

Ordinary Meeting Of Council



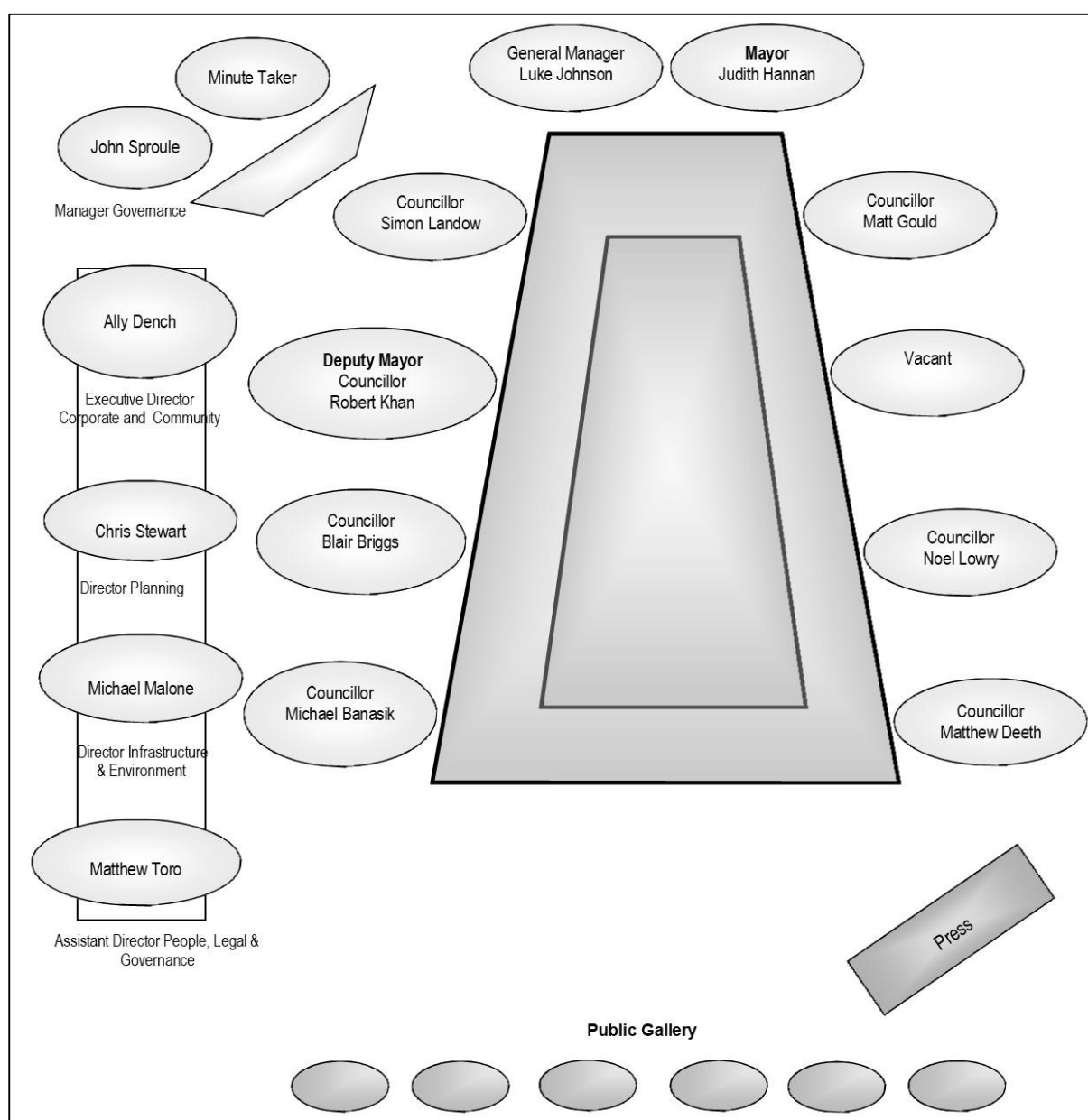
Wollondilly Shire Council

Notice of Meeting & Agenda Monday 16 October 2017

You are invited to attend the next Ordinary Meeting of Council to be held in the Council Chambers, 62-64 Menangle Street Picton on Monday 16 October 2017 commencing at 6.30pm.

Luke Johnson
General Manager

Seating in Council Chambers



EAST WARD

Cr Matthew Deeth
Cr Noel Lowry
Vacant

0428 335 743
0406 047 086

Email: matthew.deeth@wollondilly.nsw.gov.au
Email: noel.lowry@wollondilly.nsw.gov.au

CENTRAL WARD

Cr Michael Banasik
Cr Blair Briggs
Cr Robert Khan

0425 798 068
0418 269 913
0407 705 100

Email: michael.banasik@wollondilly.nsw.gov.au
Email: blair.briggs@wollondilly.nsw.gov.au
Email: robert.khan@wollondilly.nsw.gov.au

NORTH WARD

Cr Matt Gould
Cr Judith Hannan
Cr Simon Landow

0427 936 471
0414 557 799
0415 406 719

Email: matthew.gould@wollondilly.nsw.gov.au
Email: judith.hannan@wollondilly.nsw.gov.au
Email: simon.landow@wollondilly.nsw.gov.au

Business Papers will be available from Council's Foyer or alternatively on Council's website.

Contents

OPENING

RECORDING OF THE MEETING

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

WEBCAST NOTICE

Members of the public are advised, in accordance with Section 18 of the Privacy and Personal Information Protection Act 1998 (PPIPA), that Wollondilly Shire Council records and webcasts live all Ordinary and Extraordinary Meetings of Council held in open session for the purpose of facilitating community access. The webcasts are publically available for viewing on Council's website.

Video footage collected is of the decision making body only, if you do not wish your image to be recorded please remain in the public gallery. Your image, voice, personal and health information may be recorded, publicly broadcast and archived if you speak during the meeting and/or don't remain in the space provided.

The webcasts and webcast recordings are protected by copyright and owned by Council. No part of the proceedings of a meeting of the Council may be recorded, copied or made available to others by members of the public without the authority of the Council.

Council may be required to disclose recordings pursuant to the Government Information (Public Access) Act 2009, or where Council is compelled to do so by court order, warrant or subpoena or by any other legislation.

NATIONAL ANTHEM

ACKNOWLEDGEMENT OF COUNTRY

APOLOGIES AND LEAVE OF ABSENCE REQUESTS

DECLARATION OF INTEREST

CONFIRMATION OF MINUTES

- Ordinary Meeting of Council held on 18 September 2017

ITEMS TO BE TABLED

- 449 Return Register
- Draft 2016/17 Annual Financial Statements

MAYORAL MINUTE

SUSTAINABLE AND BALANCED GROWTH 16

GR1	Development Application No.010.2016.00000010.002 – Modification of Consent for Intensive Plant Horticulture, Erection of a Hail Net and Farm Building, Demolition of an Outbuilding and Enlargement of Existing Dam at 275 Bargo Road, Bargo	19
GR2	Station Street, Menangle Planning Proposal – Development Control Plan Provisions	34
GR3	Draft Planning Agreement for Station Street, Menangle	41
GR4	Planning Proposal – Attached Dual Occupancies in Rural Zones and Clarification of Sewer Requirements	50
GR5	Planning Proposal – Land Adjoining Bargo Sportsground	63
GR6	Planning Proposal – Boundary Adjustment and Minimum Subdivision Lot Size for Community Title Scheme & Associated Amendments to Wollondilly Development Control Plan 2016	82

Contents

LOOKING AFTER THE COMMUNITY	93
CO1 Memorandum of Understanding with NSW Education	95
CO2 Memorandum of Understanding with Southern Tablelands Arts.....	98
EFFICIENT AND EFFECTIVE COUNCIL	103
EC1 Investment of Funds as at 31 August 2017	105
EC2 Annual Financial Statements for the Year Ended 30 June 2017	108
EC3 Proposed Closure and Purchase of Parts of York Street, Thirlmere Way & George Street and Dedication of Land in York Street and Thirlmere Way, Tahmoor	112
EC4 Rail Symposium.....	118
EC5 Tourism Action Plan	120
EC6 Voting Delegates for the 2017 Local Government Conference.....	124
NOTICE OF MOTION	127
NOM1 Notice of Motion No. 1 submitted by Cr Deeth on 15 September 2017 regarding Flyers sent with the Council Rate Notices.....	128
NOM2 Notice of Motion No. 2 submitted by Crs Deeth and Hannan on 22 September 2017 regarding Slow Down and Move Over Laws	129
NOM3 Notice of Motion No. 3 submitted by Crs Banasik and Gould on 28 September 2017 regarding Council's Classification Type.....	130
QUESTIONS FOR NEXT MEETING	131

Wollondilly Community Strategic Plan 2033

Council's format for reporting to our Ordinary Council Meetings will follow the adopted Create Wollondilly Community Strategic Plan 2033 themes of:

Sustainable and Balanced **Growth** | Management and Provision of **Infrastructure** | Caring for the **Environment** | Looking after the **Community** | Efficient and Effective **Council**

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

Social Justice Principles

EQUITY

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

ACCESS

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

PARTICIPATION

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

RIGHTS

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

Sustainable and Balanced Growth

OUTCOMES

WHAT DO WE WANT?

