site's capability for development. This is due to the nature of site constraints such as the transmission line, proximity to ridge line, capacity of essential services (particular reticulated sewerage), water quality and bushfire prone land.

Note: This recommendation of this report is to support the planning proposal for this site in a form different to the draft planning proposal submitted to Council by the proponent.

2.10 WOLLONDILLY DEVELOPMENT CONTROL PLAN, 2011 (WDCP, 2011)

It is recommended that a site specific DCP be developed for the proposal to guide future development on the site, particularly in relation to development in proximity to overhead transmission lines and key views from the site as well as the outcomes of the specialist studies where relevant.

The DCP should be placed on public exhibition at the same time as the Planning Proposal subject to the outcomes of the Gateway Determination.

FINANCIAL IMPLICATIONS

Funding for this project to date has been achieved through the adopted Planning Proposal fees and charges.

Council has experienced a record increase in the number of Planning Proposals submitted in addition to the Wilton Junction project. Note that the Wilton Junction project is not a planning proposal at this stage but has had significant impact on Strategic Planning resources. All proposals which result in an increased intensity of land use within the Shire shall also lead to increased demand for Council services and facilities over time. Council will need to consider this in the adopted budget and forward estimates.

ATTACHMENTS

1. Plan showing suggested Approach for Draft Planning Proposal at The Oaks North

PE7 – Draft Planning Proposal – The Oaks North, Silverdale Road, The Oaks

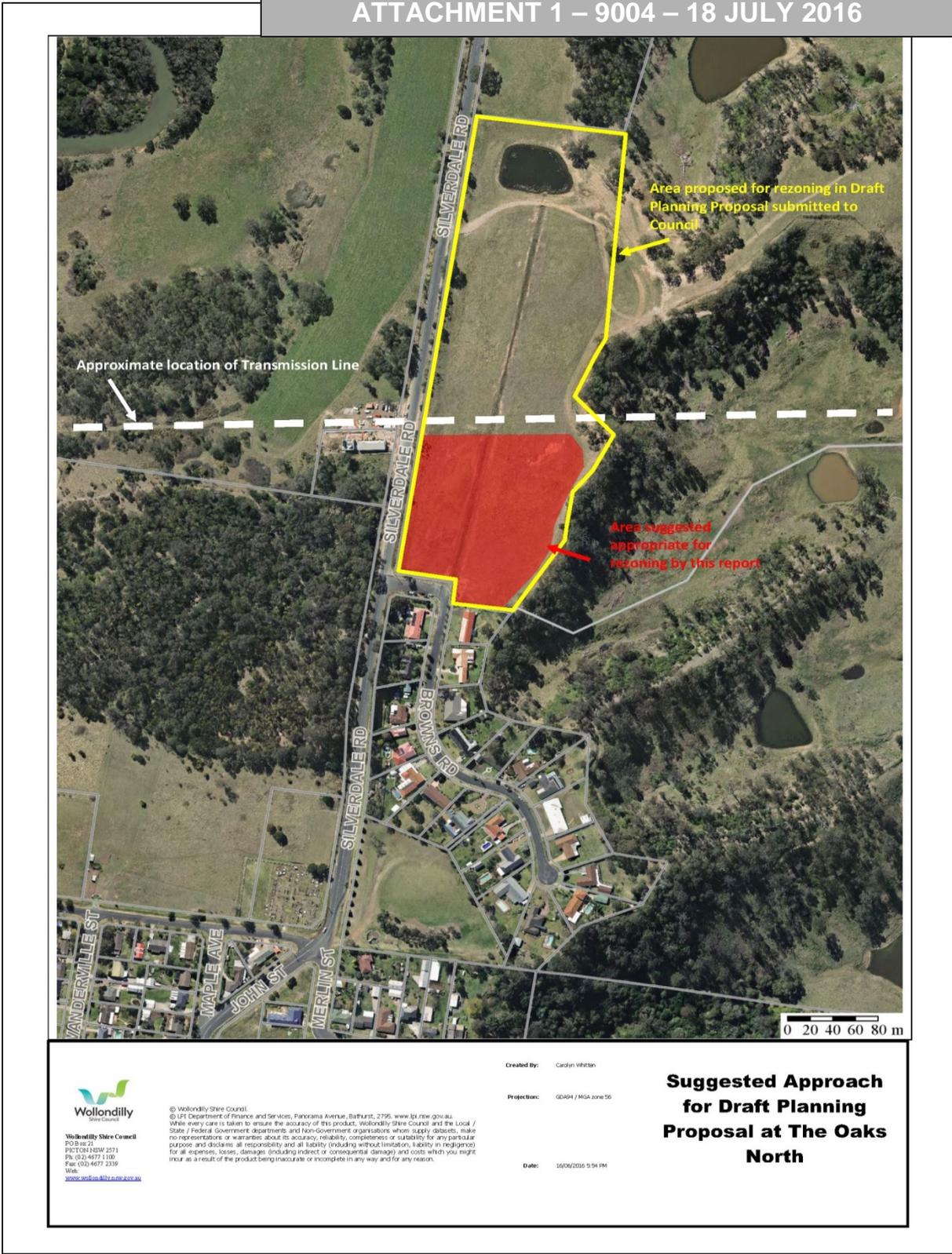
RECOMMENDATION

1. That Council support the preparation of a Planning Proposal, in an amended form for Lot 3 DP 1201486 (No. 80 Silverdale Road, The Oaks) to amend Wollondilly Local Environmental Plan 2011 with the easement for transmission line forming the northern boundary to the proposed R2 Low Density Residential zone. That the amendments include changing:
 - the Land Zoning Map from RU2 Rural Landscape to R2 Low Density Residential
 - the height of buildings map to introduce a maximum height of 9 metres.
2. That the Lot Size for the proposed R2 Low Density Residential zone be determined after the preparation of the Gateway Determination and specialist studies and reported back to Council for endorsement.
3. That Council develop site specific controls to be included in the Wollondilly Development Control Plan 2016 to guide future development on the site relating to development in the vicinity of the transmission line, providing controls relevant to views to and from the site and including other matter should they arise out of the specialist studies.
4. That the Planning Proposal be forwarded to the Minister for Planning and Environment for a Gateway Determination.
5. That Council request the gateway determination include requirements for an up to date contamination study and a road safety audit.
6. That Council request the Minister to grant Council delegation to make the amendments to Wollondilly Local Environmental Plan, 2011 in accordance with Section 59 to the Environmental Planning and Assessment Act, 1979.
7. That the proponent and submitters be notified of Council's Resolution.

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 18 July 2016

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ATTACHMENT 1 – 9004 – 18 JULY 2016



Planning & Economy

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<p><small>Wollondilly Shire Council PO Box 21 POTOMI NSW 2571 Ph: (02) 4877 1100 Fax: (02) 4877 2339 Web: www.wollondilly.nsw.gov.au</small></p>			

Planning and Economy

PE7 Draft Planning Proposal – The Oaks North, Silverdale Road, The Oaks
265508 TRIM 9004

136/2016 Resolved on the Motion of Crs Hannan and Landow:

1. That Council support the preparation of a Planning Proposal, in an amended form for Lot 3 DP 1201486 (No. 80 Silverdale Road, The Oaks) to amend Wollondilly Local Environmental Plan 2011 with the easement for transmission line forming the northern boundary to the proposed *R5 Large Lot Residential* zone. That the amendments include changing:
 - the Land Zoning Map from RU2 Rural Landscape to *R5 Large Lot Residential*
 - the height of buildings map to introduce a maximum height of 9 metres.
2. That the Lot Size for the proposed *R5 Large Lot Residential* zone be determined after the preparation of the Gateway Determination and specialist studies and reported back to Council for endorsement. *The lot size shall not be less than the average lot size for the existing allotments in Browns Road, The Oaks.*
3. That Council develop site specific controls to be included in the Wollondilly Development Control Plan 2016 to guide future development on the site relating to:
 - a) development in the vicinity of the transmission line
 - b) controls relevant to views to and from the site
 - c) *controls relevant to rural fencing*
 - d) *controls relevant to setbacks from Silverdale Road and the escarpment consistent with the existing allotments in Browns Road, The Oaks*
 - e) *provision of an emergency egress from the subdivision*
 - f) and other matter should they arise out of the specialist studies.
4. That the Planning Proposal be forwarded to the Minister for Planning and Environment for a Gateway Determination.
5. That Council request the gateway determination include requirements for an up to date contamination study and a road safety audit.

Minutes of the Ordinary Meeting of Wollondilly Shire Council held in the Council Chamber, 62-64 Menangle Street, Picton, on Monday 18 July 2016, commencing at 6.37pm

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6. **That Council request the Minister to grant Council delegation to make the amendments to Wollondilly Local Environmental Plan, 2011 in accordance with Section 59 to the Environmental Planning and Assessment Act, 1979.**
7. **That the proponent and submitters be notified of Council's Resolution.**

On being put to the meeting the motion was declared CARRIED.

Vote For: Crs Law, M Banasik, Mitchell, Landow, B Banasik, Amato and Hannan

Vote Against: Crs Gibbs and Terry

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 October 2016

PE12 – Inclusion of Change to Minimum Lot Size Browns Road into The Oaks North Planning Proposal

PE12 **Inclusion of Change to Minimum Lot Size Browns Road into The Oaks North Planning Proposal**
 265508 TRIM 9004

Applicant: **Wollondilly Shire Council**
Owner: **Various**



LOCATION MAP ↑
N

Stage	Completed
Preliminary notification	5 September 2016
Gateway Determination	
Consultation with Public Agencies	
Specialist Studies	
Public exhibition/community consultation	
Referred to Minister for Publication	

Planning & Economy

PE12 – Inclusion of Change to Minimum Lot Size Browns Road into The Oaks North Planning Proposal

EXECUTIVE SUMMARY

- The purpose of this report is to seek support to include residential land at Browns Road in The Oaks North Planning Proposal
- This relates to all properties located along Browns Road, The Oaks (Lots 1 - 21 DP 775993)
- The proposal will seek changes to the Wollondilly Local Environmental Plan, 2011 to **amend the current Minimum Lot Size of 700 sqm to 1500 sqm**
- The reason to include this additional land in the proposal is to ensure the minimum lot size of this existing residential area is in line with Council's recent resolution relating to The Oaks North Planning Proposal.
- Council has received two submissions in support of this proposed change.
- 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 inclusion of additional land at Browns Road, The Oaks within The Oaks North Planning Proposal to increase the minimum lot size for the subject site from 700 sqm to 1500 sqm.

REPORT

1.1 SITE DESCRIPTION

The Oaks North planning proposal seeks to rezone approximately six (6) hectares of land located at 80 Silverdale Road (Lot 3 DP 1201486) from RU2 Rural Landscape to R2 Low Density Residential.

The site currently comprises of pasture, farm dams, farm dwellings, outbuildings and scattered vegetation.

The north, east and west of the site adjoins other rural properties zoned RU2 Rural Landscape with the south of the site bordering the northern urban boundary of low density residential development.

The proposed area to be rezoned is located on the south-western portion of the site and fronts Silverdale Road to the west and Browns Road to the south.

PE12 – Inclusion of Change to Minimum Lot Size Browns Road into The Oaks North Planning Proposal

This report seeks to include the residential land located at Browns Road in this proposal. The properties to be included are Lots 1 -21 DP 775993 located at no. 1 - 22 Browns Road, The Oaks.

Housing along Browns Road is characterised by detached houses on larger lots with wide frontages. Browns Road is a quiet leafy quiet street that terminates in a cul-de-sac.

A map showing the location of the existing proposal and the proposed inclusion of Browns Road is provided in Attachment 1.

1.2 BACKGROUND

Council recently supported the preparation of a planning proposal for The Oaks North, Silverdale Road to rezone land to enable residential development located at 80 Silverdale Road, The Oaks (Lot 3 DP 1201486).

Preliminary community consultation undertaken for the proposal highlighted a desire to retain the character of housing on the northern fringe of The Oaks village and to ensure that any future development matched what is already there.

In response, Council has been supportive of the proposed residential area being similar in character to that of Browns Road, with the following resolution being made at its meeting held 18 July 2016:

“The lot size shall not be less than the average lot size for the existing allotments in Browns Road, The Oaks.”

A copy of the agenda report and minutes of this meeting is provided in Attachment 2.

1.3 DESCRIPTION OF PROPOSAL

The purpose of this report is to expand The Oaks North Planning Proposal to include additional land at Browns Road. The reason for including this additional land is to change the minimum lot size to reflect the existing lot sizes and prevent further subdivision.

Existing lots along Browns Road range in size from approximately 1500sq.m to 2800sq.m with the average lot size being 1883sq.m.

PE12 – Inclusion of Change to Minimum Lot Size Browns Road into The Oaks North Planning Proposal

Under the land use planning controls in the Wollondilly Local Environmental Plan 2011 (LEP 2011), the minimum lot size for this land is 700 sqm, which is less than half the size of most of the properties along Browns Road. This means that in principle, most of the land along Browns Road can be subdivided. If this was to occur it could result in a change to the 'character' of this area. Assuming that Council's intention for this area was not to encourage growth then it is considered that the current minimum lot size does not reflect the intended land use planning outcome for land on Browns Road.

It is proposed to increase the minimum lot size for subdivision from 700sqm to 1,500 sqm which would effectively prevent Torrens Title subdivision of any of the lots.

The minimum lot size for the land to be rezoned to the North has not yet been determined but is likely to be much larger if the site can not be serviced by reticulated sewage.

CONSULTATION

2.1 FORMAL CONSULTATION WITH COUNCIL STAFF THAT PROVIDE SPECIALIST COMMENT

No formal consultation has been carried out with staff on the change recommended in this report. If supported by Council consultation will be carried out as part of the broader planning proposal following a positive Gateway Determination.

2.2 CONSULTATION WITH PUBLIC AGENCIES

As the proposal supports a minimum lot size change to an existing residential area it is not considered necessary to consult with public agencies at this point. However, should the proposed inclusion be supported by Council and forwarded to the Minister for Planning and Environment, any subsequent Gateway Determination will outline the consultation requirements with government agencies for the proposal as a whole.

PE12 – Inclusion of Change to Minimum Lot Size Browns Road into The Oaks North Planning Proposal

2.3 COMMUNITY CONSULTATION

A letter has been sent to all land owners on Browns Road to inform them of the proposed change and to encourage them to provide comment. To date, two submissions have been received from a property owner of Browns Road indicating their support for the inclusion of Browns Road in The Oaks North Planning Proposal. Specifically the residents thanked Council for '*considering the character of Browns Road and The Oaks Northern fringe*' and noted their support for '*any proposal that improves or protects the current rural character and the outlook to and along this ridge line*' and in turn their support for the '*proposal to increase the minimum lot size along Browns Road*'.