1. A built environment that supports liveable communities, respects the character, setting and heritage of our towns and villages and retains the vision of Rural Living.
2. A unique environment and rural landscape balanced with managed growth that is consistent with Council's Position on Growth and vision of Rural Living.
3. A strong local economy providing employment and other opportunities.
4. Expansion of employment and other opportunities based on the Shire's natural assets, strong agricultural base and tourism potential.
5. A strong and viable agricultural sector supported by the protection and preservation of agricultural assets and resources.

STRATEGIES

HOW WILL COUNCIL WORK TO ACHIEVE WHAT WE WANT?

Strategy GR1 – Growth

- Manage growth to ensure that it is consistent with Council's Position on Growth and achieves positive social, economic, and environmental outcomes for Wollondilly's towns and villages.

Strategy GR2 – Built Environment

- Manage land use and development to achieve a high quality built environment and innovative planning outcomes, while protecting our agricultural and rural landscape.

Strategy GR3 – Economic Development and Tourism

- Enhance economic development and tourism in Wollondilly Shire through the implementation of the Economic Development Strategy and the development of a Tourism Strategy and an Employment Strategy.

Strategy GR4 – Liveable Communities

- Plan for and enhance Wollondilly's liveability by encouraging great places to live with communities that are resilient, safe, affordable, healthy, well connected and retain their unique characters.

Strategy GR5 – Wilton New Town

- Create a new walkable and connected community supported by integrated public transport and matched by sustainable long-term local employment growth.

Strategy GR6 – Peri-urban lands

- Manage, promote and adequately protect peri-urban lands and their values.

Strategy GR7 – Agriculture

- Encourage and support agriculture and associated industries so that they continue to be a productive, sustainable and integral part of our economy, community, landscape and environment.

Strategy GR8 – Advocacy

- Advocate strongly for the interests of Wollondilly and its community in relation to planning and economic development outcomes and improved public transport services.

Management and Provision of Infrastructure

OUTCOMES

WHAT DO WE WANT?

1. Infrastructure that is safe, accessible and fit for purpose.
2. Infrastructure that is sustainably maintained.
3. Infrastructure that delivers upon the expectations and needs of our growing community.

STRATEGIES

HOW WILL COUNCIL WORK TO ACHIEVE WHAT WE WANT?

Strategy IN1 – Improve the Condition of our Road Network

- Manage, maintain and improve our road network to meet the needs of the community, now and into the future.

Strategy IN2 – Provision of Infrastructure and Facilities

- Provide a range of infrastructure and community facilities to meet the needs of the community, now and into the future.

Strategy IN3 – Manage Infrastructure and Facilities

- Manage infrastructure and community facilities to provide for and respond to community needs, improve safety and improve choices.

Strategy IN4 – Emergency Management

- Assist in the planning of the community's response to emergencies such as bushfires and flooding.

Strategy IN5 – Advocacy

- Advocate strongly for the interests of Wollondilly and its community in relation to infrastructure outcomes.

Caring for the Environment

OUTCOMES

WHAT DO WE WANT?

1. An environment that is valued, preserved and protected, with new planning and development proposals supporting these values.
2. A community that is engaged with, and cares about, their environment.

Wollondilly Community Strategic Plan 2033

STRATEGIES

HOW WILL COUNCIL WORK TO ACHIEVE WHAT WE WANT?

Strategy EN1 – Protect and enhance biodiversity, waterways and groundwaters

- Maintain and enhance the condition of biodiversity including the condition of water sources (both surface and groundwater).

Strategy EN2 – Protect the environment from development pressures

- Contribute to development to achieve positive environmental, social and economic outcomes.

Strategy EN3 – Vegetation management

- Achieve a balance between risk-based management and conserving biodiversity and maintaining public and private assets.

Strategy EN4 – Community involvement

- Engage the community during the preparation and implementation of Council's environmental activities and programs.

Strategy EN5 – Environmental awareness

- Enhance community awareness of the environmental values of Wollondilly's natural resources and rural lands and the threats to these values.

Strategy EN6 – Sustainable practices

- Enhance the adoption of sustainability practices by Council and the local community which reduce consumption of resources, generation of waste, as well as the level of greenhouse gas emissions.

Strategy EN7 – Agricultural Land and Capability

- Protect agricultural land and the natural resources which support agricultural capability.

Strategy EN8 – Auditing, Monitoring and Enforcement

- Undertake auditing, monitoring and regulatory enforcement and be responsive to community complaints to protect the environment and the health, safety and well-being of the community.

Strategy EN9 – Waste Management

- Provide the community with a workable and convenient waste management system, which also minimises waste generation, increases resource recovery and protects the environment.

Strategy EN10 – Advocacy

- Advocate strongly for the interests of Wollondilly and its community in relation to environmental outcomes.

Looking after the Community

OUTCOMES

WHAT DO WE WANT?

1. Access to a range of activities, services and facilities.
2. Communities that are engaged, cohesive, included, and have a sense of belonging.
3. Communities that are healthy, happy and feel safe.

STRATEGIES

HOW WILL COUNCIL WORK TO ACHIEVE WHAT WE WANT?

Strategy CO1 – Strong Community

- Deliver a range of community projects, services, and events (including in partnership with community groups and NGOs) which strengthen our community.

Strategy CO2 – Health and Wellbeing

- Promote and support community health and wellbeing and plan for long term health services for the Shire.

Strategy CO3 – Social Planning

- Undertake strategic social planning approaches regarding community needs and issues, particularly in relation to future population growth.

Strategy CO4 – Engagement and Communication

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

Strategy CO5 – Advocacy

- Advocate strongly for the interests of Wollondilly and its community in relation to community outcomes.

Efficient and Effective Council

OUTCOMES

WHAT DO WE WANT?

1. Government, community and business talking and working together.
2. A Council that demonstrates good business management and ethical conduct.
3. A Council that is viewed by the community as transparent, accountable and responsive to their concerns.

STRATEGIES

HOW WILL COUNCIL WORK TO ACHIEVE WHAT WE WANT?

Strategy EC1 – Employee Relations

- Build a resilient, safe and supported workplace that provides respectful, efficient and effective services for our customers now and for future generations.

Strategy EC2 – Risk Governance

- Ensure corporate risks are audited and managed appropriately to reduce the likelihood of any adverse impacts to Council or the community.

Strategy EC3 – Customer Service

- Deliver appropriate, responsive and effective service to our customers.

Strategy EC4 – Financial Sustainability

- Maintain Council in a strong financial position now and into the future.

Strategy EC5 – Resource Efficiency

- Drive a culture of continuous improvement across all aspects of service delivery.

Strategy EC6 – Information Management

- Implement innovative technological solutions to deliver quality information.

Strategy EC7 – Participation

- Enable community involvement in Council decision making.

Strategy EC8 – Accountability and Transparency

- Ensure Council maintains best practice approaches to open reporting and information access.

Strategy EC9 – Advocacy

- Advocate strongly for the interests of Wollondilly and its community.

Internal Committee/Advisory Group Councillor Representation Membership List 2016-2017

INTERNAL COMMITTEE OF COUNCIL WITH COUNCILLOR REPRESENTATION	COUNCILLOR REPRESENTATION 2016-17	RESPONSIBLE COUNCIL OFFICER	WHEN HELD AND VENUE
ORDINARY COUNCIL MEETING	Mayor Deputy Mayor Full Council	Manager Governance	Meetings held at 6.30pm, 3rd Monday of each month in the Council Chambers.
COMMUNITY FORUM	Mayor Deputy Mayor Full Council	Manager Governance	Meetings held at 6.30pm, 2nd Monday of each month in the Council Foyer - Administration Building. Community Safety on the Agenda quarterly – February, May, August and November.
AUDIT COMMITTEE	Mayor Cr Briggs	Manager Governance	Meetings held in office hours at the Council Chambers.
AUSTRALIA DAY COMMITTEE	Mayor Cr Hannan Vacant Cr Landow Cr Banasik	Manager Community Outcomes	Meetings on the 2nd Tuesday of month 5pm-7pm in the Council Boardroom as required.
COMMUNITY LEISURE CENTRE USERS ADVISORY GROUP	Cr Briggs	Manager Infrastructure Planning	Meetings held at 6.00pm, March & September in the Council Chambers.
GENERAL MANAGERS PERFORMANCE REVIEW COMMITTEE	Mayor Cr Hannan Vacant Cr Gould Cr Khan Cr Landow	Assistant Director People, Legal & Governance, Executive Services	Facilitator LG NSW. Meetings held late January/early February & late July.
LOCAL TRAFFIC COMMITTEE	Cr Khan Cr Briggs (alt)	Manager Infrastructure Planning	Meetings held at 2.00pm on the third Wednesday monthly, except February, May and August meetings are held on the 4 th Wednesday at 10.00am in the Council Boardroom.
PICTON FLOOD PLAIN RISK MANAGEMENT COMMITTEE	Cr Khan Cr Deeth	Manager Infrastructure Planning	As required.

Internal Committee/Advisory Group Councillor Representation Membership List 2016-2017

COMMUNITY ADVISORY COMMITTEES	COUNCILLOR REPRESENTATION 2016-17	RESPONSIBLE COUNCIL OFFICER	WHEN HELD AND VENUE
COMPANION ANIMALS ADVISORY COMMITTEE	All Welcome	Manager Compliance & Administration	Quarterly, 1 st Tuesday in March, June September and December at Council's Boardroom
CUBBITCH BARTA RESERVE STEERING COMMITTEE	Maximum of 2 Councillors	Manager Infrastructure Planning	Bi-monthly or as required at Council's Administration Building
DISABILITY ACCESS ADVISORY COMMITTEE	All Welcome	Manager Community Outcomes	Quarterly, 2nd Wednesday in February, May, August and November from 2pm – 3pm at Council's Administration Building
ECONOMIC DEVELOPMENT ADVISORY COMMITTEE	All Welcome	Manager Economic Development & Tourism	Quarterly as required - Boardroom
MINERALS, ENERGY RESOURCES, WASTE AND ENVIRONMENT ADVISORY COMMITTEE	All Welcome	Manager Environmental Services	Quarterly - Boardroom
RURAL INDUSTRY ADVISORY COMMITTEE	All Welcome	Manager Growth & Strategic Planning	Quarterly and as required, 7.30pm on a Wednesday at Council Administration Building
TOURISM AND HERITAGE ADVISORY COMMITTEE	All Welcome	Manager Economic Development & Tourism	Quarterly as required – Gallery
TRANSPORT ADVISORY COMMITTEE	All Welcome	Manager Infrastructure Planning	Quarterly, at Council's Administration Building
YOUTH ADVISORY COMMITTEE	All Welcome	Manager Community Outcomes	Quarterly, 1 st Tuesday of the month from 6.30pm – 8.30pm at Council's Administration Building or as required.

Internal Committee/Advisory Group Councillor Representation Membership List 2016-2017

EXTERNAL COUNCIL COMMITTEES	COUNCILLOR REPRESENTATION 2016-17	RESPONSIBLE COUNCIL OFFICER	WHEN HELD AND VENUE
ASSOCIATION OF MINING RELATED COUNCILS COMBINED COUNCILS SOUTHERN MINING LIAISON COMMITTEE	Cr Khan Cr M Banasik Cr Lowry (2 Cr votes + alt)	Director Infrastructure & Environment	Meetings held February, May, August and November at various venues.
BORAL CEMENT – MALDON PLANT – COMMUNITY LIAISON COMMITTEE	Vacant	Manager Infrastructure Planning	Meetings held quarterly at various locations.
CAMPBELLTOWN ARTS CENTRE CULTURAL PRECINCT ADVISORY GROUP	Cr Banasik	Manager Community Outcomes	Meetings held quarterly at Campbelltown Arts Centre.
COUNTRY PUBLIC LIBRARIES ASSOCIATION (SOUTH EASTERN ZONE)	Cr Banasik Cr Hannan (alt)	Manager Community Outcomes	Meetings held quarterly at rotating host Council locations.
GEORGES RIVER COMBINED COUNCIL COMMITTEE INC	Cr Banasik	Manager Environmental Services	Meetings held at 7.00pm, 4th Thursday of every second month at various venues.
GREATER SYDNEY LOCAL LAND SERVICES LOCAL GOVERNMENT ADVISORY GROUP	Cr Briggs	Manager Environmental Services	Quarterly
ILLAWARRA COAL COMMUNITY CONSULTATIVE COMMITTEE	Cr Lowry	Manager Environmental Services	Meetings held 4.30pm, last Tuesday of every second month.
LACHLAN REGIONAL TRANSPORT COMMITTEE	Cr Hannan	Director Planning	Meetings held quarterly.

Internal Committee/Advisory Group Councillor Representation Membership List 2016-2017

EXTERNAL COUNCIL COMMITTEES	COUNCILLOR REPRESENTATION 2016-17	RESPONSIBLE COUNCIL OFFICER	WHEN HELD AND VENUE
LOCAL EMERGENCY MANAGEMENT COMMITTEE	General Manager Luke Johnson	General Manger & Manager Works	Meetings held 6 times per year at various venues.
MACARTHUR REGIONAL ORGANISATION OF COUNCILS (MACROC)	Mayor – President Cr Hannan Cr Khan Cr Banasik Cr Deeth (Mayor + 3 Crs next 2yrs – Wollondilly President)	General Manager	Meetings held 7.00pm, on Wednesdays quarterly at Campbelltown, Camden & Wollondilly Councils.
MY GATEWAY	Assistant Director People, Legal & Governance, Executive Services Matthew Toro	Assistant Director People, Legal & Governance, Executive Services	Meetings held monthly at Centric, Park Central.
QUEEN VICTORIA SUPPORT GROUP	Vacant	Manager Community Outcomes	As required.
SOUTHERN TABLELANDS REGIONAL ARTS ADVISORY GROUP	Cr Banasik	Manager Community Outcomes	Meetings held quarterly at Goulburn Council offices.
SOUTH WEST SYDNEY ACADEMY OF SPORT ADVISORY GROUP	Cr Briggs	Manager Infrastructure Planning	Board Meetings held quarterly in Wollondilly, Campbelltown, Camden & Liverpool. Finance Meetings - Bi-monthly UWS.
SOUTH WEST REGIONAL WEEDS COMMITTEE	Vacant	Manager Environmental Services	Meetings held at 9.00am, 1st Wednesday of March, June, September and December. Various locations South West Sydney.
SYDNEY PERI URBAN NETWORK	Executive Director Ally Dench	Executive Director Community Services and Corporate Support	Meetings held as required at various locations.
SYDNEY SOUTH WEST PLANNING PANEL	Mayor Cr Gould (alt) General Manager (Peter Wright alt. for GM)	Manager Planning	As decided by the Panel Chair.