2.4 PREPARATION OF A PLANNING PROPOSAL

Should Council resolve to support the inclusion of additional land at Browns Road within the The Oaks North Planning Proposal then these changes will be incorporated into the planning proposal which has been prepared in accordance with Section 55 to the *Environmental Planning and Assessment Act, 1979* and guidelines published by the Department of Planning and Environment. The Planning Proposal is then forwarded to the Minister for Planning and Environment for a Gateway Determination.

In deciding to forward a Planning Proposal to the Gateway process, Council is endorsing the Planning Proposal and it is deemed to be *Council's* Planning Proposal.

Council's options are:

1. Resolve to support the inclusion of a change to the minimum lot size for Browns Road into The Oaks North, Planning Proposal and amend the Planning Proposal accordingly.
2. Resolve not to support a change in the minimum lot size for Browns Road.

Option 1 is the recommendation of this report.

2.5 WOLLONDILLY GROWTH MANAGEMENT STRATEGY

The inclusion of additional land in the The Oaks North Planning Proposal will not create any additional opportunity for growth.

PE12 – Inclusion of Change to Minimum Lot Size Browns Road into The Oaks North Planning Proposal

2.6 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP, 2011)

The proposed amendments to WLEP 2011 for the additional land at Browns Road are described below:

- Amend the Lot Size Map from a minimum lot size category of **700 sqm** to **1500sqm**.

2.7 WOLLONDILLY DEVELOPMENT CONTROL PLAN, 2011 (WDCP, 2011)

It is anticipated that site specific controls will be required to be included within the WDCP to guide the future development of land within The Oaks North Planning Proposal. However, it is not expected that any new controls will relate to the existing residential are located at Browns Road.

FINANCIAL IMPLICATIONS

Funding for this project to date has been achieved through the adopted Planning Proposal fees and charges.

Council has experienced a record increase in the number of Planning Proposals submitted in addition to the Wilton Junction project. Note that the Wilton Junction project is not a planning proposal at this stage but has had significant impact on Strategic Planning resources. All proposals which result in an increased intensity of land use within the Shire shall also lead to increased demand for Council services and facilities over time. Council will need to consider this in the adopted budget and forward estimates.

ATTACHMENTS INCLUDED IN SEPARATE BOOKLET

1. Map showing location of proposed inclusion of Browns Road in relation to the The Oaks North Planning Proposal.
2. Council Agenda and Minutes for meeting held Monday 18 July 2016.

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday
17 October 2016

**PE12 – Inclusion of Change to Minimum Lot Size Browns Road into The
Oaks North Planning Proposal**

RECOMMENDATION

1. That Council support the inclusion of additional land at Browns Road in the The Oaks North Planning Proposal for land being:

Lots 1 - 21 DP 775993 No. 1 - 22 Browns Road, The Oaks
To amend Wollondilly Local Environmental Plan, 2011 as follows:

- amend the Lot Size Map to 1500 sqm
2. That the amended Planning Proposal for The Oaks North be forwarded to the Minister for Planning and Environment for a Gateway Determination.
 3. That Council request the Minister to grant Council delegation to make the amendments to Wollondilly Local Environmental Plan, 2011 in accordance with Section 59 to the Environmental Planning and Assessment Act, 1979.
 4. That the submitters and land owners be notified of Council's Resolution.

Minutes of the Ordinary Meeting of Wollondilly Shire Council held in the Council Chamber, 62-64 Menangle Street, Picton, on Monday 17 October 2016, commencing at 6.39pm

Planning and Economy

PE12 **Inclusion of Change to Minimum Lot Size Browns Road into The Oaks North Planning Proposal**
265508 TRIM 9004

207/2016 **Resolved** on the Motion of Crs Hannan and Landow:

1. That Council support the inclusion of additional land at Browns Road in the The Oaks North Planning Proposal for land being:

Lots 1 - 22 DP 775993 No. 1 - 22 Browns Road, The Oaks
To amend Wollondilly Local Environmental Plan, 2011 as follows:
 - amend the Lot Size Map to 1500 sqm.
2. That the amended Planning Proposal for The Oaks North be forwarded to the Minister for Planning and Environment for a Gateway Determination.
3. That Council request the Minister to grant Council delegation to make the amendments to Wollondilly Local Environmental Plan, 2011 in accordance with Section 59 to the Environmental Planning and Assessment Act, 1979.
4. That the submitters and land owners be notified of Council's Resolution.

On being put to the meeting the motion was declared CARRIED.

Vote: Crs Khan, Briggs, Banasik, Deeth, Law, Lowry, Landow, Hannan and Gould



Contact: James Sellwood
Phone: (02) 9860 1559
Email: james.sellwood@planning.nsw.gov.au
Postal: GPO Box 39 Sydney NSW 2001

Our ref: PP_2016_WOLLY_005_00 (16/15141)
Your ref: TRIM 9004

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

Attention: Nicole Aiken, Strategic Planner

Dear Mr Johnson

**Planning proposal to amend *Wollondilly Local Environmental Plan 2011* –
The Oaks North (80 Silverdale Road and 1-22 Browns Road, The Oaks)**

I am writing in response to Council's request for a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) regarding a planning proposal to amend *Wollondilly Local Environmental Plan 2011* for The Oaks North, which seeks to rezone part of 80 Silverdale Road, The Oaks to R5 Large Lot Residential, and amend the height of buildings and minimum lot size, and also amend the minimum lot size for 1-22 Browns Road, The Oaks.

As delegate of the Greater Sydney Commission, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway determination.

Plan making powers were delegated to Councils in October 2012. I note that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of the planning proposal and have decided to issue an authorisation for Council to exercise delegation to make the plan.

The amending Local Environmental Plan is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the Plan should be made directly to Parliamentary Counsel's office six weeks prior to the projects publication date. A copy of the request should be forwarded to the Department of Planning and Environment for administrative purposes.

The State Government is committed to reducing the time taken to complete Local Environmental Plans by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Commission may take action under s54(2)(d) of the Act if the timeframes outlined in this determination are not met.

If you have any queries in regard to this matter, please contact Mr James Sellwood in the Department's Sydney Region West team on (02) 9860 1559.

Yours sincerely



08/12/16

Catherine Van Laeren
Director, Sydney Region West
Planning Services

Delegate of the Greater Sydney Commission

Encl:

Gateway determination

Written authorisation to exercise delegation

Reporting template for delegated Local Environmental Plan amendments

Gateway Determination

Planning proposal (Department Ref: PP_2016_WOLLY_005_00): to rezone part of 80 Silverdale Road, The Oaks to R5 Large Lot Residential and amend the height of buildings and minimum lot size for that site, and also amend the minimum lot size for 1-22 Browns Road, The Oaks.

I, the Director, Sydney Region West at the Department of Planning and Environment as delegate of the Greater Sydney Commission, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to *Wollondilly Local Environmental Plan 2011* to rezone part of 80 Silverdale Road, The Oaks to R5 Large Lot Residential, amend the height of buildings and minimum lot size, and also amend the minimum lot size for 1-22 Browns Road, The Oaks should proceed subject to the following conditions:

1. Prior to community consultation, Council is to undertake the following specialist studies, and amend the planning proposal to reflect the findings of these studies:
 - Updated Stage 2 Contamination Assessment;
 - Traffic and Road Safety Audit;
 - Geotechnical and Salinity Assessment;
 - Stormwater and Flood Assessment;
 - Bushfire Assessment Report;
 - Noise and Vibration Study; and
 - Neutral or Beneficial Effect (NorBe) on Water Quality Assessment.

The amended planning proposal and supporting studies are to be referred to the Department for endorsement prior to the commencement of community consultation.

2. Prior to community consultation, Council is to amend the planning proposal to address the draft South West District Plan, which was released by the Greater Sydney Commission on 21 November 2016.
3. Prior to community consultation, Council is undertake further assessment of the planning proposal against the following section 117 Directions:
 - 1.2 Rural Zones;
 - 4.3 Flood Prone Land;
 - 4.4 Planning for Bushfire Protection; and
 - 5.2 Sydney Drinking Water Catchments.

The planning proposal is to be amended to indicate whether the proposal is consistent with these directions, and if not how any inconsistencies are to be addressed.

4. Prior to community consultation, Council is undertake further assessment of the planning proposal against the following State Environmental Planning Policies:

- State Environmental Planning Policy No 44 — Koala Habitat Protection;
- State Environmental Planning Policy No 55 — Remediation of Land; and
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011.

The planning proposal is to be amended to indicate whether the proposal is consistent with these policies, and if not how any inconsistencies are to be addressed.

5. Community consultation is required under sections 56(2) and 57 of the Act as follows:

- a) the planning proposal must be made publicly available for 28 days; and
- b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of the Department's 'A Guide to Preparing Local Environmental Plans'.

6. Consultation is required with the following public authorities under section 56(2)(d) of the Act and / or to comply with the requirements of section 117 Directions and State Environmental Planning Policies:

- Office of Environment and Heritage;
- Rural Fire Service;
- Sydney Water;
- Water NSW; and
- Endeavour Energy.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment.

7. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

8. The timeframe for completing the amending Local Environmental Plan is to be 12 months from the week following the date of the Gateway determination.

Dated 8th day of December 2016



Catherine Van Laeren
Director, Sydney Region West
Planning Services

Delegate of the Greater Sydney Commission

Written Authorisation to Exercise Delegation

Wollondilly Shire Council is authorised to exercise the functions of the Greater Sydney Commission under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2016_WOLLY_005_00	Planning proposal to rezone part of 80 Silverdale Road, The Oaks to R5 Large Lot Residential and amend the height of buildings and minimum lot size for that site, and also amend the minimum lot size for 1-22 Browns Road, The Oaks.

In exercising the Commission's functions under section 59, the Council must comply with the Department of Planning and Environment's 'A Guide to Preparing Local Environmental Plans' and 'A Guide to Preparing Planning Proposals'.

Dated 8th December 2016



Catherine Van Laeren
Director, Sydney Region West
Planning Services

Delegate of the Greater Sydney Commission

Planning proposal to amend *Wollondilly Local Environmental Plan 2011* – The Oaks North (80 Silverdale Road and 1-22 Browns Road, The Oaks

Reporting template for delegated Local Environmental Plan amendments

Notes:

- Planning proposal number will be provided by the Department of Planning and Environment following receipt of the planning proposal
- The Department of Planning and Environment will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to Table 2 to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the Department of Planning and Environment with the RPA's request to have the LEP notified

Table 1 – To be completed by Department of Planning and Environment

Stage	Date/Details
Planning Proposal Number	PP_2016_WOLLY_005_00
Date Sent to DP&E under s56	23 November 2016
Date considered at LEP Review Panel (if applicable)	N/A
Gateway determination date	6 December 2016

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&E requesting notification		

Table 3 – To be completed by Department of Planning and Environment

Stage	Date/Details
Notification Date and details	

Additional relevant information:



Mr Luke Johnson
General Manager
Wollondilly Shire Council
PO Box 21
PICTON NSW 2771

WOLLONDILLY SHIRE COUNCIL	
TRIM NO. 9004	Our ref: 16/11146
PROP. No.	
27 JUL 2017	
AUTH. No.	
ASSIGNED TO: N. Aiken	

Dear Mr Johnson

Alteration of Gateway Determination – The Oaks North

I refer to the recent recommendation received from the Planning Assessment Commission to support the investigation of smaller lots for part of 80 Silverdale Road.

In light of the Planning Assessment Commission's recommendation, I have determined, as the delegate of the Greater Sydney Commission, in accordance with section 56(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 8 December 2016 for Planning Proposal PP_2016_WOLLY_005_00. The Alteration to Gateway Determination is enclosed.

The planning proposal is to be updated to reflect the altered Gateway determination and resubmitted to the Department for endorsement prior to the commencement of community consultation.

The timeframe for finalising the Planning Proposal has been extended to accommodate the Gateway determination review process and allow suitable time for Council to collate the additional requirements, as recommended by the Planning Assessment Commission. I encourage Council commence the necessary specialist technical studies and consult with the required public authorities as soon as possible to meet the specified timeframe.

Council should consult with the Department's regional office on the requirements of the Gateway determination conditions where necessary. Should you have any queries about this matter, please contact Mr Stuart McIntosh of the Department's regional office on (02) 9860 1551.

Yours sincerely

Anthea Sargeant 20/7/17
Acting Executive Director, Regions
Planning Services

Encl:
Alteration to Gateway Determination
Planning Assessment Commission Gateway Determination Review



Alteration of Gateway Determination

Planning Proposal (Department Ref: PP_2016_WOLLY_005_00)

I, the Acting Executive Director, Regions at the Department of Planning and Environment, as delegate of the Greater Sydney Commission, have determined, under section 56(7) of the *Environmental Planning and Assessment Act 1979* (the Act), to alter the Gateway determination dated 8 December 2016, for the proposed amendment to the Wollondilly Local Environmental Plan 2015 as follows:

1. Delete Condition 1 and replace with a new condition 1:

- "1. Prior to community consultation, Council is to update the Planning Proposal to:
- seek to apply a minimum lot size requirement of 1,500m² for land at 80 Silverdale Road, subject to:
 - demonstrating the availability of reticulated sewerage to each lot in consultation with Sydney Water; and
 - providing a comprehensive whole-of-site concept plan for storm water management in consultation with Water NSW.
 - reflect the findings of these studies:
 - Updated Stage 2 Contamination Assessment;
 - Traffic and Road Safety Audit;
 - Geotechnical and Salinity Assessment;
 - Stormwater and Flood Assessment;
 - Bushfire Assessment Report;
 - Noise and Vibration Study; and
 - Neutral or Beneficial Effect (NorBe) on Water Quality Assessment.

The amended planning proposal, supporting studies and related documentation are to be referred to the Department for endorsement prior to the commencement of community consultation."

2. Delete condition 8 and replace with a new condition 8:

- "8. The timeframe for completing the LEP is by 15 September 2018".

Dated 20 day of July 2017

Anthea Sargeant
Acting Executive Director, Regions
Planning Services

Delegate of the Greater Sydney Commission

Planning Assessment Commission Gateway Determination Review

The Planning Assessment Commission has considered the request for a review of the Gateway determination of the planning proposal as detailed below:

Dept. Ref. No:	PP_2016_WOLLY_005_00
LGA	Wollondilly
LEP to be Amended:	Wollondilly Local Environment Plan 2011
Address / Location:	80 Silverdale road, The Oaks
Proposal:	Proposed rezoning from RU2 Rural Landscape to R2 Low Density Residential amend the lot size from 40ha to a minimum lot size of 1,500m ² , and retain a maximum building height of 9m.

Reason for review:	<input type="checkbox"/>	A determination has been made that the planning proposal should not proceed.
	<input type="checkbox"/>	A determination has been made that the planning proposal should be resubmitted to the Gateway.
	<input checked="" type="checkbox"/>	A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.

In considering the request, the Planning Assessment Commission has reviewed all the relevant information provided by the proponent as well as the views and position of the Department of Planning and Environment (the Department) and the Wollondilly Shire Council (Council). Based on this review the **Commission recommends** the following

Reason for Review: A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.

RECOMMENDATION:	<input checked="" type="checkbox"/>	Requirement should be imposed or variations made to the planning proposal. <input type="checkbox"/> no amendments are suggested to original determination. <input checked="" type="checkbox"/> amendments are suggested to the original determination.
	<input type="checkbox"/>	The suggested requirements or variations of the original Gateway determination are not necessary and the planning proposal should proceed past Gateway in accordance with the original submission.

Planning Assessment Commission advice and justification for recommendation:

The Commission recommends that the Gateway determination should retain application of the R5 Large Lot Residential zone to the land. The Commission also recommends that the Gateway determination be amended to specify a minimum lot size of 1,500m², subject to the:

- availability of reticulated sewerage to each lot;
- findings and recommendations in the specialist studies set out in item 1 of the Gateway determination; and
- findings and recommendations of a comprehensive whole-of-site concept plan for storm water management, which incorporates best practices for water sensitive urban design prepared in consultation with Water NSW.

The Commission has made this recommendation noting, in particular:

- Council's consideration that the R5 zone is appropriate and in keeping with the character of the area and the Department's comment that maintaining an R5 zone will prevent dual occupancy development and 'provide an appropriate graduation of zones';
- The proponent's support to an R5 zone with a 1,500m² minimum lot size 'if the R2 zoning is deemed not appropriate';
- Sydney Water's advice to Council of 28 February 2017 that a drinking water connection is available and that there is currently sufficient capacity in the wastewater system (for sewerage) for the development as illustrated in the concept plan (that shows minimum lot sizes of 1,525m²);
- the Department's advice in its briefing report that a minimum lot size of 1,500m² could be applied to the site which is 'generally in keeping with existing development at 1-22 Browns Road', subject to the results of the specialist studies in item 1 of the Gateway determination;
- Water NSW advice to Council of 18 January 2017 that if the site is not serviced by sewerage infrastructure a minimum residential lot size of 2,000m² is recommended for on-site wastewater treatment and disposal, and that the development should incorporate water sensitive urban design measures; and
- Council's concern that careful on-site storm water management will be necessary to achieve an appropriate outcome for the Sydney Drinking Water Catchment.

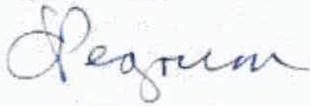
In carrying out the review, the Commission met with the proponent for the planning proposal, and teleconferenced with Council. Minutes of these meetings are attached.

In the teleconference with Council, several additional concerns were comprehensively set-out and these included that the:

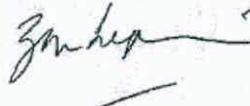
- site and adjoining vegetated escarpment were visually prominent and sensitive to changes such as might result from vegetation clearing;
- indicative lot layout in the planning proposal would not comply with *Planning for Bushfire Protection* because, among other reasons, it did not include a perimeter fire access;
- Council is already on track to achieve dwelling targets under both State and local planning strategies without the need of the current planning proposal; and
- sewerage trunk main from The Oaks to Camden had limited capacity, which would be more appropriately used by infill development closer to the town centre.

The Commission notes that the Gateway determination includes a requirement to carry out several specialist studies, including a bushfire assessment report, which will inform the final decision on lot sizes in the draft Local Environmental Plan.

In respect of the Council's concerns about the need for the planning proposal or its implications for reticulated sewerage capacity and infill development more broadly, the Commission notes that this is beyond the scope of the review responsibility to make recommendations about the requirements imposed by the current Gateway determination.



Ms Annabelle Pegrum AM
Commission Member (Chair)



Prof Zada Lipman
Commission Member

RECORDS OF COMMISSION MEETINGS FOR THE REQUEST FOR ADVICE

Notes of meeting from the proponent

This meeting is part of the review process.	
Date: Friday, 9 June 2017	Time: 10:00am
Project: Gateway Review Advice 80 Silverdale Road	
Meeting place: PAC Office	
<p>Attendees: PAC Members: Annabelle Pegrum AM, Prof. Zada Marie Lipman PAC Secretariat: David Mooney (Team Leader) and Jorge Van Den Brande (Planning Officer)</p>	
<p>The proponent: Tim Colless - Director of COPRAD William Clinch - Representing the landowner</p>	
The purpose of the meeting was for the proponent to brief the Commission on its request for review of the Gateway Determination.	
<p>The proponent briefed the Commission noting that:</p> <ul style="list-style-type: none"> • They had consulted extensively with Council in the past on the planning proposal and were keen to continue with constructive consultation. • Sydney Water had advised that reticulated water and sewerage could be provided to the land. • Specification of a minimum lot size would provide them with necessary certainty to move forward with the development of the site. • Potentially contaminated parts of the land are associated with the use of land to the north of the site (not the development area) which had been used for the disposal of spoil and some building materials but not as a public land fill area. • They are keen to preserve the rural character of the site, acknowledge the benefits of a development transition from the village to the rural lots and do not wish to develop dual occupancies on any of the lots at issue. • The concept plan is indicative only and lots are likely to be larger than 1500 m². 	
Documents tabled at meeting: Maps	
Meeting closed at: 10:45 am	

Notes of teleconference with Council

This meeting is part of the review process.	
Date: Friday, 9 June 2017	Time: 11:00am
Project: Gateway Review Advice 80 Silverdale Road	
Meeting place: Teleconference	
Attendees: PAC Members: Annabelle Pegrum AM, Prof. Zada Marie Lipman PAC Secretariat: David Mooney (Team Leader) and Jorge Van Den Brande (Planning Officer)	
Wollondilly Shire Council: David Smith - Manager of Strategic and Growth Nicole Aiken – Strategic Planer	
The purpose of the meeting was for Wollondilly Shire Council to brief the Commission on its view and position of the request for review of the Gateway Determination.	
The Council briefed the Commission noting that: <ul style="list-style-type: none">• the site and escarpment are visually prominent and can be viewed from distant vantage points• the site is bushfire prone land and the indicative subdivision layout does not have adequate setbacks or a perimeter road as recommended by the <i>Planning for Bushfire Protection</i>• the existing residential character is important and should be retained.• the provision of on-site stormwater management may be a limiting factor in deciding the appropriate minimum lot size• minimum lot size should be determined following specialist's studies, and 1,500m² may not be appropriate.• the trunk sewerage main from The Oaks to Camden, which is in part a rising main, has capacity for 140 additional dwellings. This capacity might better be used for urban infill development within The Oaks village.• The Draft South West District Plan has a target of 1,500 dwellings for the first five years after the making of the plan. Council already has enough land zoned residential and are confident of meeting their dwelling target.• Council is also on target to achieve the Growth Strategy 2011 for The Oaks and Oakdale of 350 dwellings by 20136.• Council can achieve housing targets in both State and local planning strategies. Growth is strong in the locality with around 10 development applications per year for dual occupancy in The Oaks.	
Documents tabled at meeting: NA	
Meeting closed at: 12:00	

Review of Gateway determination – Briefing Report

Date of Review Application:	25 January 2017
Department Ref. No:	PP_2016_WOLLY_005_00
LGA:	Wollondilly
LEP to be Amended	Wollondilly Local Environmental Plan 2011
Address:	80 Silverdale Road, The Oaks
Reason for review:	<input type="checkbox"/> A determination has been made that the planning proposal should not proceed. <input type="checkbox"/> A determination has been made that the planning proposal should be resubmitted to the Gateway. <input checked="" type="checkbox"/> A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent thinks should be reconsidered.

INTRODUCTION

- The Oaks North planning proposal (Tab C) was lodged with the Department seeking to amend planning controls at 80 Silverdale Road and 1–22 Browns Road.
- On 8 December 2016, a Gateway determination (Tab D) was given which included the following amendments to Wollondilly Local Environmental Plan 2011 (LEP):
 - part of 80 Silverdale Road:
 - amend land zone from RU2 Rural Landscape to R5 Large Lot Residential;
 - amend the height of buildings to introduce a maximum height of 9m; and
 - amend the lot size from 40ha to a minimum lot size to be determined following specialist studies.
 - 1–22 Browns Road:
 - amend the minimum lot sizes from 700m² to 1500m².
- On 25 January 2017, an application was lodged by COPRAD (Tab E), on behalf of the land owner, to review the Gateway determination by seeking the following alternative planning controls for part of the land included in the determination:
 - part of 80 Silverdale Road only (the site):
 - amend land zone from RU2 Rural Landscape to R2 Low Density Residential;
 - amend the lot size from 40ha to a minimum lot size of 1500m²; but
 - retain the proposed maximum building height of 9m.
 - It is not proposed to alter the Gateway determination for 1–22 Browns Road.
- COPRAD's concept layout plan (Tab F) indicates a 12-lot subdivision ranging in size from approximately 1500m² to 2400m².

SUMMARY OF THE PROPOSAL

Background

- In February 2016, Willow Tree Planning (hired by COPRAD) submitted a planning proposal (Tab G) to Council requesting the following amendment to the planning controls applying to the site, which would align planning controls at the site with adjacent land at 1–22 Browns Road:
 - amend the land zone from RU2 Rural Landscape to R2 Low Density Residential;
 - amend the height of buildings to introduce a maximum height of 9m; and
 - amend the lot size from 40ha to a minimum lot size of 700m².

- Council officers prepared a report for Council's Ordinary meeting recommending the following amended planning controls for the site (Tab H):
 - amend the land zone from RU2 Rural Landscape to R2 Low Density Residential;
 - amend the height of buildings to introduce a maximum height of 9m; and
 - that an appropriate lot size cannot be determined at present until further information is available to inform a position on the site's capability for development. This is due to the nature of site constraints such as the transmission line, proximity to ridge line, capacity of essential services (particularly reticulated sewerage), water quality and bushfire-prone land.
- On 18 July 2016, Councillors resolved to support the preparation of a planning proposal for the site in a further amended form:
 - amend the land zone from RU2 Rural Landscape to R5 Large Lot Residential;
 - amend the height of buildings to introduce a maximum height of 9m; and
 - that lot sizes are to be determined after the preparation of the Gateway determination and specialist studies have been reported back to Council for endorsement. Also, that the lot sizes shall not be smaller than the average lot size for the existing allotments in Browns Road.
- In response to the publication of the agenda for the Ordinary meeting on 17 October 2016 (Tab I), COPRAD made a submission to Council, which was provided to Councillors, requesting reconsideration of rezoning the land to R5 with a minimum lot size of 1500m².
- On 17 October 2016, Councillors resolved to support an addition to the planning proposal, to increase the minimum lot size of land at 1–22 Browns Road from 700m² to 1500m² (Tab I).
- The Department Planning Team Report (Tab J) assessed the planning proposal and on 8 December 2016, a Gateway determination was issued as discussed above.

The Site – 80 Silverdale Road

- Current planning controls at the site are RU2 Rural Landscape, with a minimum lot size of 40ha.
- The site is approximately 1.9ha of land contained within Lot 3 DP 1201486 in the Wollondilly Shire Local Government Area:
 - located at the northern tip of The Oaks, approximately 1km from the village centre, and adjacent to 1–22 Browns Road (Figure 1, overleaf); and
 - gentle undulating land, cleared of vegetation with an open stormwater easement running from east to west through the middle (Figure 2, overleaf).
- The site is bounded by:
 - low density residential housing to the south (Browns Road), with various lot sizes ranging from 1491m² to 2799m²;
 - a steep vegetated escarpment to the east;
 - a high voltage transmission easement that is approximately 30.48m wide to the north; and
 - Silverdale Road to the west.
- Land surrounding the site to the west, east and north, is zoned RU2 and comprises pasture, farm dams, farm dwellings, outbuildings and scattered vegetation.
- High points on the site have distant views of the Sydney skyline.
- Due to the nature of the site, the Gateway determination supported a number of specialist studies to assist Council in evaluating an appropriate capacity for the site and establishing minimum lot sizes. These include:
 - Geotechnical and Salinity Assessment to understand risk of erosion of the escarpment and slope stability;

- Bush Fire Threat Assessment to understand the risk to housing and evacuation;
- Traffic and Safety Audit to understand current or future issues regarding capacity and access via Browns Road; and
- updated Stage 2 Contamination Assessment and NorBe Assessment on water quality to assist in understanding the capacity and permissibility of housing on the site.
- Upon review of this information, Council will amend the planning proposal to specify a minimum lot size, which will be referred to the Department for endorsement prior to community consultation.