Internal Committee/Advisory Group Councillor Representation Membership List 2016-2017

EXTERNAL COUNCIL COMMITTEES	COUNCILLOR REPRESENTATION 2016-17	RESPONSIBLE COUNCIL OFFICER	WHEN HELD AND VENUE
TAHMOOR COLLIERY COMMUNITY CONSULTATIVE COMMITTEE	Cr Khan	Manager Environmental Services	Meets quarterly as required at Tahmoor Colliery.
WATER NSW LOCAL GOVERNMENT REFERENCE PANEL	Cr Banasik Cr Gould (alt)	Manager Environmental Services	Meetings held at 12.00pm, 1st Monday quarterly.
WOLLONDILLY DISTRICT LIAISON COMMITTEE (SLA WITH RFS)	Cr Briggs Cr Khan	Manager Works	Quarterly.
WOLLONDILLY/ WINGECARRIBEE - BUSH FIRE MANAGEMENT COMMITTEE	Mayor Cr Briggs (12 month rotations of chair with Wingecarribee)	Manager Environmental Services	Meetings held at 12.30pm, 1st Wednesday quarterly, Venue Bridge Street, Picton.
YERRANDERIE MANAGEMENT COMMITTEE	Cr Lowry Cr Gould	Manager Environmental Services	Meetings held at 6.30pm, 1st Thursday March, June, September and December at The Heritage Centre, The Oaks. 1st Saturday of alternate months - all day Yerranderie.

Sustainable and Balanced Growth

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

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

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

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

Sustainable and Balanced Growth
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

Relevance to Community Strategic Plan
--

SUSTAINABLE AND BALANCED GROWTH

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

Growth

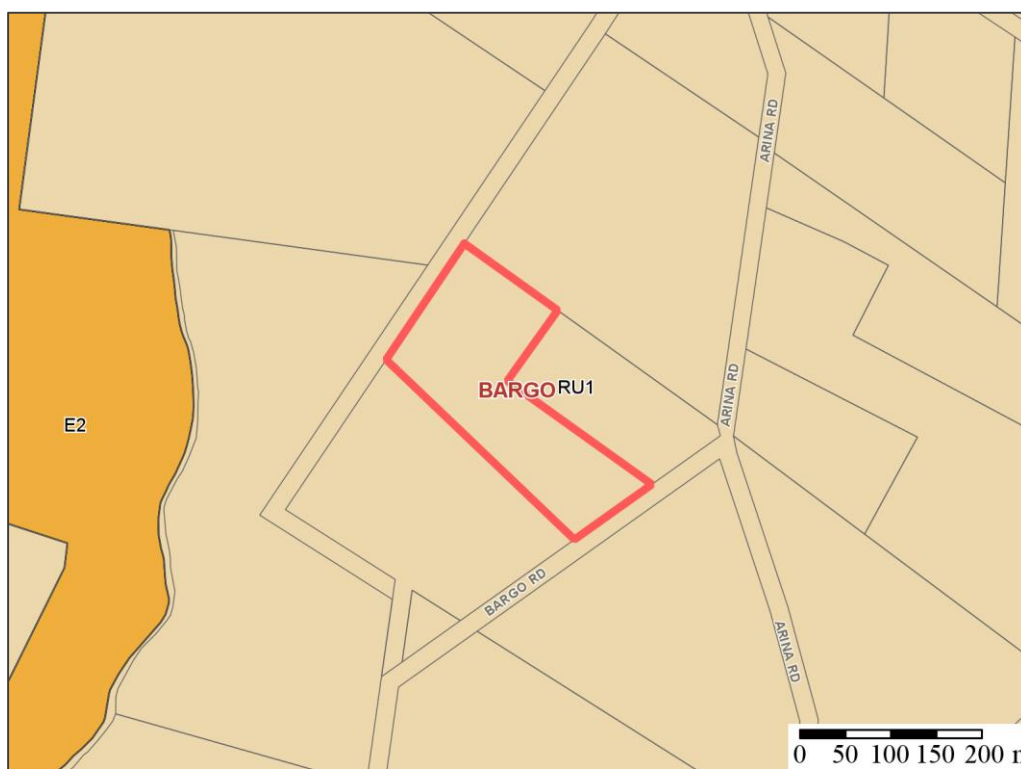
GR1 - Development Application No.010.2016.00000010.002 - Modification of Consent for Intensive Plant Horticulture at 275 Bargo Road, Bargo

GR1

Development Application No.010.2016.00000010.002 – Modification of Consent for Intensive Plant Horticulture, Erection of a Hail Net and Farm Building, Demolition of an Outbuilding and Enlargement of Existing Dam at 275 Bargo Road, Bargo

27534

010.2016.00000010.002



LOCATION & ZONING MAP

DEVELOPMENT INFORMATION

Development Application No:	010.2016.00000010.002
Property Address:	275 Bargo Road, Bargo
Applicant:	Jeff Bulfin – Precise Planning
Owner:	Shi Wen Sui and Hai Min Lai

Sustainable and Balanced Growth
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

**GR1 - Development Application No.010.2016.00000010.002 -
Modification of Consent for Intensive Plant Horticulture at 275 Bargo
Road, Bargo**

EXECUTIVE SUMMARY

- The purpose of this report is to inform Council of a proposed modification to a development consent for an intensive horticultural farm at 275 Bargo Road, Bargo.
- In accordance with Council's Development Control Plan, the modification application was notified to those land owners who objected to the original application. Further submissions have been received.
- The modified application was called in by Councillors for determination.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extends to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended that the application be approved subject to conditions.

REPORT

BACKGROUND

At the Council Meeting held 17 October 2016, consent was granted for Intensive Plant Horticulture, erection of Hail Net and Farm Building, Demolition of an Outbuilding and Enlargement of existing Dam. The consent was granted following design changes, including the relocation of the packing shed and imposition of condition 4(7) requiring the growing beds to be setback 20m from the property boundary to 295 Bargo Road, Bargo. A copy of the approved plan is included as Attachment 1.

An application to modify the above consent was lodged 21 February 2017. The application initially sought to:

1. Delete condition 4(7) which requires the 20m setback;
2. Delete condition 21(1) – (15) given it is no longer proposed to enlarge the farm dam; and
3. Amend conditions 1(2) and 1(7) to permit the development to be carried out in stages.

The Applicant's summary of changes form Attachment 2 of this report.

The application was notified for 30 days from 16 March to 19 April 2017. Three formal submissions were received from the adjoining neighbour. A summary of the concerns raised are outlined elsewhere in this report. The formal submissions are included in the separate Submissions Booklet.

GR1 - Development Application No.010.2016.00000010.002 - Modification of Consent for Intensive Plant Horticulture at 275 Bargo Road, Bargo

The detailed submission suggest that the Applicant could comply with the 20m setback without reducing the growing area by utilising land elsewhere on site.

On 4 August 2017, the Applicant provided a revised proposal in response to the concerns raised by the submitter and Council. A copy of the Applicant's correspondence and revised plan is included as Attachment 3. The revised proposal demonstrates compliance with Condition 4(7). The utilisation of land elsewhere on site necessitated relocation of the effluent disposal system. An On-site Wastewater Assessment Report was provided with the revised proposal together with an amended Landscape Plan.

1.1 DESCRIPTION OF SITE AND SURROUNDING AREA

The subject site is located at 275 Bargo Road, Bargo with the nearest cross street being Arina Road, Bargo. The site is 3.546 hectares in area. The site currently has a dwelling on the property and is zoned RU1 Primary Production. The site partially bushfire prone land and located in Bargo Mine Subsidence District.

1.2 DESCRIPTION OF PROPOSED MODIFICATION

Noting that the Applicant no longer seeks to delete Condition 4(7) the following extract from the Statement of Environmental Effects outlines the proposed modification:

"The original application proposed, as part of the works required, the expansion of the existing dam. Subsequent stormwater runoff calculations undertaken by D and M Consulting (Consulting Engineers) has demonstrated that the existing dam capacity is sufficient to accommodate any additional runoff created by this development, without the need for any further expansion. Subsequently, this application proposes the approved development be modified by deleting the proposal to expand the dam.