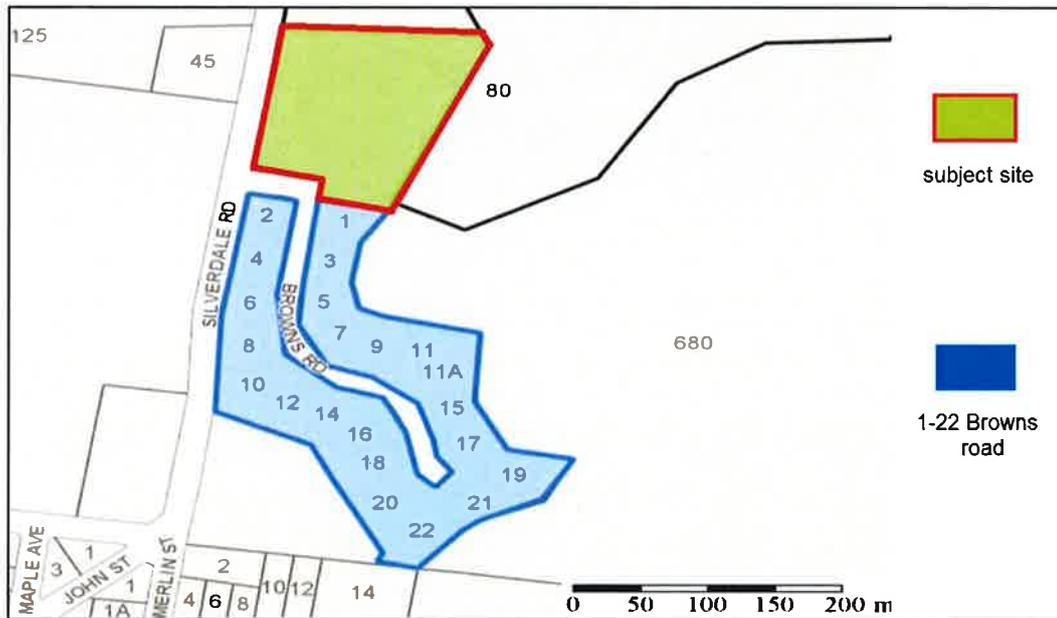


Figure 1

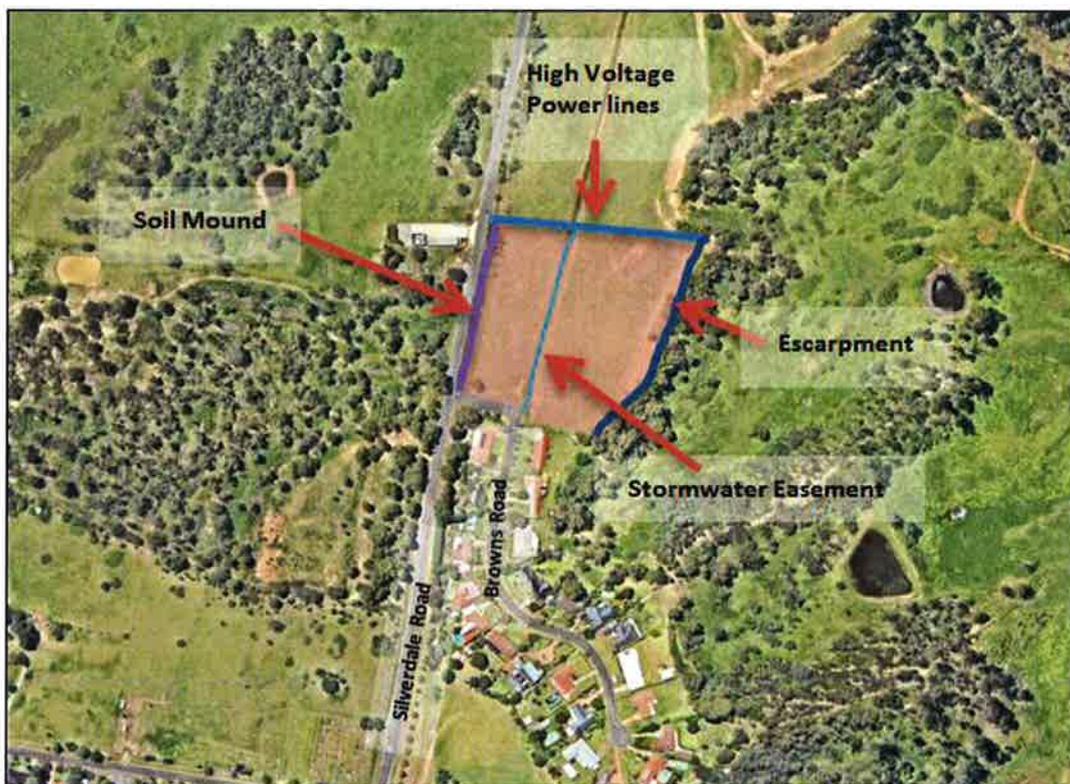


Figure 2

PROPONENT'S JUSTIFICATION

- The planning proposal lodged with Council by Willow Tree only applied to 80 Silverdale Road and sought to rezone the site to R2 Low Density Residential with a minimum lot size of 700m².
- At the time Willow Tree lodged this proposal, those controls applied to the neighbouring land at 1–22 Browns Road.
- 1–22 Browns Road is already developed with detached residential dwellings, with an approximate lot size of 1800m².
- Prior to formally lodging the proposal with the Department for a Gateway determination, Council amended the planning proposal to:
 - include 1–22 Browns Road to increase the minimum lot size to 1500m²; and
 - seek R5 Large Lot Residential for 80 Silverdale Road, (rather than R2 Low Density Residential), and determine the minimum lot size following completion of various technical studies. The proposal also noted a Council resolution of 18 July 2016 which required the lot size to be not less than the average lot size for the existing allotments in Browns Road (i.e. approximately 1800m²).
- COPRAD argues (Tab E) that:
 - Council's changes to the planning proposal were without sound reasoning or justification;
 - the Gateway determination is unlikely to achieve an appropriate lot size for the site;
 - the alternative planning controls requested would be in keeping with existing development at 1–22 Browns Road and are not likely to be in conflict with surrounding land uses; and
 - the proposed amendment will deliver a relatively small yield of 12 lots with a minimum lot size of 1500m² as seen in the concept layout plan.

VIEWS OF COUNCIL

- On 23 February 2017, the Department received Council's comments (Tab K) which highlighted that the planning proposal was prepared to allow for a modest increase in housing that was in keeping with the existing residential development along Browns Road.

Objection to COPRAD's Request for Review

- Council referred to the Department's *A Guide to Preparing and Local Environmental Plan* which states that "a proponent or a Council may request" a review of the Gateway determination, and highlighted that Willow Tree Planning is the proponent for this planning proposal.
- The Department has been informed that COPRAD engaged Willow Tree Planning, and COPRAD has decided not to further engage their services for this review.
- The Department is satisfied that COPRAD is the proponent for the purposes of this review.

Land Zoning

- Council considers the R5 Large Lot Residential zoning is appropriate as Council's intention for the site is to permit large lots.

Lot Size

- Council has noted a number of site constraints which affect the capability of the land.
- These include the proximity to the transmission line, proximity to the ridge line, bushfire-prone land, water catchment quality and if the site could be serviced by Sydney Water (particularly reticulated sewerage).

- Council indicated that it never had the intention to have smaller than the average size lots on 1–22 Browns Road, and it was anticipated that understanding constraints through specialist studies may result in larger lot sizes.

Water NSW

- 18 January 2017, a letter from Water NSW to Council (Tab L) confirmed that the majority of the site drains away from the Sydney drinking water catchment, however a portion to the west of the site and part of lots 1–3 Browns Road fall within the Sydney Water Catchment area.
- Strategic Land and Water Capability Assessment mapping identifies the risk to water quality from residential sewerred lots as being moderate and unsewered lots as high.
- If the site is not serviced by sewerage infrastructure, a minimum residential lot size of 2000m² is recommended, as it is generally considered the minimum acceptable size for the provision of on-site wastewater treatment and disposal.
- Water NSW supports an R5 zone and future developments should incorporate water sensitive urban design measures in accordance with Water NSW practice guide for rural residential subdivisions.
- Further studies will be needed to demonstrate whether future development will have a neutral or beneficial effect on water quality.

Dual Occupancy Concerns

- Council highlighted the following concerns:
 - the Wollondilly Development Control Plan 2016 seeks to prevent dual occupancy subdivision on lots over 1400m², but dual occupancy is permissible in the R2 zone under the LEP; and
 - dual occupancies would change the character of the location and result in a development that is incompatible with the adjoining residential properties and the surrounding landscape.

DEPARTMENT COMMENT

- The intended outcomes of the planning proposal are to allow for a modest increase in housing, in keeping with the existing housing in Browns Road which are detached residential dwellings on lot sizes ranging from 1492m² to 2799m²
- The Gateway determination reflects the need for further specialist studies to best understand the constraints and capacity of the site, prior to confirming a minimum lot size.

Sydney Water

- On 28 February 2017 (2 months after the Gateway determination), a letter from Sydney Water to Council (Tab M) confirmed there is a drinking water connection available and sufficient capacity for sewerage for the proposed development as seen in the concept layout plan (i.e. 12 lots, minimum lot size of 1500m²).

Zoning

- If the site were to be rezoned R2 as requested by COPRAD, this would permit dual occupancies and result in denser forms of housing at further distances from The Oaks village centre than the existing detached dwellings in Browns Road.
- Therefore, the R5 zone is considered most suitable as it will not permit dual occupancy development and provide an appropriate graduation of zones.

Lot Size

- The Department's comparison of the 12 proposed lot sizes in the concept layout plan and the existing lots at 1–22 Browns Road is seen in Table 1 below.

	Concept Layout Plan (proposed lot sizes)	1–22 Browns Road (existing lot sizes)
Smallest lot size	1525m ²	1492m ²
Largest lot size	2389m ²	2799m ²
Average lot size	1839m ²	1880m ²

Table 1 Lot size comparison

- In light of Table 1 above, it is the Department's view that COPRAD's proposed lot sizes are generally in keeping with existing development at 1–22 Browns Road, and capable of delivering the intended outcomes of the planning proposal.
- As mentioned above, Sydney Water has confirmed current capacity to service the 12 lots sought in the concept layout plan.
- Therefore, it is considered a minimum lot size 1500m² could be applied to the site subject to results of specialist studies listed in condition 1 of the Gateway determination.

Proponent Comment

- On 6 April 2017, the Department consulted COPARD on whether they would accept an R5 zone with a minimum lot size of 1500m². COPRAD's reply noted:

"We believe that we have adequately justified the R2 zoning with a minimum lot size 1,500m², consistent with the Browns Road community and significantly less in density than what was recommended by Council's Strategic Planners to the Ordinary Meeting of Council. However, in the interests of progress and mindful of the delays, we would be willing to support R5 with a 1,500m² minimum lot size if the R2 zoning is deemed not appropriate".

Conclusion

- Advice is sought from the Commission whether the requirements of the Gateway determination should be amended.

Prepared by: Stuart McIntosh
Planning Officer, Sydney Region West
Contact: (02) 9860 1551

**Planning Assessment Commission
Gateway Determination Review**

The Planning Assessment Commission has considered the request for a review of the Gateway determination of the planning proposal as detailed below:

Dept. Ref. No:	PP_2016_WOLLY_005_00
LGA	Wollondilly
LEP to be Amended:	Wollondilly Local Environment Plan 2011
Address / Location:	80 Silverdale road, The Oaks
Proposal:	Proposed rezoning from RU2 Rural Landscape to R2 Low Density Residential amend the lot size from 40ha to a minimum lot size of 1,500m ² , and retain a maximum building height of 9m.

Reason for review:	<input type="checkbox"/>	A determination has been made that the planning proposal should not proceed.
	<input type="checkbox"/>	A determination has been made that the planning proposal should be resubmitted to the Gateway.
	<input checked="" type="checkbox"/>	A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.

In considering the request, the Planning Assessment Commission has reviewed all the relevant information provided by the proponent as well as the views and position of the Department of Planning and Environment (the Department) and the Wollondilly Shire Council (Council). Based on this review the **Commission recommends** the following

Reason for Review: A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.

RECOMMENDATION:	<input checked="" type="checkbox"/>	Requirement should be imposed or variations made to the planning proposal.
		<input type="checkbox"/> no amendments are suggested to original determination. <input checked="" type="checkbox"/> amendments are suggested to the original determination.
	<input type="checkbox"/>	The suggested requirements or variations of the original Gateway determination are not necessary and the planning proposal should proceed past Gateway in accordance with the original submission.

Planning Assessment Commission advice and justification for recommendation:

The Commission recommends that the Gateway determination should retain application of the R5 Large Lot Residential zone to the land. The Commission also recommends that the Gateway determination be amended to specify a minimum lot size of 1,500m², subject to the:

- availability of reticulated sewerage to each lot;
- findings and recommendations in the specialist studies set out in item 1 of the Gateway determination; and
- findings and recommendations of a comprehensive whole-of-site concept plan for storm water management, which incorporates best practices for water sensitive urban design prepared in consultation with Water NSW.

The Commission has made this recommendation noting, in particular:

- Council's consideration that the R5 zone is appropriate and in keeping with the character of the area and the Department's comment that maintaining an R5 zone will prevent dual occupancy development and '*provide an appropriate graduation of zones*';
- The proponent's support to an R5 zone with a 1,500m² minimum lot size '*if the R2 zoning is deemed not appropriate*';
- Sydney Water's advice to Council of 28 February 2017 that a drinking water connection is available and that there is currently sufficient capacity in the wastewater system (for sewerage) for the development as illustrated in the concept plan (that shows minimum lot sizes of 1,525m²);
- the Department's advice in its briefing report that a minimum lot size of 1,500m² could be applied to the site which is '*generally in keeping with existing development at 1-22 Browns Road*', subject to the results of the specialist studies in item 1 of the Gateway determination;
- Water NSW advice to Council of 18 January 2017 that if the site is not serviced by sewerage infrastructure a minimum residential lot size of 2,000m² is recommended for on-site wastewater treatment and disposal, and that the development should incorporate water sensitive urban design measures; and
- Council's concern that careful on-site storm water management will be necessary to achieve an appropriate outcome for the Sydney Drinking Water Catchment.

In carrying out the review, the Commission met with the proponent for the planning proposal, and teleconferenced with Council. Minutes of these meetings are attached.

In the teleconference with Council, several additional concerns were comprehensively set-out and these included that the:

- site and adjoining vegetated escarpment were visually prominent and sensitive to changes such as might result from vegetation clearing;
- indicative lot layout in the planning proposal would not comply with *Planning for Bushfire Protection* because, among other reasons, it did not include a perimeter fire access;
- Council is already on track to achieve dwelling targets under both State and local planning strategies without the need of the current planning proposal; and
- sewerage trunk main from The Oaks to Camden had limited capacity, which would be more appropriately used by infill development closer to the town centre.

The Commission notes that the Gateway determination includes a requirement to carry out several specialist studies, including a bushfire assessment report, which will inform the final decision on lot sizes in the draft Local Environmental Plan.

In respect of the Council's concerns about the need for the planning proposal or its implications for reticulated sewerage capacity and infill development more broadly, the Commission notes that this is beyond the scope of the review responsibility to make recommendations about the requirements imposed by the current Gateway determination.