Lastly, the proponent has indicated that the erection of the shed will not be required until sometime after the setup of the hydroponics facility and therefore this application seeks to modify the approved development so that the earthworks, landscaping, hail net structure and setup of the hydroponics facility is Stage 1 of the development and the erection of the shed and associated vehicle manoeuvring area is Stage 2 of the development".

Sustainable and Balanced Growth
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

GR1 - Development Application No.010.2016.00000010.002 - Modification of Consent for Intensive Plant Horticulture at 275 Bargo Road, Bargo

CONSULTATION WITH INTERNAL STAFF AND STATE AGENCIES

Section	Comments
Engineer	Consultation and written response by Development Engineer received 21 August 2017. Current capacity of dam considered adequate.
Health Officer	Comments received 24 March 2017: <i>At this stage I am satisfied that there will be minimal impact to neighbouring properties. Should there be issues with pesticides leaving the property in the future, it can always be dealt with by prohibiting specific chemicals or implementing additional controls under the POEO legislation.</i>
DPI Water	Given the proposal no longer seeks to enlarge the dam there is no need to obtain General Terms of Approval from DPI.
Environment Officer	Comments received 5 April 2017: <i>The southern drainage swale does not have any treatment and should either flow into the dam to have a treatment device prior to discharge. The adjoining vegetation is in good condition.</i> <i>The proposal doesn't impact on much existing vegetation, however offsite run off and impacts should be managed.</i> <i>In regards to the chemical use the curtain must be in operation every time the application is applied and manufacturer's instruction followed. Generally there is information regarding chemical use such as not using when the wind is above a certain speed etc. I would recommend that the curtain be down when the application is occurring.</i>

Sustainable and Balanced Growth
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

GR1 - Development Application No.010.2016.00000010.002 - Modification of Consent for Intensive Plant Horticulture at 275 Bargo Road, Bargo

Section	Comments
	<p><i>The lesser boundary depth along the southern boundary is manageable as long as there is appropriate screening, the curtain is applied to reduce any spray drift from chemical application.</i></p> <p><i>The flora and fauna report is satisfactory and no threatened species or communities will be affected by the proposal.</i></p>

Growth

1.3 SECTION 79C ASSESSMENT

The original application DA 010.2016.00000010.001 was comprehensively assessed in accordance with a report presented to Council at its meeting held on Monday 18 July 2016. It is not intended to repeat all of the detail of that assessment in this report.

Assessment in respect of environmental planning instruments will focus the provisions of Section 96(2) Modification of consents of the Environmental Planning and Assessment Act (EPA Act).

1.3.1 PROVISIONS OF RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

The following table provides an assessment of the provisions of Sections 96(2) and (3) Modification of consents of the EPA Act.

Section 96(2) Provision	Comment
Consent authority satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all).	It is considered that the development to which the consent as modified relates is substantially the same development.
Consent authority has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent.	The subject application does not require the concurrence of any state agency.

Sustainable and Balanced Growth
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

GR1 - Development Application No.010.2016.00000010.002 - Modification of Consent for Intensive Plant Horticulture at 275 Bargo Road, Bargo

Section 96(2) Provision	Comment
Consent authority has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent.	The application has been notified in accordance with the provisions of Council's Development Control Plan. Previous objectors were notified and the exhibition period was for 30 days.
Consent authority has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan.	Multiple submissions were received from one neighbour. The concerns raised are considered elsewhere in this report.
Consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.	Matters referred to in section 79C (1) as are of relevance to the development the subject of the application have been considered in this report.

Growth

1.3.2 PROVISIONS OF RELEVANT DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

Not applicable.

1.3.3 PROVISIONS OF RELEVANT DEVELOPMENT CONTROL PLANS (DCP)

The report to Council's meeting held 18 July 2016 for the original application was assessed under Development Control Plan 2016. Volume 8, 3.4, 3.5 and 3.6 were utilised for assessment. The modification relates to controls 3.4 and 3.6 as per below DCP extract:

Sustainable and Balanced Growth
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

GR1 - Development Application No.010.2016.00000010.002 - Modification of Consent for Intensive Plant Horticulture at 275 Bargo Road, Bargo

Volume 8 – Primary Agricultural and Rural Uses

PART 1 – PRELIMINARY

1.2 - Objective

- | | |
|----|--|
| a) | To promote and encourage rural and agricultural enterprises, |
| b) | To encourage development that protects the rural amenity, natural landscape features of significance and scenic qualities of Wollondilly Shire, |
| c) | To ensure that agricultural activities have a neutral or beneficial effect on water quality, |
| d) | To ensure that the establishment of new, or expansion of existing farms will not adversely impact on biodiversity, endangered ecological communities and threatened species, |
| e) | To minimise the potential for land use conflict, and |
| f) | To ensure that the opportunity for long term sustainable agricultural production is maximised. |

Council is unlikely to grant consent to development unless Council is of the opinion that the development is consistent with all of the objectives of this Volume.

Controls in this Plan can only be varied where there are no viable alternatives due to the physical limitations of the land and it can be demonstrated that the proposed use will still meet the objectives.

Part 2 – General Requirements for all Development

None at time of adoption.

3.4 Intensive plant agriculture

3.4.1 Siting and design

Objectives

- | | |
|----|--|
| a) | To minimise the impacts of horticulture on adjoining properties. |
| b) | To control the impacts of horticulture by appropriate site buffer or setback distances. |
| c) | To minimise the impacts of development on the natural environment. |
| d) | To provide a consistent approach to planning for the development of new horticulture farms and facilitate additions to existing farms. |

Controls and comments

- | | | |
|----|---|---|
| 1. | Intensive Plant Agriculture is required to comply with the minimum separation distances outlined below unless the impacts can be mitigated through a Council approved design: (See DCP for further details relating to this control). | Amended landscape plans indicate that the setbacks for a controlled environment structure have a 20m setback from the front and south eastern boundaries. |
|----|---|---|

Note: Where rural land uses emit odour, the above separation distances are minimums only. Consideration will be given to OEH's policy on 'Assessment and management of odour from stationary sources in NSW' (November 2006) taking into consideration the site characteristics and the merits of each application.

Sustainable and Balanced Growth
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

GR1 - Development Application No.010.2016.00000010.002 - Modification of Consent for Intensive Plant Horticulture at 275 Bargo Road, Bargo

3.6 Earth dams		
Objectives		
a)	To ensure that earth dams are constructed to a safe standard, and	
b)	To minimise the impact of dam construction on neighbouring properties and on the surrounding natural environmental features.	
Controls and comments		
1.	The width of a dam crest must be a minimum of 3 metres for a 3 metre high dam wall. The crest must increase in width 500mm from every metre above a 3 metre high dam wall.	The Applicant's consulting engineer has certified that the existing dam will have sufficient capacity for stormwater flow. No change to the existing dam is proposed.
2.	A minimum of 1.0 metre is to be established for freeboard (the distance between the highest water level and the top of the dam wall). This must increase by 10% for every metre over a 3 metre high wall.	
3.	Soils predominantly consisting of gravels; organic soils or peat must not be used for dam construction or batters. The material used to construct an embankment should be sufficiently impervious to keep seepage low and ensure that dam walls remain stable. Soils with 25% clay content or greater are ideal to form an impervious barrier.	
4.	The dam embankment must contain at least 200mm of compacted top soil and be planted with a good soil holding grass. Trees and shrubs must not be planted on the embankment.	
5.	The slope of the embankment batters must conform to the ratio of 3.0 horizontal to 1.0 vertical for both upstream and downstream slopes.	
6.	An earth bywash is required on all dams in order to pass surplus runoff around the dam which would otherwise pass over the embankment. The bywash must be a minimum of 6 metres in width.	