**Ms Annabelle Pegrum AM
Commission Member (Chair)**



**Prof Zada Lipman
Commission Member**

RECORDS OF COMMISSION MEETINGS FOR THE REQUEST FOR ADVICE

Notes of meeting from the proponent

This meeting is part of the review process.	
Date: Friday, 9 June 2017	Time: 10:00am
Project: Gateway Review Advice 80 Silverdale Road	
Meeting place: PAC Office	
<p>Attendees: PAC Members: Annabelle Pegrum AM, Prof. Zada Marie Lipman PAC Secretariat: David Mooney (Team Leader) and Jorge Van Den Brande (Planning Officer)</p>	
<p>The proponent: Tim Colless - Director of COPRAD William Clinch - Representing the landowner</p>	
The purpose of the meeting was for the proponent to brief the Commission on its request for review of the Gateway Determination.	
<p>The proponent briefed the Commission noting that:</p> <ul style="list-style-type: none"> • They had consulted extensively with Council in the past on the planning proposal and were keen to continue with constructive consultation. • Sydney Water had advised that reticulated water and sewerage could be provided to the land. • Specification of a minimum lot size would provide them with necessary certainty to move forward with the development of the site. • Potentially contaminated parts of the land are associated with the use of land to the north of the site (not the development area) which had been used for the disposal of spoil and some building materials but not as a public land fill area. • They are keen to preserve the rural character of the site, acknowledge the benefits of a development transition from the village to the rural lots and do not wish to develop dual occupancies on any of the lots at issue. • The concept plan is indicative only and lots are likely to be larger than 1500 m². 	
Documents tabled at meeting: Maps	
Meeting closed at: 10:45 am	

Notes of teleconference with Council

This meeting is part of the review process.	
Date: Friday, 9 June 2017	Time: 11:00am
Project: Gateway Review Advice 80 Silverdale Road	
Meeting place: Teleconference	
<p>Attendees:</p> <p>PAC Members: Annabelle Pegrum AM, Prof. Zada Marie Lipman</p> <p>PAC Secretariat: David Mooney (Team Leader) and Jorge Van Den Brande (Planning Officer)</p> <p>Wollondilly Shire Council:</p> <p>David Smith - Manager of Strategic and Growth</p> <p>Nicole Aiken – Strategic Planer</p>	
The purpose of the meeting was for Wollondilly Shire Council to brief the Commission on its view and position of the request for review of the Gateway Determination.	
<p>The Council briefed the Commission noting that:</p> <ul style="list-style-type: none"> • the site and escarpment are visually prominent and can be viewed from distant vantage points • the site is bushfire prone land and the indicative subdivision layout does not have adequate setbacks or a perimeter road as recommended by the <i>Planning for Bushfire Protection</i> • the existing residential character is important and should be retained. • the provision of on-site stormwater management may be a limiting factor in deciding the appropriate minimum lot size • minimum lot size should be determined following specialist’s studies, and 1,500m² may not be appropriate. • the trunk sewerage main from The Oaks to Camden, which is in part a rising main, has capacity for 140 additional dwellings. This capacity might better be used for urban infill development within The Oaks village. • The Draft South West District Plan has a target of 1,500 dwellings for the first five years after the making of the plan. Council already has enough land zoned residential and are confident of meeting their dwelling target. • Council is also on target to achieve the Growth Strategy 2011 for The Oaks and Oakdale of 350 dwellings by 20136. • Council can achieve housing targets in both State and local planning strategies. Growth is strong in the locality with around 10 development applications per year for dual occupancy in The Oaks. 	
Documents tabled at meeting: NA	
Meeting closed at: 12:00	

PE4 Attachments

1. Council report and minutes from the Ordinary Meeting of Council held 20 March 2017.
2. Gateway Determination (17 July 2017)
3. Submission to Council – Precise Planning (dated 26 July 2017)

Monday 18 September 2017

PE4 – Darley Street Planning Proposal Outcome of Gateway Determination

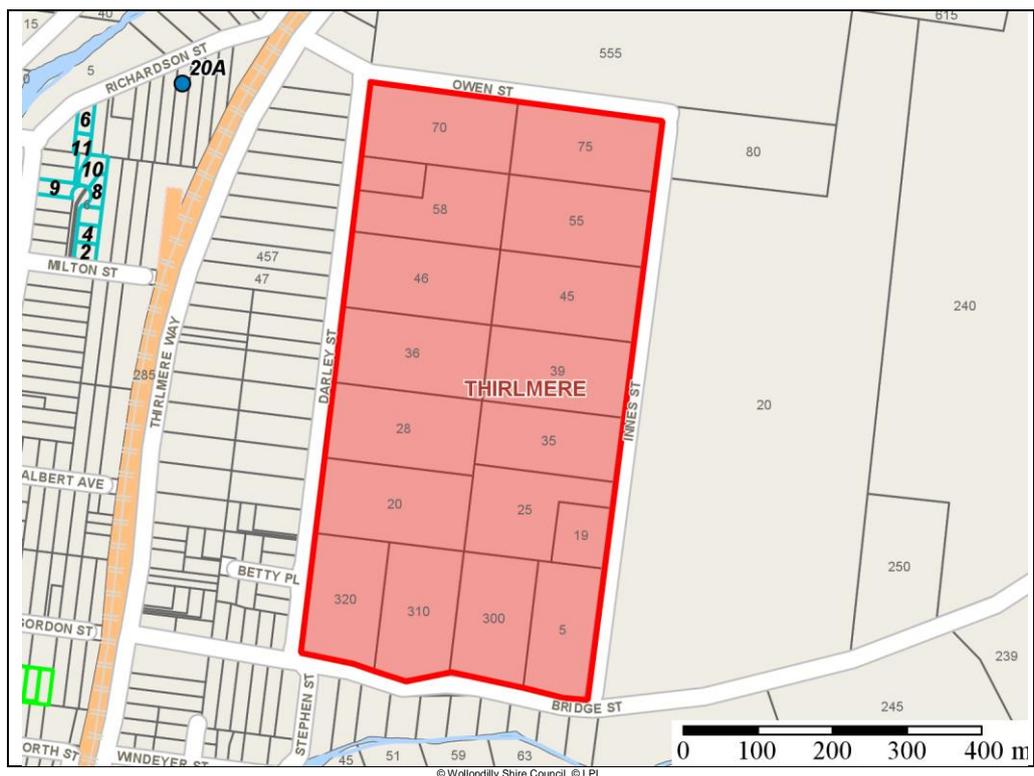
Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 20 March 2017

PE3 – Draft Planning Proposal – Darley Street Residential, Thirlmere

PE3 **Draft Planning Proposal – Darley Street Residential, Thirlmere** TRIM 9362
 265508

Applicant: **Precise Planning**
Owner: **Various (18 properties)**

Planning & Economy



LOCATION MAP N

Stage	Completed
Preliminary notification	26 September – 2 nd November 2016
Gateway Determination	Not completed
Consultation with Public Agencies	Not completed
Specialist Studies	Not completed
Public exhibition/community consultation	Not completed
Referred to Minister for Publication	Not completed

PE3 – Draft Planning Proposal – Darley Street Residential, Thirlmere

EXECUTIVE SUMMARY

- A draft Planning Proposal has been received for land located in Thirlmere, bounded by Darley, Owen, Innes and Bridge Streets.
- The draft proposal seeks changes to the Wollondilly Local Environmental Plan, 2011 to **amend the Land Zoning from RU4 - Primary Production Small Lots to R2 - Low Density Residential**
- The proposal has been subject to initial notification and there were **19** community submissions and one (1) public agency submission was received, **7** were in objection, **12** were in support and **1** was neutral.
- 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 defer the consideration of a Planning Proposal until:
 - confirmation is received from Sydney Water that the site can be serviced by the Picton Sewerage Treatment Plan
 - a housing strategy, including an assessment of affordability issues is prepared.

REPORT

PROPERTY DESCRIPTION

The proposal relates to the following properties in Thirlmere:

- Lot 3 Section 7 DP 2339 (300 Bridge Street)
- Lot 2 Section 7 DP 2339 (310 Bridge Street)
- Lot 10 Section 7 DP 2339 (70 Darley Street)
- Lot 14 Section 7 DP 2339 (39 Innes Street)
- Lot 13 Section 7 DP 2339 (45 Innes Street)
- Lot 11 Section 7 DP 2339 (75 Innes Street)
- Lot 12 Section 7 DP 2339 (55 Innes Street)
- Lot 5 Section 7 DP 2339 (20 Darley Street)
- Lot 7 Section 7 DP 2339 (36 Darley Street)
- Lot 2 DP 778327 (25 Innes Street)
- Lot 92 DP 634407 (58 Darley Street)
- Lot 1 DP 778327 (35 Innes Street)
- Lot 91 DP 634407 (64 Darley Street)
- Lot A DP 376685 (19 Innes Street)
- Lot 4 Section 7 DP 2339 (5 Innes Street)
- Lot 8 Section 7 DP 2339 (46 Darley Street)
- Lot 6 Section 7 DP 2339 (28 Darley Street)
- Lot 1 Section 7 DP 2339 (320 Bridge Street)

PE3 – Draft Planning Proposal – Darley Street Residential, Thirlmere

PROPERTY OWNERS:

M F Williams & R L Williams, W Krattli & E K Krattli, T M Shaw & A M Shaw, E J Reilly & E J Reilly, C J McLean & J M McLean, P Panayiotou & L Panayiotou & N Solomou & C Solomou, D Karolis, A P Schembri, E I Dekleva & M L Dekleva, D O Francis, D Hunt, S M Tayler, R A Cunningham, H N Peachey & D J Peachey, E J McPhee & J McPhee, J A Lee & A A Lee, J Pignataro & K M Pignataro, N El-Hazouri

The draft Planning Proposal has been lodged by Precise Planning on behalf of the land owners. It is understood that not all land owners are supportive however the planning proposal does not indicate how many or who the drivers of the proposal are.

1.1 DESCRIPTION OF PROPOSAL

The draft Planning Proposal (PP), known as Darley Street Residential promotes the rezoning of a parcel of approximately 30.2 hectares of rural land containing eighteen principle allotments, bounded by Darley, Owen, Innes and Bridge Streets for low density residential development.

Also forming part of the draft proposal is an Indicative Layout Plan (ILP) showing a minimum allotment size of 700sqm with an R2 Low Density Residential land use zone applied across the site. A maximum height of buildings of 9 metres is also proposed for the site.

The indicative layout plan also identifies a street layout comprising of seven new roads running horizontally across the site from east to west and a Council Drainage Reserve running horizontally down approximately half of the site in a southerly direction.

If supported in this format, the planning proposal will result in approximately 343 lots which when calculated against the Wollondilly average number of persons per household of 2.9, would equal approximately 995 additional people.

1.2 SITE DESCRIPTION AND LOCAL CONTEXT

The site includes eighteen principal parcels of land in the ownership of eighteen parties, as listed at the beginning of this report.

The site represents the eastern transitional of residential and rural lands and is situated on the residential boundary of Thirlmere to the West and rural lands to the east. These rural lands provide a rural buffer between Picton and the Thirlmere.

The site has been identified in a number of previous Council Strategies, including the current Wollondilly Growth Management Strategy for future residential investigation.

PE3 – Draft Planning Proposal – Darley Street Residential, Thirlmere

The site is currently zoned RU4 Primary Production Small Lots and borders the residential boundary to the south and west.

As shown in Figure 1, a small portion of the adjoining residential land located to the southwest is zoned R2 low density residential, while the majority of the residential land, located to the south and west, is zoned for large lot residential (R5).

The site also borders Rural Landscape (RU2) zoned land to the east and borders the Queen Victoria Memorial Home (QV) site to the north.

The QV site has recently been the subject of an LEP amendment which has primarily sought to expand the uses permissible on the site to allow for a future seniors living development. A concept plan submitted as part of the recent planning proposal for the QV site illustrated the intended future development of the site. It proposed a mix of housing styles and identified a larger lot landscape housing type development to be located adjoining the Owen Street boundary. However no development application for additional housing has been submitted for the QV site.

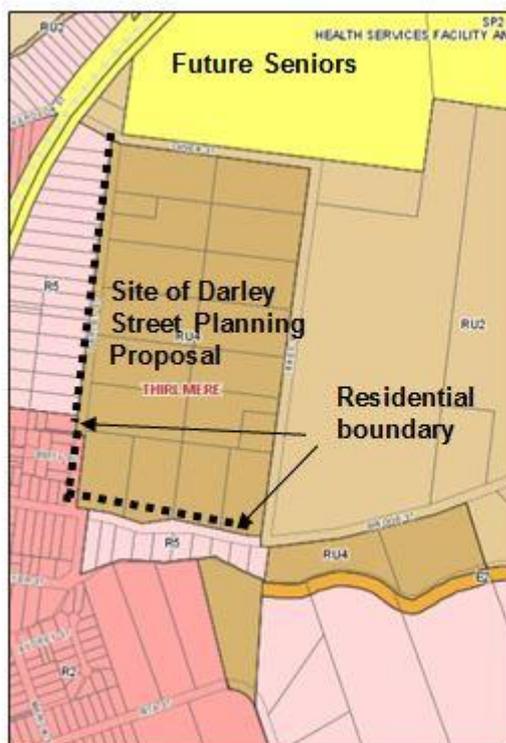


Figure 1 Current Land Zones Adjacent to Planning Proposal Site

The site is bounded by Darley Street, Owen Street, Innes Street and Bridge Street. Less than 100m from the site, Bridge Street terminates into a T intersection onto Thirlmere Way.

PE3 – Draft Planning Proposal – Darley Street Residential, Thirlmere

Darley Street runs in a north south direction along the entire length of the western portion of the site and represents the north eastern residential boundary of Thirlmere. Innes Street also runs in a north south direction on the eastern side of the site and terminates in a dead end.

Owen Street is partially an unformed road with the unformed portion running between the site and the QV site to the North. This section appears to be used for drainage and vegetation. The formed portion of Owen Street meets Darley Street to the north and ends in an intersection onto Thirlmere Way. These Streets can be viewed on the location map above.

Properties that border Darley Street are situated on moderately sloping land with some natural drainage running from North to South.

Properties that border Innes Street to the north east are situated on significantly steeper land with a significant ridge line running east to west slightly south of the centre of the site.

This divides the site into two catchments for surface water drainage. The southern catchment of the site drains to Redbank Creek and the northern catchment drains to Matthews Creek.

A drainage and detention system made up of dams is also evident to the east of the site which flow into each other in a north-west direction across the site.

1.3 PLANNING HISTORY OF THE SITE – PICTON TAHMOOR THIRLMERE (PTT)

The site has historically been identified in a number of Council's strategies and is currently identified as "*PTT Future Urban Investigation Area*" on the Structure Plan for Tahmoor & Thirlmere which forms part of the Wollondilly Growth Management Strategy 2011 (GMS).

PTT was a Council led strategic approach to identifying land for future residential development. In 2005 it resulted in the submission of a planning proposal and subsequent LEP amendment in 2014 to establish six residential precincts across Picton, Tahmoor and Thirlmere.

Previous Council planning strategies have identified the land at Darley Street on a number of occasions as a location for future residential growth, however there has been an ongoing question regarding the land suitability and capability of the site for development.