Sustainable and Balanced Growth
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

GR1 - Development Application No.010.2016.00000010.002 - Modification of Consent for Intensive Plant Horticulture at 275 Bargo Road, Bargo

7.	The width of the outlet from the bywash must not be less than the inlet width and must not direct flow onto the downstream toe. The bywash cut batter must have a maximum steepness of 1.5:1.	
8.	The bywash is to be excavated 75mm below the top water level and backfilled with compacted topsoil and planted with a suitable holding grass such as kikuyu. No trees or shrubs are to be planted in the bywash area.	
9.	In spring fed dams and dams that consistently receive a large amount of surface water, a piped spillway may be required to act as an outlet. The spillway is to have an inlet of at least 100mm below the level of the bywash. Generally a 150mm pipe is suitable for this purpose.	
10.	To avoid erosion and cracking of soil around spillway pipes and movement of water along the pipe line, gypsum should be applied below, above and around the pipe for a minimum distance of 2 metres. The trench for the pipe is to be cut into the natural ground under the earth bank or through a compacted section of bank. The base width of the pipe trench is generally about 300mm wider than the diameter of the pipe. The trench should be cut and the pipe installed as early as possible in the construction process to allow the excavation time to settle and compact as cutting through the completed embankment creates a point of weakness which may result in failure.	
11.	The bywash or spillway water from an earth dam should not have an adverse effect on neighbouring properties. Dams are to be sited so that excess water is contained on	

Sustainable and Balanced Growth
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

GR1 - Development Application No.010.2016.00000010.002 - Modification of Consent for Intensive Plant Horticulture at 275 Bargo Road, Bargo

	the property on which they are located before meeting with a watercourse downstream.	
12.	All farm dams are required to have a cut-off trench. The cut-off trench is to be constructed along the entire length of the embankment. It does not need to extend across the bywash. The trench must be taken down at least 300mm into the impervious soil and backfilled with impervious material ensuring it is less than 600mm below the natural surface.	
13.	The earth dam must not be located near or adjoining a natural wetland, floodplain or riparian area, and shall be designed and located to avoid any impact on remnant vegetation or threatened species.	

Growth

1.3.4 DRAFT AND/OR PLANNING AGREEMENTS ENTERED OR OFFERED TO ENTER INTO

Not applicable

1.4 IMPACT OF THE DEVELOPMENT

Head of Consideration	Comment
Natural Environment	Subject to compliance with the draft conditions of consent the impact on the natural environment is not expected to be significant.
Built Environment	The proposed netting is setback between 80 and 100m from the street and will be partially screened by vegetation
Social Impacts	It is considered that there will be minimal social impacts.
Economic Impacts	Economic impacts will be positive with this proposal.

1.5 SUITABILITY OF THE SITE

The site is considered to be suitable for the proposed modified development.

Sustainable and Balanced Growth
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

GR1 - Development Application No.010.2016.00000010.002 - Modification of Consent for Intensive Plant Horticulture at 275 Bargo Road, Bargo

1.6 SUBMISSIONS

Three formal submissions were received from the previous objector. An outline of those concerns and staff comments are provided as follows:

Concern	Comment
The land could be better utilised to maintain the 20 m setback.	The Applicant has re-designed the growing bed configuration. It is no longer proposed to reduce the 20m setback required by Condition 4(7).
The increase in growing area should trigger a fresh Development Application.	The growing area under netting has increased from approximately 11,350 m ² to 12,690m ² . The Modified application also includes 2,250m ² in open area growing beds. A qualitative and quantitative assessment of the proposed changes has been undertaken. The increase in growing area under netting is approximately 10.5%. Changes including the 20m setback and three rows of trees has been included to comply with conditions on the original consent. Other changes including staging the development and retaining the dam in its current form are not considered significant.
The growing area encroaches upon the effluent disposal area.	The Applicant has prepared an On-site Wastewater Assessment Report for the relocation of the Effluent Disposal Area. Council's Environmental Health Officer is satisfied with the proposal.
The proposed packing shed will encroach upon the Crown Reserve at the rear of the property.	The Applicant has provided a survey plan which indicates that the existing dam and proposed packing shed will be fully contained within the subject site.
The open air growing beds shown in the north eastern corner of the site should be deleted and the area used for waste disposal.	It is suggested that there is ample space on site to permit small scale composting of vegetative material.

Sustainable and Balanced Growth
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

GR1 - Development Application No.010.2016.00000010.002 - Modification of Consent for Intensive Plant Horticulture at 275 Bargo Road, Bargo

Concern	Comment
No details of "mature landscaping" has been provided.	The Applicant has amended the Landscape Plan. Approximately 116 Brush Cherry Lillypilly in 45 litre pots will be planted along the neighbour's boundary. A further 431 Brush Cherry Lillypilly approximately 200mm in height will be planted to form three rows of trees along the neighbour's boundary.
The details in the Landscaping Plan has changed between plan versions.	These changes have been made to address the neighbour's concern regarding the lack of mature plant species.
The Landscaping Plan has insufficient spacing for maintenance purposes.	The latest Plan shows the trees planted at 2m intervals and rows. The row closest to the boundary with the neighbour is offset by 750mm. The distance is considered adequate for tree maintenance.
There is no detail of the effectiveness of the tree planting to screen the netting structure. The trees will only grow to 3 metres.	The netting structure is typically 5 m in height. The advanced trees will be approximately 1.5m high when planted. The netting will be visible. The planting is expected to soften any visual impact.
The wire stays supporting the netting will encroach upon the tree planting proposal along the western boundary.	The wire stays may well encroach into the planted area. Given the 2m distance between tree intervals and rows, any encroach is not expected to hamper tree planting / maintenance.
The revised drainage details which suggest the dam has sufficient volume is not supported by a calculation sheet.	The Applicant response dated August 2017 includes an assessment from a consulting engineer which suggest <i>'the proposed development does not change the overall impervious area of the site therefore the runoff from the site is not increased and the existing dam is adequate for the designed stormwater flows'</i> (see Attachment 3). The opinion is supported by Council's Development Engineering Section.

Sustainable and Balanced Growth
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

GR1 - Development Application No.010.2016.00000010.002 - Modification of Consent for Intensive Plant Horticulture at 275 Bargo Road, Bargo

Concern	Comment
The stormwater swale proposed along the properties western boundary will conflict with the landscaping works and relocated shed.	The Applicant has provided a stormwater drainage concept plan (see Attachment 3). Shallow swales (approximately 250mm deep) will run between hydroponic beds towards the existing dam. Stormwater will be diverted clear of the proposed packing shed.
No structural details of the netting has been provided.	Condition 5(1) of the Development Consent requires the Applicant to obtain a Construction Certificate for the erection of any structures. Structural details will be provided at that stage of the approval process.
There are no plans, in elevations, showing the netting design.	The Applicant has provided photographs of the netting. As suggested above the netting is typically 5 m in height.
No technical detail has been provided that demonstrates that the netting will be effective in reducing spray drift.	See the Health Officer's comments elsewhere in this report.
The requirement for drop down sheets at the end of the growing beds has been replaced with angled netting.	Condition 4(5) of the Development Consent requires the Applicant to install 'spray drift netting'. The Applicant is not seeking to amend this condition.
The proposed seedling storage area should be relocated to the rear of the property.	At this point in time we have no evidence that the location of the seedlings will cause a nuisance. If a nuisance is demonstrated then alternative locations can be considered.

1.7 THE PUBLIC INTEREST

Based on the merits of the case, it is considered that the modified development is within the public interest.

FINANCIAL IMPLICATIONS

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

Sustainable and Balanced Growth
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

**GR1 - Development Application No.010.2016.00000010.002 -
Modification of Consent for Intensive Plant Horticulture at 275 Bargo
Road, Bargo**

ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET

1. Site Plan approved on 17 October 2016.
2. Applicant's summary of Modified Proposal.
3. Applicant's response to concerns raised and revised proposal.

RECOMMENDATION

That in accordance with Section 96(2) of the *Environmental Planning and Assessment Act*, Council grant approval to the Modification Application No.010.2016.00000010.002 to amend Development Consent 010.2016.00000010.001 as follows:

1. Condition 1(2) of the original consent is modified to read:

“(2) Development shall take place in accordance with the original plans and supporting documents approved by Council in respect of Development Application No. 010.2016.00000010.001 except for those plans replaced by new plans, listed below and submitted to Council in respect of Application to Modify Development Consent No. 010.2016.00000010.002.

New plan			Superseded plan	
Plan Name	Plan No.	Date	Plan Name	Plan No.
Landscape Plan	L 01F	27/06/2017	Landscape Plan	L 01B
Site Plan and Drainage Plan	DWG No 16997C – Sheets 1 to 5	02/08/2017	Site Plan	17/10/16

Where there is an inconsistency between an approved plan and any other condition of this consent the other condition shall prevail to the extent of the inconsistency.”

2. Condition 1(7) of the original consent is modified to read:

“(7) The proposal shall be redesigned to achieve the following outcomes:

- *A personal access door(s) shall be provided to the proposed farm building in accordance with the Building Code of Australia.*

Sustainable and Balanced Growth
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

GR1 - Development Application No.010.2016.00000010.002 - Modification of Consent for Intensive Plant Horticulture at 275 Bargo Road, Bargo

- *Amended plans demonstrating compliance with this Condition shall be submitted to Council or the nominated Accredited Certifier prior to the issue of a Construction Certificate in regard to Stage 2.”*
3. New condition 1(7A) is added and states:
- “(7A) The development shall be staged as follows:*
- *Stage 1: Demolition and all civil earthworks for the driveway and growing areas, landscaping, erection of hail nets and installation of hydroponic growing tables and subsequent use of the land for intensive plant horticulture.*
 - *Stage 2: Erection of Farm Shed. The farm building shall be located wholly within the development lot and shall maintain rear and side setbacks in accordance with the approved site plan. A survey report completed by a registered surveyor shall be submitted to the Principal Certifying Authority at the commencement of work / at slab formwork stage prior to the pouring of concrete to demonstrate compliance with this condition.*
4. Conditions 22(1) – (15) of the original consent be deleted and replaced with the following condition:
- “(1) The existing dam has sufficient capacity to support the proposed development as shown in amended plans by D&M Consulting Pty Ltd. Any future modifications to the existing dam will require a development application submitted to Wollondilly Shire Council.*
5. All other conditions of the original consent remain valid and applicable.

GR2 – Station Street, Menangle Planning Proposal – Development Control Plan Provisions

GR2

Station Street, Menangle Planning Proposal – Development Control Plan Provisions

272411

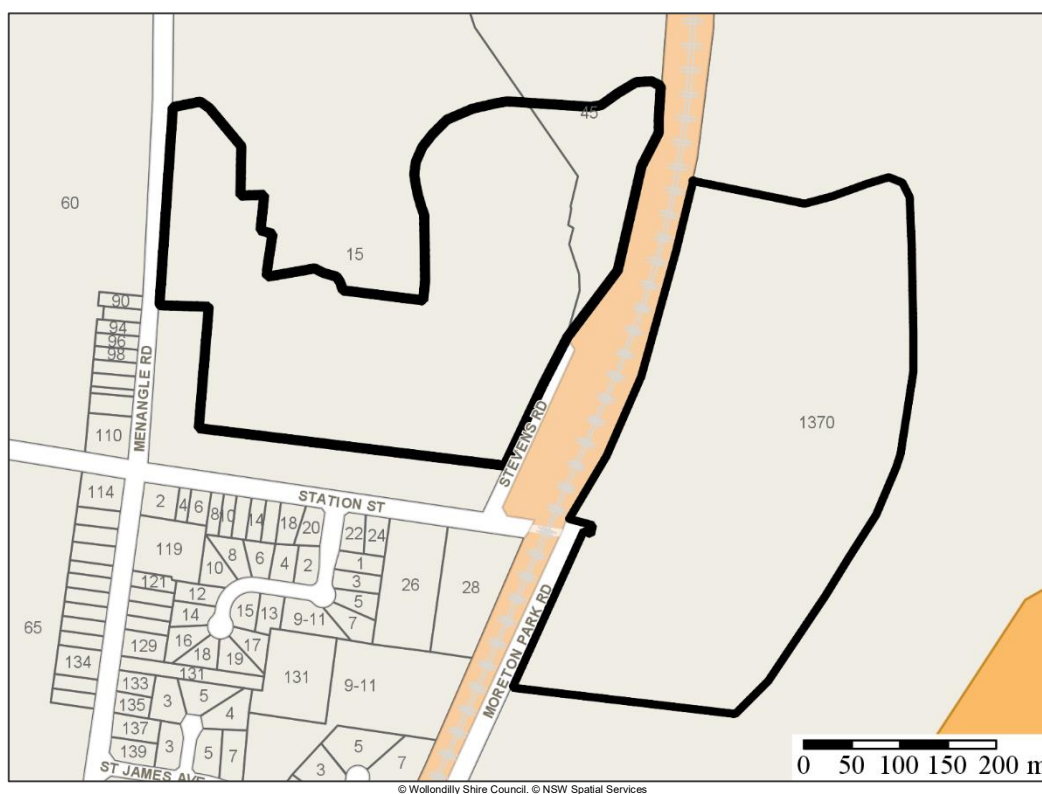
TRIM 6814

Applicant:

Mirvac

Owner:

El Bethel Pty, Ltd, The Central Creamery Pty Limited



LOCATION MAP



EXECUTIVE SUMMARY

- The purpose of this report is to seek Council's endorsement to publicly exhibit proposed amendments to the Wollondilly Development Control Plan, 2016 for: Volume 3 Subdivision of Land and Volume 4 Residential Development to accompany the Station Street, Menangle Planning Proposal.

GR2 – Station Street, Menangle Planning Proposal – Development Control Plan Provisions

- Council is not the relevant Planning Authority for the Station Street Planning Proposal. This role sits with the Sydney South West District Planning Panel.
- 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 proposed amendments to the Wollondilly Development Control Plan, 2016 be placed on public exhibition at the same time as the Station Street, Menangle Voluntary Planning Agreement.

REPORT

1.1 DESCRIPTION OF PROPOSAL

The proposal seeks to amend the provisions of Wollondilly Local Environmental Plan, 2011 as it applies to land in Station Street, Menangle being Part of Lot 201 DP 590247; Part of Lot 21 in DP 581462; and Part of Lot 202 in DP 590247.

The Station Street, Menangle Planning Proposal has sought to:

- amend the land Zoning Map to change the zoning from Zone RU1 Primary Production to part Zone R2 Low Density Residential and part Zone B1 Neighbourhood Centre in accordance with Attachment 1 *Proposed Land Zoning*.
- amend the Lot Size Map to apply no minimum lot size to land in Zone B1, a minimum lot size of 250 square metres immediately adjoining land in Zone B1, a minimum lot size of 900 square metres for land fronting Menangle Road and at the rural-urban interface and a minimum lot size of 600 square meters for the remainder, see Attachment 2 *Proposed Minimum Lot Size*.
- amend the Height of Buildings Map such that all development in Zone R2 shall not exceed single storey and all development in Zone B1 shall not exceed two storeys.

The Station Street, Menangle Planning Proposal will potentially allow for the development of approximately 350 residential dwellings.

GR2 – Station Street, Menangle Planning Proposal – Development Control Plan Provisions

1.2 BACKGROUND

The Station Street Planning Proposal was submitted to Council in April 2012. It was placed on initial community consultation in May 2012 and eighteen (18) written submissions and a petition were received.

The Planning Proposal was presented to Council's meeting on 15 October 2012 where the proposal was deferred. The application was again reported to Council on 17 December 2012 where the Planning Proposal was again deferred. The application was then referred by the then applicant to the Joint Regional Planning Panel (JRPP) for Pre-Gateway Review. The JRPP advised on 10 July 2013 that an amended planning proposal should be submitted to Gateway for determination. The recommended amendments included ensuring the proposal had consistent land zonings, lot sizes and height provisions as in the 2012 planning assessment report to Wollondilly Shire Council.

The proposal received Gateway Determination to proceed from the Department of Planning and Environment, dated 9 December 2013. The planning panel remained the relevant planning authority and this transferred from the JRPP to the South West Sydney District Planning Panel on its commencement. The planning assessment work and consultation with government agencies and the community has been undertaken by the NSW Department of Planning and Environment.

This Determination was amended 11 June 2015. The amendments altered the description of the Planning Proposal, required additional consultation with the Office of Coal Seam Gas and the Heritage Division of the Office of Environment and Heritage, and extended the timeframe for completion of the LEP until June 2016.