The site was initially identified in the *Residential Study Picton/Tahmoor/Thirlmere* carried out by Purdon Associates Pty Ltd (1989) as "standard residential" (p.45). However, the study does not appear to include the site as a priority release area.

PE3 – Draft Planning Proposal – Darley Street Residential, Thirlmere

In 1999, the site was then identified in the Picton Tahmoor Thirlmere Strategy carried out by Council's Development & Environment Division, as 'rural urban fringe' (page 26) and was recommended to have a minimum average lot size of 1 hectare, with an absolute minimum lot size of 4,000 sqm, subject to ideal effluent disposal.

Following this, the PTT Masterplan which was adopted by Council in 2003, provided a visual representation of the future developments within the PTT area. Within this plan the site was identified for future urban development.

The site has since been identified in *the Picton Tahmoor Thirlmere Urban Area Implementation Strategy (2005)* as a 'future urban investigation precinct'. A definition for the term "urban investigation precinct", is provided in the PTT Land Environmental Study (LES) (2001).

"land that may have remote potential for additional lots, subject to further investigation at such time as urban development and population growth exceeds the supply of dwellings created from continued consolidation and the 'new urban precincts'".

Council's current housing target for Picton Tahmoor and Thirlmere is identified in the GMS 2011 as 4,000 lots by 2036. Since the release of the GMS a number of planning proposals (12) in Picton, Tahmoor and Thirlmere have been submitted to Council, some of these being for land identified in the PTT and some are brand new proposals.

These planning proposals are all at various stages of approval however, calculations of the total lots that will be generated from these proposals is roughly estimated at 3,800 lots. This suggests that housing targets for these towns should be met by approved and proposed developments.

PE3 – Draft Planning Proposal – Darley Street Residential, Thirlmere

CONSULTATION

2.1 CONSULTATION WITH COUNCIL MANAGERS AND STAFF

Preliminary consultation was undertaken with Council managers and staff to discuss the planning proposal. The issues identified for this planning proposal are outlined below:

Vegetation

- The site is identified as containing Shale Sandstone Transition Forest with approximately one hectare of vegetation located on the south portion of the site adjoining Bridge Street. There is value in keeping this vegetation.

Geotechnical

- A geo technical and salinity study/report will be required if the proposal is to proceed.
- Concern about the slope on part of the Eastern side looks to be too steep for residential zoning and an environmental zoning may be appropriate for this section.

Drainage

- There is an existing drainage issue into Redbank Creek from existing properties on the other side of Bridge Street to the south. The land here is zoned R5 Large Lot Residential however the block size of these properties doesn't allow for adequate drainage. Council is constantly working with land owners to resolve issues.
- If the proposal proceeds the scope of the drainage and flooding study should include the R5 zoned land on the southern side of Bridge Street and investigate drainage into Redbank Creek.
- The existing drainage problems experienced by these properties could be resolved by connecting these properties to the reticulated sewer and would provide environmental benefits in terms of water quality.

Intent of GMS

- Some of the site is within walking distance to Thirlmere (less than 1km) and so fits with the policy directions of the GMS.
- Unlike other sites that have been identified for future urban investigation areas in the Council's Growth Management Strategy, this site has been specifically identified as a PTT Future Investigation Area. It is understood the intent at this time was to revisit the area after all other sites listed in the GMS for Thirlmere including PTT had been developed.

PE3 – Draft Planning Proposal – Darley Street Residential, Thirlmere

Loss of Agricultural Land

- The land could be useful as agricultural land and so there is a question of whether the need for an additional 300 homes outweighs the loss of this land for agricultural purposes.
- There is concern that a precedent will be set for neighbouring properties and other RU4 zoned land in Thirlmere which might result in the loss of all our rural land in this area.

Need for more houses

- The proposal raises the question of what is the strategic direction for Thirlmere. Are we promoting growth or are we limiting it?
- Overall, PTT will generate approximately 600 additional lots in Thirlmere and in close proximity to the site, with many yet to be developed. There is a concern that there is no real need for more houses in Thirlmere at present.

Land Use Conflict

- There are significant issues in Thirlmere in relation to land use conflict, with farmers genuinely wanting to use their land for rural purposes. If this proposal proceeds a similar situation might develop.
- The site currently forms a buffer between the residential and intensive agriculture zones.

Road layout

- The proposed indicative layout with a number of roads crossing the site from east to west is not considered a good outcome. The layout would generate a significant number of intersections and would create a substantial maintenance burden for Council.
- Given the potential lot yield under the proposal, the site will most likely be identified as an Urban Release Area and would trigger the requirement for a concept plan for the whole site to be developed in a coordinated manner.

Road widening and upgrade

- Roads are shown as straddling the property boundaries which would require both properties to work together.
- One property boundary on Bridge Street is too close to the road so there will be a need for road widening at that pinch point if the proposal proceeds.
- Existing roads will need to be upgraded to meet the demand of the additional population.

Traffic

- Traffic impacts need to be considered.

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2.2 CONSULTATION WITH PUBLIC AGENCIES

Consultation with public agencies usually only occurs after Council has resolved to support a planning proposal and a Gateway Determination has been issued by the Department of Planning and Environment.

However a submission has been received from Sydney Water which identifies the following considerations:

Water

- The proposed development is within the Thirlmere supply system (reduced zone) and the existing system has sufficient capacity to service the proposed development.

Wastewater

- There is insufficient capacity available at the Picton Water Recycling Plant for the proposed development.
- Sydney Water is in the process of amplifying treatment capacity at the Picton plant to 4.0 ML/day and this treatment capability is expected to be effective from mid-2017.
- Sydney Water is committed to servicing land rezoned within the Picton Tahmoor Thirlmere (PTT) Urban Land precincts. As this proposed development is located outside and to the north of the East Thirlmere PTT area, this site would not have access to the wastewater network in the short-term.
- Sydney Water would not be satisfied that essential wastewater infrastructure is in place for development consent to be granted under Clause 6.2 of the Wollondilly Local Environmental Plan should the rezoning proceed in advance of appropriate servicing options.
- We anticipate that the development and implementation of a long-term effluent management strategy for Picton will take time and depending on the complexity, approvals and infrastructure requirements, a preferred strategy is likely to be operational in the next three to five years. In the interim, Sydney Water is consulting with the Environment Protection Authority on the best approach to manage excess recycled wastewater.
- Sydney Water is also presently investigating the options to manage surplus recycled wastewater due to increased flows to the plant and has formed a community reference group (CRG) to help identify the best ways to use the additional water from future population growth.

This is not considered to be sufficient confirmation that sewerage will be provided and therefore it is recommended that the proposal not proceed to Gateway at this time. If the proposal proceeds, the relevant public agencies will be invited to provide comment in accordance with the potential gateway determination.

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2.3 COMMUNITY CONSULTATION

In accordance with Council’s notification policy, initial community consultation has been undertaken. The application was made available on Council’s website and letters were sent to owners and occupiers of adjoining and potentially affected properties.

A total of nineteen (**19**) community submissions were received. Of these submissions; seven (**7**) objected to and twelve (**12**) were supportive of the proposal.

Of those supporting the proposal, seven (**7**) were from land owners within the subject site, one (**1**) was from an adjoining land owner, who would also like to their land to be considered in the proposal and four (**4**) were from business owners within the Shire.

Of those objecting, two (**2**) were from the land owners within the subject site, four (**4**) were from adjoining land owners and one (**1**) was from a resident of Thirlmere.

The issues raised in submissions that are relevant to the assessment of the application are summarised in the following table:

Issue Raised	Assessment Comment
<p>Benefit to local business</p> <ul style="list-style-type: none"> ▪ Proposal will support local business. ▪ Will attract a variety of new residents with various skills and knowledge. ▪ This will attract new business and benefit existing businesses in Thirlmere and surrounding towns. 	<p>The proposal has the potential to benefit local businesses from additional population, however, this must be balanced against other matters.</p>
<p>Loss of rural living and community character</p> <ul style="list-style-type: none"> ▪ The proposal will impact on rural living, loss of peace and quiet, loss of open space” ▪ There is a strong community attitude here which I think goes with the rural surroundings. People are more open and friendly here than they are in Sydney where people live too close to each other and so become very defensive of their privacy and anyone who disturbs it. By allowing more suburban subdivision in the area, you will 	<p>This site has been identified in the Wollondilly GMS as a potential future residential area. This report recommends deferring the proposal pending the outcome of a housing strategy and that confirmation it can be sewerred.</p>

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Issue Raised	Assessment Comment
<p>not just change the people in this area but also the character of it".</p> <ul style="list-style-type: none"> ▪ Pressure from the State Government and developers to turn this area into another Campbelltown. ▪ I have admired the 'Rural Living' resolve of Wollondilly Council for some time and hope it is followed in this matter by rejecting the proposal. ▪ Our area is not designed for such an increase in a Rural Living area. ▪ RURAL LIVING- not in line with RURAL LIVING AND ROOM TO MOVE. 	
<p>Need for development</p> <ul style="list-style-type: none"> ▪ Development is not needed in this area as there are a number of new estates in the Shire. 	<p>Land within the site has been identified in the current GMS for future urban investigation.</p> <p>An assessment of the proposal against the GMS and housing targets is provided in section 1.3 and 2.8 of this report.</p>
<p>Increase in Rates</p> <ul style="list-style-type: none"> ▪ Property owners who don't want to sell will be forced to pay higher rates under a new zone to remain living there while losing the rural aspect of their home. ▪ The proposal will lead to a premature increase in land values beyond that in the rest of the area which would inevitably lead to a land rate rise. 	<p>Effects on rates and land values both positive and negative are not relevant planning considerations.</p> <p>Rates are calculated on the unimproved valuation provided to Council by the NSW Valuer General for rating purposes.</p> <p>A rezoning may result in the Valuer General reassessing the rateable valuation. If the Valuer General deems that the land value has increased this would usually also result in an increase to rates payable.</p> <p>In certain circumstances there is provision under the Local Government Act 1993 to postpone some of the rates.</p>

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Issue Raised	Assessment Comment
<p>Property owners are seeking to make a profit</p> <ul style="list-style-type: none"> ▪ Property owners are just interested in selling and making a profit. ▪ Development would not be progress, just change for the financial benefit of the parties concerned to the detriment of the environment and those left behind who would have to put up with the consequences such increased density. 	<p>The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.</p>
<p>Better use of rural land</p> <ul style="list-style-type: none"> ▪ The proposal makes better use of land that is not being used for its current zoning. 	<p>The objectives of the RU4 zone relate to the separation between urban areas and so the intent of the zone is broader than primary industry uses. Therefore the current development of the site is seen as fulfilling the purpose of the RU4 zone.</p>
<p>The Need for Growth</p> <ul style="list-style-type: none"> ▪ The proposal has been in Council's strategic plan for a number of years. ▪ The proposal is a natural progression for the area. ▪ Area needs a growing population of young, as well as older residents in order to avoid economic stagnation and generate growth and prosperity in the district. 	<p>The site is identified for future investigation in the Wollondilly Growth Management Strategy 2011.</p>
<p>Effects on Tourism</p> <ul style="list-style-type: none"> ▪ Proposal will support tourism ▪ Thirlmere is a wonderful place to live, with many tourism areas – Thirlmere lakes. People won't come to see houses. ▪ The opportunity for Wollondilly to have a separate identity as a recreation destination servicing SW Sydney will be lost. 	<p>There is no evidence to suggest that a residential rezoning will support tourism to the Shire.</p> <p>The draft Planning Proposal identifies land close to existing residential areas and will have no immediate impact on Thirlmere Lakes or other recreation areas across the Shire.</p> <p>The impact of additional houses into the Shire and the protection of our natural areas is addressed through policies contained in Councils GMS.</p>

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Issue Raised	Assessment Comment
<p>Benefit to Council</p> <ul style="list-style-type: none"> ▪ Provide rates revenue and S94 contributions for the benefit of the community and enhance the already attractive township of Thirlmere. 	<p>If supported, the proposed rezoning of the land will increase the number of houses in this location for which Council rates will apply however; new residents will also generate an increase in service demand for which Council will have to budget for.</p> <p>If the proposal proceeds developer contributions will be required to provide for the additional demand the development will have on existing infrastructure and new infrastructure.</p>
<p>Lot Size and design</p> <ul style="list-style-type: none"> ▪ It would make more sense to divide the 5 acre lots into 1 acre lots and so have a more logical progression of property sizes as distance is increased from the Thirlmere township. ▪ Block sizes are too small for example 700 square metres for this area but have no issue with the larger block of over two hectares. ▪ A large variety of lot sizes would open up good design possibilities. A number of smaller lots could compensate existing owners to encourage their support for provision of significant public reserves and recreation area linked to all lots and looked after by owners in a body corporate arrangement. ▪ Blocks should have a design that incorporates the best town planning practices enhancing its North facing aspect. Innovative solutions will be necessary to ensure the topography and watercourse are given consideration. 	<p>These comments are noted. Council has resolved to commence preparation of a Housing Strategy which will assist in determining lot size in the future. If the proposal proceeds, site specific development controls will be prepared for this site and presented to Council at a later date. These will take lot design into account.</p>

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Issue Raised	Assessment Comment
<p>Height of Buildings-</p> <ul style="list-style-type: none"> ▪ 9m is not representative of low density. 	<p>A maximum building height of 9m is standard across most residential zoned areas within the Shire and is considered appropriate.</p> <p>A maximum building height of 9m allows for two – storey houses and allows some flexibility for varying ground levels and roof design.</p>
<p>Storm Water and Drainage</p> <ul style="list-style-type: none"> ▪ There is not enough land to absorb the water. Too many estates have been approved that channel storm water into an inadequate creek system creating floods in Picton. ▪ Stormwater runoff from the proposed area will increase to 75 to 80% runoff in to the creek system. Lot sizes should be at least 2000sqm. This will keep in line with Wollondilly Shire's own slogan of RURAL LIVING. 	<p>There is an existing known drainage issue for land adjacent to the proposal on the southern side of Bridge Street.</p> <p>If the proposal proceeds, further information will be required in regard to this issue.</p>
<p>Sewer</p> <ul style="list-style-type: none"> ▪ The proposed area is in the middle of an unsewered area\ properties in and around the proposed area were all excluded from connecting to the sewer system. If approved the proposal will put approximately 450 dwellings in middle of this. ▪ The surrounding properties owners who are all on a septic tank or pump out system would be duly offended if the new area was sewerred. 	<p>This report recommends holding off consideration until details in regard to sewerage have been confirmed.</p>

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Issue Raised	Assessment Comment
<p>Not all land owners support the proposal</p> <ul style="list-style-type: none"> At least three land owners are not in favour and/or have reconsidered the proposal and have withdrawn from the scheme. That means there would need to be major modifications made to the proposed development to by-pass the blocks not sold, so much so that the proposed development may not be feasible. 	<p>The statutory process of a planning proposal does not require the consent of land owners for which the proposal relates.</p> <p>In addition to this, if the proposal proceeds, there is no legal requirement for owners to sell their land.</p>
<p>Benefit to the Community</p> <ul style="list-style-type: none"> Approval of the proposal would enhance the opportunity for more young families to settle here & help to increase the work productivity in the Wollondilly Shire. Proposal will increase local jobs These developments do not bring more jobs, all the work on these developments are by construction companies from Sydney, Penrith and Wollongong. 	<p>The future development of this site will create more construction related jobs in the short term however; developers are not obligated to use local contractors.</p> <p>The future development of the site may also promote the opportunity for home businesses.</p>
<p>Urban sprawl and loss of separate town and village identities</p> <ul style="list-style-type: none"> The multitude of subdivisions already underway or at different stages of approval will mean the removal of the separate identities of Picton, Thirlmere and Tahmoor. 	<p>All planning proposals are assessed using the criteria in Council's Growth Management Strategy to ensure the separate villages are retained.</p> <p>The site is located adjoining the existing Thirlmere urban area and if rezoned would still be separated from nearby towns by both rural land and physical features such as train lines, creeks and hills. Nevertheless the recommendation is that this proposal be deferred.</p>

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Issue Raised	Assessment Comment
<p>Impact on roads and traffic</p> <ul style="list-style-type: none"> ▪ Roads will not cope with additional traffic Darley Street, Innes Street will have to be widened. Owen Street will have to be formed and widened. ▪ Traffic from all the developments have to turn onto Thirlmere Way or Bridge Street, then the old Hume Highway at Picton. When the Victoria Bridge is closed for maintenance (once a year) Picton will be in gridlock. ▪ A very heavy increase in Thirlmere is having a detrimental effect on our roads and infrastructure. ▪ An extra 900 vehicles will enter Bridge Street which is already a very busy thoroughfare from Thirlmere to Picton. 	<p>Upgrades to roads and intersections as well as additional infrastructure will need to be negotiated if the proposal proceeds.</p> <p>Council is undertaking a traffic study for the Picton Town Centre.</p> <p>If the proposal was to proceed a traffic study for the site will be required to identify the impact of additional traffic onto Bridge Street and the wider road network.</p>
<p>Lack of supporting infrastructure</p> <ul style="list-style-type: none"> ▪ Thirlmere has no public transport ▪ No trains and limited bus services. ▪ Picton Public High School is already overcrowded with no commitment for a second Public high School. ▪ Thirlmere Primary school has only room for one more demountable. ▪ We believe there is a push by the state government for more housing, but these developments are not flagging that we need more infrastructure to cope with the development. ▪ Proposal will require the following infrastructure - a pedestrian and cycleway provision and the Picton by pass to alleviate traffic. ▪ Suggest council considers a Pedestrian/Cycleway along Bridge Street levy and a Picton by pass levy attached to new development that would use this 	<p>The site is within walking distance from the village of Thirlmere. However, public transport is an issue for town. The existing rail line is used for steam trains only and there is no regular train service.</p> <p>Council's adopted Social Planning Strategy indicates that Picton High School is at capacity and many school children must travel long distances outside of the Shire to attend High School. Currently there are no immediate plans by the State Government to provide an additional public high school to the area.</p> <p>If the proposal proceeds consultation with the Department of Education and Training will need to be undertaken. Council's draft bike plan 2011– identifies Bridge St as a 'future link' However, it is unlikely it will be funded in the short term due to other priorities.</p>

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Issue Raised	Assessment Comment
<p>infrastructure.</p> <ul style="list-style-type: none"> ▪ Council engineer and executive previously committed to a pathway along Bridge Street as part of an upgrade in 15 years ago and then did not construct it due to a lack of funds. There is still a need for this cycleway. 	<p>Council recently negotiated with Glencore to provide a shared path over the new railway bridge on Bridge Street which will provide a crucial link for a shared pathway in the future. This link has since been constructed.</p>
<p>Impact on the environment</p> <ul style="list-style-type: none"> ▪ We are getting a very heavy increase in Thirlmere in Residential Housing which maybe in future planning but is having a detrimental effect on our Wildlife. ▪ Small blocks will stop the movement of our Native species which use these areas as a Wildlife Corridor around Thirlmere. 	<p>If the proposal proceeds a flora and fauna study will be required to identify potential impacts and opportunities to mitigate against negative impact on wildlife.</p>

2.4 PREPARATION OF A PLANNING PROPOSAL

If Council resolves to support the application, a Planning Proposal will be prepared in accordance with Section 55 to the *Environmental Planning and Assessment Act, 1979* and the Department of Planning and Environment guidelines on preparing Planning Proposals.

Following this, the Planning Proposal will be forwarded to the Greater Sydney Commission for a Gateway Determination.

In deciding to forward a Planning Proposal to the Gateway process, Council is endorsing the Planning Proposal and it is deemed to be *Council's* Planning Proposal.

Council's options are:

1. Resolve to support the application in its original form and prepare a Planning Proposal accordingly. Matters can be more fully investigated and resolved with future specialist studies as determined by the Gateway process.
2. Resolve that Council Officers consider and recommend an alternate form different to the application and report this approach back to Council at a different time.

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3. Resolve to defer consideration of the planning proposal until:
 - Council prepares a housing strategy and;
 - Sydney Water confirms the site can be serviced by sewerage.
4. Resolve not to support a Planning Proposal for this site. The applicant can choose to apply for a Rezoning Review as a result of this option.

Note that the application *has* been with Council for more than 90 days. The applicant can apply for a rezoning review in accordance with the EP&A Regs, 2000 if Council fails to indicate support for the application within 90 days of receiving the application.

Option **3** is the recommendation of this report.

2.5 METROPOLITAN PLAN FOR SYDNEY “A PLAN FOR GROWING SYDNEY (2036)”

An initial assessment indicates that the proposal appears to be in line with the policy objectives of A Plan for Growing Sydney as it seeks to provide additional housing adjacent to an established residential area.

Although the focus of a Plan for Growing Sydney is areas of significant housing growth it also notes that all suburbs will need additional housing over the next 20 years and emphasises that new housing around established centres is encouraged. This is relevant to the site as it is located on the periphery of the existing residential area of Thirlmere.

The Plan for Growing Sydney and recently released Draft South West District Plan foreshadow the need for a housing strategy. Council has already resolved to commence preparation of the housing strategy which will influence future residential development in the shire. Given the timeframe for an answer on sewerage it is also reasonable that this proposal not proceed ahead of the Housing Strategy.

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2.6 SECTION 117 MINISTERIAL DIRECTIONS

Preliminary assessment of the proposal indicates that the proposal is largely consistent with these policies however further information is required to establish that the proposed amendments to the Wollondilly LEP 2011 are consistent with the following s117 Ministerial Directions:

- 1.2 Rural Zones
- 2.1 Environmental Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection

If the Planning Proposal is supported and a Gateway Determination to proceed is issued, a number of specialist studies will be required inform the Planning Proposal and address the requirements of the relevant Ministerial Directions above.

2.7 STATE ENVIRONMENTAL PLANNING POLICIES

Preliminary assessment indicates that further information is required to establish the proposed amendments to the Wollondilly LEP 2011 are consistent with the following SEPP's:

- SEPP No. 44 - Koala Habitat Protection
- SEPP No. 55 - Remediation of Land
- REP No.20 - Hawkesbury–Nepean River (No 2 - 1997)

If a Gateway Determination is issued for the Planning Proposal specialist studies may be required to inform the Planning Proposal and address the requirements of the relevant SEPP's and deemed SEPP's.

2.8 WOLLONDILLY GROWTH MANAGEMENT STRATEGY 2011

The site has been identified in the Wollondilly Growth Management Strategy (GMS) as a potential residential growth area, specifically "*PTT Future Urban Investigation Area*".

However, as noted in the GMS, "the inclusion of these lands in the GMS does not in any way commit Council to supporting a planning proposal on those lands" as support to rezone lands can only be determined through a more detailed analysis of the land capability.

The GMS also notes that boundaries identified within the GMS structure plans are indicative and that the "actual extent of developable land and the capacity and appropriate scale of development in any of those proposed locations is a matter which can only be determined with more detailed analysis through the rezoning assessment process.

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The following provides an assessment of the draft Planning Proposal under the GMS:

WOLLONDILLY GMS 2011	
Key Policy Direction	Comment
General Policies	
P1 All land use proposals need to be consistent with the key Policy Directions and Assessment Criteria contained within the GMS in order to be supported by Council.	<p>This Planning Proposal is generally considered to be consistent with the key Policy Directions and Assessment Criteria contained within the GMS.</p> <p>Further information is required to establish the Planning Proposal's suitability against key policy directions P9, P10 and P21.</p>
P2 All land use proposals need to be compatible with the concept and vision of "Rural Living" (defined in Chapter 2 of the GMS).	<p>This Planning Proposal is consistent with the concept and vision of 'Rural Living' as it proposes additional housing directly in close proximity to an existing rural village.</p>
P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.	<p>A total of nineteen (19) submissions were received during the initial consultation objecting to the proposed proposal.</p> <p>The outcomes of this consultation have been considered and are discussed in Section 2.3 of this report.</p>
P4 The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.	<p>Several submissions have been received raising concerns that the proposal will lead to an increase in rates for existing property owners that do not want to sell and for properties adjacent to the site.</p> <p>Submissions were also received raising a concern that the land owners are only interested in making a profit on their land and not the impact the proposal will have on the community.</p> <p>These issues are not considered to be a relevant planning consideration on the proposals suitability.</p>
P5 Council is committed to the principle of appropriate growth for	<p>The Structure Plan for Thirlmere, which</p>

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WOLLONDILLY GMS 2011	
Key Policy Direction	Comment
each of our towns and villages. Each of our settlements has differing characteristics and differing capacities to accommodate different levels and types of growth (due to locational attributes, infrastructure limitations, geophysical constraints, market forces etc).	forms part of the GMS 2011, identifies the site as PTT Future Urban Investigation Area. The site presents a rural character with steep undulating land to the north eastern side of the site.
Housing Policies	
P6 Council will plan for adequate housing to accommodate the Shire's natural growth forecast.	This Planning Proposal will make a contribution to housing targets across the Shire however is not essential to meeting those targets.
P8 Council will support the delivery of a mix of housing types to assist housing diversity and affordability so that Wollondilly can better accommodate the housing needs of its different community members and household types.	The proposed R2 Low Density Residential land use zone would allow development of the site for additional housing. However the proposal does not identify a housing type distinct to any other housing type already within the Thirlmere Village. The preparation of a Housing Strategy will help in achieving this policy.
P9 Dwelling densities, where possible and environmentally acceptable, should be higher in proximity to centres and lower on the edges of towns (on the "rural fringe").	The draft proposal is partially inconsistent with this direction as it proposes an R2 Low Density Residential zone along the southern side of Darley Street which adjoins a R5 Large Lot Residential zone on the western side of Darley Street, which is closer in proximity to the village centre. A Housing Strategy would assist in determining the appropriate density for this site.
P10 Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.	The site is generally located adjacent to and within walking distance to the Thirlmere village. It is noted that the site also adjoins a small area of R5 zoned land to the west of the site and so it is partially inconsistent with this key policy direction.

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WOLLONDILLY GMS 2011	
Key Policy Direction	Comment
Macarthur South Policies	
Key Policy Directions P11, P12, P13 and P14 are not applicable to this planning proposal. The subject land is not with the Macarthur South area.	The site is not located in the Macarthur South area.
Employment Policies	
P15 Council will plan for new employment lands and other employment generating initiatives in order to deliver positive local and regional employment outcomes.	The draft proposal does not include any employment lands.
P16 Council will plan for different types of employment lands to be in different locations in recognition of the need to create employment opportunities in different sectors of the economy in appropriate areas.	See comment for P15. If the proposal proceeds the future subdivision of the land may create short term employment opportunities associated with construction and other civil and building works.
Integrating Growth and Infrastructure	
P17 Council will not support residential and employment lands growth unless increased infrastructure and servicing demands can be clearly demonstrated as being able to be delivered in a timely manner without imposing unsustainable burdens on Council or the Shire's existing and future community.	It is recommended that this proposal be deferred as no confirmation has been provided that the site will be serviced by sewerage infrastructure. The site adjoins the existing residential urban area for Thirlmere which will minimise the need for lengthy infrastructure connections. However, if the proposal progresses further consideration will be necessary to ensure the adequate infrastructure is or can be made available to service residential development on the site. It is noted that if the site was rezoned, development approval for residential subdivision would require development contributions towards the provision of new and/or augmented facilities to meet the additional demand for public facilities and services provided by Council. The proposal in its current form is

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WOLLONDILLY GMS 2011	
Key Policy Direction	Comment
	also likely to be significant enough to be designated as an Urban Release Area and necessitate State Infrastructure Contributions.
P18 Council will encourage sustainable growth which supports our existing towns and villages, and makes the provision of services and infrastructure more efficient and viable – this means a greater emphasis on concentrating new housing in and around our existing population centres.	The Planning Proposal is consistent with this key policy direction as the subject site adjoins the existing residential area for Thirlmere, however it proposes an R2 zone further away from the town centre than the adjoining R5 zone and so could be viewed as being partially inconsistent.
P19 Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.	The Planning Proposal is consistent with key policy direction as the subject site adjoins the existing residential area of Thirlmere.
P20 The focus for population growth will be in two key growth centres, being the Picton/Thirlmere/Tahmoor Area (PTT) area and the Bargo Area. Appropriate smaller growth opportunities are identified for other towns.	The site is located within Thirlmere and has been identified as a PTT Future Urban Investigation Area.
Rural and Resource Lands	
P21 Council acknowledges and seeks to protect the special economic, environmental and cultural values of the Shire's lands which comprise waterways, drinking water catchments, biodiversity, mineral resources, agricultural lands, aboriginal heritage and European rural landscapes.	The site adjoins rural land uses and so there is potential for future land use conflict. Further studies will be required to consider the potential impacts associated with bushfire prone land, flora and fauna, aboriginal heritage, European rural landscapes and loss of agricultural land.
P22 Council does not support incremental growth involving increased dwelling entitlements and/or rural lands fragmentation in dispersed rural areas. Council is however committed to maintaining where possible practicable, existing dwelling and subdivision entitlements in rural areas.	The subject site is not located in a dispersed rural area and directly adjoins the existing residential area of Thirlmere.

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2.9 CONCLUSION

The land has been identified for future investigation in the GMS 2011. The GMS also identifies housing targets for Picton Tahmoor and Thirlmere to 2036. The rezoning of other land within these areas has meant that these housing targets have nearly been achieved.

Additionally, Sydney Water has indicated that they are not able to sewer the land within the near future and that it may take several years before they are able to advise if the site can be sewered.

Given this, it is recommended that the consideration of this proposal be deferred until such a time that Sydney Water is able to confirm that the site can be sewered. Given this delay it is also appropriate that this proposal not proceed ahead of the Housing Strategy.

2.10 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP 2011)

Following the above consideration of responses from initial consultation and notification and preliminary assessment of the application, it is recommended that the Planning Proposal be deferred until Council has developed a Housing Strategy and Sydney Water is able to sewer the any future residential development at the site.

FINANCIAL IMPLICATIONS

Funding for this project to date has been achieved through the adopted Planning Proposal fees and charges.

Council has experienced a record increase in the number of Planning Proposals submitted in addition to the Wilton Junction project. Note that the Wilton Junction project is not a planning proposal but has had significant impact on Strategic Planning resources. All proposals which result in an increased intensity of land use within the Shire shall also lead to increased demand for Council services and facilities over time. Council will need to consider this in the adopted budget and forward estimates.

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 20 March 2017

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ATTACHMENTS:

1. Proponents Proposed Land Zoning Plan (including road and drainage reserve locations).
2. Advice from Sydney Water.

RECOMMENDATION

1. That Council defer the consideration of a Planning Proposal until:
 - (a) confirmation is received from Sydney Water that the site can be serviced by the Picton Sewerage Treatment Plan
 - (b) a housing strategy, including an assessment of affordability issues is prepared.
2. That the proponent, land owners and submitters be notified of Council's Resolution.

Planning and Economy

PE3

Draft Planning Proposal – Darley Street Residential, Thirlmere

265508

TRIM 9362

Cr Lowry and the Director Planning left the meeting at 7.06pm due to previously declared Conflicts of Interest in this item.

Moved on the motion of Crs Briggs and Hannan:

1. *That Council support the planning proposal to rezone Lots 1-8, Section 7 DP 2339 inclusive, Lots 10-14 Section 7 DP 2339 inclusive, Lots 1 and 2 DP 778327, Lots 91 and 92 DP 634407 and Lot A DP 376685 in Innes, Darley and Bridge Streets, Thirlmere to amend Wollondilly Local Environmental Plan, 2011 in the following manner:*
 - a. *Amend the zoning map from RU4 to R2 (Low Density Residential) Zone*
 - b. *Amend the Height of Buildings Map to introduce a maximum building height of 9 metres*
 - c. *Amend the Minimum Lot Size map from 2ha to 700m2*
2. *That Council request that the Greater Sydney Commission as part of any Gateway Determination require the applicant to provide the following studies:*
 - a. *A flora and fauna study*
 - b. *An agricultural impact study that details the loss of agricultural capability from the rezoning, any potential impacts on the capability of adjoining land to be used for agriculture and any measures required to ameliorate that impact*
 - c. *A stormwater management strategy including measures to be put in place to ensure no reduction in downstream water quality and to ensure no increased risk of downstream flooding.*
3. *That the proponent, land owners and submitters be notified of Council's resolution.*
4. *That Councillors are aware that there is a risk that they may not be successful at gateway and should that happen they should consider alternatives such as larger blocks.*

Vote For: Cr Law, Briggs and Hannan

Vote Against: Cr Gould, Deeth, Landow, Banasik

On being put to the meeting the motion was declared LOST.

37/2017 **Resolved** on the Motion of Crs Gould and M Banasik:

1. ***That Council support the planning proposal to rezone Lots 1-8, Section 7 DP 2339 inclusive, Lots 10-14 Section 7 DP 2339 inclusive, Lots 1 and 2 DP 778327, Lots 91 and 92 DP 634407 and Lot A DP 376685 in Innes, Darley and Bridge Streets, Thirlmere to amend Wollondilly Local Environmental Plan, 2011 in the following manner:***
 - a. ***Amend the zoning map from RU4 to R5 (Large Lot Residential) Zone***
 - b. ***Amend the Height of Buildings Map to introduce a maximum building height of 9 metres***
 - c. ***Except as provided by d., amend the Minimum Lot Size map from 2ha to a the minimum lot size determined after the completion of a waste water management study and flora and fauna study (note no area containing a threatened species or threatened ecological community may be used for waste water disposal)***
 - d. ***Despite the results of the studies referred to in c., there shall not be a minimum lot size less than 4,000m² for any lot with frontage to Owen Street or Innes Street. If the studies required in point c. require a minimum lot size greater than 4,000m² for any parts of the site with frontage to Owen and Innes Streets then that greater minimum lot size shall be adopted.***
2. ***That Council request that the Greater Sydney Commission as part of any Gateway Determination require the applicant to provide the following studies:***
 - a. ***A waste water management study to determine minimum land area required for waste water treatment and disposal***
 - b. ***A flora and fauna study***
 - c. ***An agricultural impact study that details the loss of agricultural capability from the rezoning, any potential impacts on the capability of adjoining land to be used for agriculture and any measures required to ameliorate that impact***
 - d. ***A stormwater management strategy including measures to be put in place to ensure no reduction in downstream water quality and to ensure no increased risk of downstream flooding.***
3. ***That the proponent, land owners and submitters be notified of Council's resolution.***

WOLLONDILLY SHIRE COUNCIL

Minutes of the Ordinary Meeting of Wollondilly Shire Council held in the Council Chamber, 62-64 Menangle Street, Picton, on Monday 20 March 2017, commencing at 6.32pm

Planning and Economy

On being put to the meeting the motion was declared CARRIED.

Vote For: Crs Deeth, Landow, Gould and Banasik

Vote Against: Crs Hannan, Law and Briggs

Planning and
Economy



Mr Luke Johnson
General Manager
Wollondilly Shire Council
PO Box 21
PICTON NSW 2450

Our ref: 17/00708
Your ref: TRIM 9362 NA:DS

Dear Mr Johnson

**Planning Proposal to amend Wollondilly Local Environmental Plan 2011 –
Darley Street – (PP_2017_WOLLY_001_00)**

I am writing in response to Council's request for a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) for a Planning Proposal that seeks to rezone and amend the development standards applying to land at Darley Street, Thirlmere for residential purposes.

As delegate of the Greater Sydney Commission, I have now determined that the Planning Proposal should proceed subject to the conditions detailed in the attached Gateway determination.

I have included a condition that the Planning Proposal be updated to propose zones and associated development controls based on the characteristics and serviceability of the site. Council is encouraged to investigate and seek a higher residential yield on the land than what is currently proposed given the location of the site to the existing residential area and village centre of Thirlmere and that *A Plan for Growing Sydney*, the *Draft South West District Plan* and Council's own *Wollondilly Growth Management Strategy 2011* support new urban development at the site.

The Planning Proposal will need to confirm what attributes have been used as criteria for applying the zone/s and associated development standards and should be determined in consultation with Sydney Water and the Department of Planning and Environment.

The amended Planning Proposal and any supporting maps and studies will need to be referred to the Department for endorsement prior to the commencement of community consultation.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of section 117 Directions 1.2 Rural Zones, 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 3.1 Residential Zones, 4.3 Flood Prone Land and 4.4 Planning for Bushfire Protection. Council should ensure this occurs prior to the Plan being made.

Plan-making powers were delegated to councils in October 2012. I note that Council has requested to be issued with authorisation to exercise the delegation for this Planning Proposal. I have considered the nature of Council's Planning Proposal and have decided to not issue an authorisation in this instance, given the requirement to update the proposal to demonstrate the suitability of any proposed zone/s and associated development standards.

The amending LEP is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to complete the required studies and update the Planning Proposal so that exhibition of the Planning Proposal can commence as soon as possible. Council's request for the Department of Planning and Environment to draft and finalise the LEP should be made 8 weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Greater Sydney Commission may take action under Section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

Council should consult with the Department's regional office on the requirements of the Gateway determination conditions where necessary. Should you have any queries about this matter, please contact Mr Stuart McIntosh of the Department's regional office on (02) 9860 1551.

Yours sincerely



Anthea Sargent 11/7/17
Acting Executive Director, Regions
Planning Services

Delegate of the Greater Sydney Commission

Encl: Gateway Determination

Gateway Determination

Planning Proposal (Department Ref: PP_2017_WOLLY_001_00): to rezone and amend the development provisions at Darley Street, Thirlmere for residential purposes.

I, the Acting Executive Director, Planning Services at the Department of Planning and Environment as delegate of the Greater Sydney Commission, have determined under section 56(2)(b) of the *Environmental Planning and Assessment Act 1979* (the Act), that an amendment to the Wollondilly Local Environmental Plan (LEP) 2011 to rezone and amend the development provisions at Darley Street, Thirlmere for residential purposes, should proceed subject to the following conditions:

1. Prior to undertaking community consultation, the Planning Proposal is to be revised to seek to apply a zone/s and associated development standards to achieve the highest residential yield at the site based on its land attributes and serviceability.

The Planning Proposal is to confirm what attributes have been used as criteria for applying the proposed zone/s and associated development standards. This should be determined in consultation with Sydney Water and the Department of Planning and Environment and informed by the following site investigative studies and preliminary management plans:

- Wastewater management;
- Land use conflict risk assessment, considering impacts on adjoining land and the wider Metropolitan Rural Area;
- Geotechnical and salinity;
- Stormwater and flood management;
- European and Aboriginal cultural heritage and archaeological impact;
- Bushfire protection;
- Preliminary site contamination; and
- Traffic and access.

The amended Planning Proposal and any supporting maps and studies are to be referred to the Department for endorsement prior to the commencement of community consultation.

2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the Planning Proposal must be made publicly available for a minimum of 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of Planning Proposals and the specifications for material that must be made publicly available along with planning

proposals as identified in section 5.5.2 of *A Guide to Preparing Local Environmental Plans* (Department of Planning and Environment 2016).

3. Consultation is required with the following public authorities under section 56(2)(d) of the Act:
 - (a) Sydney Water;
 - (b) Office of Environment and Heritage; and
 - (c) NSW Rural Fire Service.

Each public authority is to be provided with a copy of the Planning Proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission).
5. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Dated 17 day of July, 2017



Anthea Sargent
Acting Executive Director, Regions
Planning Services
Department of Planning and Environment

Delegate of the Greater Sydney Commission



Precise Planning

Planning | Development | Management

26 July 2017

Our Ref: 1413

The General Manager
Wollondilly Council
PO Box 21
PICTON NSW 2571

Dear Sir

Darley Street Thirlmere – planning proposal

I refer to the above matter and note a Gateway Determination has now been issued by Department of Planning & Environment ('DPE'). I also note a meeting held today at Council's offices, with Council's strategic planners David Smith and Nicole Aiken.

The Gateway Determination outlines the following:

- 1) *Prior to undertaking community consultation, the Planning Proposal is to be revised to seek to apply a zone/s and associated development standards to achieve the highest residential yield at the site based on its land attributes and serviceability.*

The Planning Proposal is to confirm what attributes have been used as criteria for applying the proposed zone/s and associated development standards. This should be determined in consultation with Sydney Water and the Department of Planning and Environment and informed by the following site investigative studies and preliminary management plans:

- *Wastewater management;*
- *Land use conflict risk assessment, considering impacts on adjoining land and the wider Metropolitan Rural Area;*
- *Geotechnical and salinity;*
- *Stormwater and flood management;*
- *European and Aboriginal cultural heritage and archaeological impact;*
- *Bushfire protection;*
- *Preliminary site contamination; and*
- *Traffic and access*

P: (02) 9967 0500
E: jeff@deepriver.com.au
W: preciseplanning.com.au
A: 152 Sailors Bay Road Northbridge NSW 2063
P: PO Box 426 Northbridge NSW 1560

The amended Planning Proposal and any supporting maps and studies are to be referred to the Department for endorsement prior to the commencement of community consultation.

Clearly, the Department is encouraging Council to investigate a higher residential yield on the land than what was resolved by Council at its March 2017 meeting, given the location of the site to the existing residential area and village centre of Thirlmere and that *A Plan for Growing Sydney*, the *Draft South West District Plan* and Council's own *Wollondilly Growth Management Strategy 2011* all support new urban development at the site.

Following the aforementioned meeting with Council's strategic planners, I now confirm the following action:

- 1) I am continuing to liaise with Sydney Water to confirm the timing of works proposed to expand the capacity of the Picton STP. In this regard, I have received the following advice in relation to this site:

The boundary for the plan (catchment) is now lifted and therefore the proponent can now commence designs, planning & approval but there will be no ability to connect to sewer until 2020

The 2020 timeframe is not considered detrimental to being able to connect the whole precinct to Sydney Water's reticulated sewerage system, given the average length of time to complete a rezoning in Wollondilly.

- 2) I note Council will be referring the Gateway Determination to relevant Departments and agencies to ascertain their requirements. I note once these requirements are received, Council will pass them on to me so I can prepare consultant briefs for the site investigative studies. These consultant briefs will investigate the capacity of the site to support a higher yield, as required by the Gateway determination.

Council will recall that the initial Planning Proposal envisaged an R2 zone over the site with a 700sqm minimum lot size. Despite this, Council resolved at its March 2017 meeting to proceed with the Planning Proposal, but with a significantly reduced lot yield (that is, larger minimum lot sizes). It is possible that the site investigative studies will conclude that the site can support a density higher than that resolved by the Councillors at its meeting in March 2017. In light of this, I am requesting that this potential outcome be reported to Council as soon as possible, to gauge its support for the approach being taken in response to the Gateway Determination.

The Department's view is forthright and clear, as outlined in the Gateway Determination. If Council resolves to maintain its March 2017 resolution regardless of the recommendations of the site investigative studies, it will create an impasse for this precinct. If such a circumstance arises, it will be necessary for me to seek a Post

Gateway Determination of this Planning Proposal, which is likely to result in the Department pursuing the rezoning independently of Council.

I will update Council as I hear further in relation to our consultations with Sydney Water. I understand that Council plans to refer to Gateway Determination to external agencies by the end of this week, providing 21 days for a response. In this regard, I anticipate being contacted by Council around end August 2017 to begin preparing consultant briefs. Concurrently with these actions, it would be appreciated if the matter could be reported to Council as requested above.

I look forward to Council's response.

Yours faithfully

PRECISE PLANNING



Jeff Bulfin