Since the 2015 amendment, two (2) extensions of timeframe have been granted. Condition 8 now states that the timeframe for completing the draft LEP is 16 April 2018.

The Planning Proposal was placed on exhibition from the 1 July to 28 July 2015. A total of sixty-three (63) submissions were received, including agency submissions.

The Panel held a public meeting on 28 July 2016 and resolved:

“The Panel finds that this proposal for the expansion of Menangle Village is generally satisfactory and will present an opportunity to restore and celebrate the important cultural and historic elements of the State Heritage items of Menangle Village. However, the Panel is not yet prepared to determine the proposal on merit as it is not satisfied about the following matters:

GR2 – Station Street, Menangle Planning Proposal – Development Control Plan Provisions

- *Arrangements be made to provide certainty that the necessary infrastructure required to support the development will be available in a timely manner*
- *The Flood Study needs to be upgraded to the satisfaction of the Office of Environment and Heritage so as to meet the requirements of the Ministers S117 Direction*
- *The proponent is required to update the ecological assessment in accordance with the NSW Office of Environment and Heritage and it is noted that the Department of Planning and Environment will facilitate these discussions*
- *In relation to Coal Seam Gas, the Panel requires a risk assessment to be undertaken for any proposed residential development within 200m of any existing operating gas well*
- *The Panel requests the Department of Planning & Environment to confirm that residential development may proceed on this land that will not be adversely affected by mine subsidence.”*

The Voluntary Planning Agreement associated with this proposal is subject to a separate report to Council and has been prepared to address the matter of necessary infrastructure identified in the first bullet point.

Recommendations from the studies and from agency submissions have identified several issues that should be addressed at development application stage to ensure these issues are adequately dealt with, and that future development is compatible with the village character of Menangle and heritage features of the site, a draft Development Control Plan is being proposed.

1.3 SITE DESCRIPTION

The subject site is located to the north and east of Menangle village being parts of the following parcels of land:

- Lot 201 DP 590247
- Lot 21 DP 581462
- Lot 202 DP 590247.

The main southern railway line runs north – south through the site. The land is currently in Zone RU1 Primary Production under the Wollondilly Local Environmental Plan 2011 (WLEP 2011). The site is mostly cleared land with improved pasture and has a long history of use for agricultural purposes. Some important vegetation adjoins the proposed site but has been excluded from the proposal. The current use is livestock grazing and fodder production. There are mature native trees east of the railway line with a mostly cleared understorey. Built structures on the property include several farm sheds, farm dwellings, and the following heritage items of local significance:

GR2 – Station Street, Menangle Planning Proposal – Development Control Plan Provisions

- Item I82 Camden Park Estate Central Creamery and Managers Cottage
- Item I83 Camden Park Rotolactor
- Item I97 Dairy Cottage
- Item I100 Camden Park Estate Central Creamery.

The site includes land in the following conservations areas:

- Menangle Conservation Area
- Menangle Landscape Conservation Area.

The site adjoins/is nearby to the following heritage items:

- The State listed heritage item “Menangle Railway Group”
- Menangle Store
- Menangle School of Arts Community Hall
- Menangle Public School
- State listed Menangle Railway Bridge.

The site is currently within Zone RU1 Primary Production and subject to a minimum lot size of 100 hectares. The planning proposal adjoins a section of Lot 201 DP 590247 with frontage to Menangle and Station Streets which is within Zone R2 Low Density Residential and on which there is an approved residential subdivision.

1.4 WOLLONDILLY DEVELOPMENT CONTROL PLAN 2016 AMENDMENTS

It is proposed to amend the Wollondilly *Development Control Plan 2016* (Wollondilly DCP) to provide site specific controls within the subdivision and residential volumes to guide future development on this site at the development application stage.

These site-specific controls are designed to ensure a high-quality building design outcome that reflects a range of dwelling types and a streetscape that incorporates pedestrian access and aesthetic landscaping elements.

These controls are considered appropriate in response to issues raised and it is proposed that the community be consulted on these controls together with the Voluntary Planning Agreement by holding the public exhibitions for each of these at the same time.

The amended Wollondilly DCP provisions are included as Attachment 3.

Sustainable and Balanced Growth
Report of to the Ordinary Meeting of Council held on Monday 16 October 2017

GR2 – Station Street, Menangle Planning Proposal – Development Control Plan Provisions

Proposed Control Topic	Description
Wollondilly DCP 2016 VOLUME 3 - Subdivision of Land	
Minimum lot width	Proposed reduction to the minimum lot widths to encourage variety in dwelling size, type and design to promote housing choice and create attractive streetscapes.
Pedestrian access	Inclusion of a pedestrian and cycle path masterplan to control the locations of pathways and ensure consistency across the entire site.
Rear vehicular access	Objectives and controls for laneways to facilitate the provision of rear vehicular access to attached and semi-detached dwelling types, resulting in improved streetscapes, housing design and street parking.
Street trees	Inclusion of a street tree masterplan to control the species of street trees and ensure consistency across the entire site.
Wollondilly DCP 2016 VOLUME 4 - Residential Development	
Attached and Semi-Detached dwellings	Additional objectives and controls for Attached and Semi-Detached dwellings.
Minimum lot width	Proposed reduction to the minimum lot widths to encourage variety in dwelling size, type and design to promote housing choice and create attractive streetscapes.
Side setbacks	Proposed amendment to the minimum side setback control for Residential Small Lots to allow zero setbacks to ensure consistency with Volume 3.
Garages	Controls to allow garages to be rear facing where laneways apply.

GR2 – Station Street, Menangle Planning Proposal – Development Control Plan Provisions

It should be noted that the statutory planning process for amending a development control plan under the *Environmental Planning and Assessment Regulation 2000* is that Council can only amend a development control plan by replacing it in full with a subsequent development control plan and repealing the former plan. So, although this report refers to amending the Wollondilly DCP with the inclusion of additional controls, for these to be lawful the current development control plan would need to be repealed and replaced with the new plan which would include the current controls and the new controls proposed by this report if adopted by Council after consultation.

FINANCIAL IMPLICATIONS

Funding for this project to date has been achieved through Council's adopted Fees and Charges. The Voluntary Planning Agreement has been prepared as a separate report to address matters specific to the Planning Proposal.

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.

ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET

1. Proposed Amendments to the Wollondilly DCP 2016

RECOMMENDATION

1. That the draft Wollondilly Development Control Plan 2016 amendments be publicly exhibited at the same time as the public exhibition for the Station Street, Menangle Voluntary Planning Agreement.
2. That a report come back to Council following exhibition.

GR3 – Draft Planning Agreement for Station Street, Menangle

GR3

Draft Planning Agreement for Station Street, Menangle

263081

TRIM 9316

Parties

Applicant:	Wollondilly Shire Council
Owner:	Mirvac Homes (NSW)
	El Bethel Pty, Ltd, The Central Creamery Pty Limited

EXECUTIVE SUMMARY

- This report advises Council about a Draft Planning Agreement that is being prepared for land at Station St Menangle.
- The Draft Planning Agreement is associated with a planning proposal to allow the rezoning and development of the site for approximately 350 dwellings and a range of other uses. The planning authority for the proposal is the South Western Sydney Planning Panel.
- It is recommended that the Council resolve as follows:
 - Note the general terms of the Draft Planning Agreement as described in this report
 - Delegate to the General Manager the decision to exhibit the Draft Agreement following advice from staff that all relevant outstanding matters have been resolved and legal advice has been obtained that it is in a form suitable for exhibition
 - Provide advice to the South West Sydney Planning Panel and to the Department of Planning when the Draft Planning Agreement is in a form that is considered by the General Manager to be suitable for exhibition
 - To consider a further report following the completion of the public exhibition period.

REPORT

1.1 BACKGROUND

Mirvac Homes (NSW) Pty Ltd is the proponent for a Planning Proposal to rezone the site known as Station Street Menangle for predominantly urban purposes. The proposal seeks to rezone the subject land mainly to R2 Low Density Residential with a small area of B1 Neighbourhood Centre and two areas of RE1 Public Recreation (refer Attachment 1). The proposal will allow for the development of approximately 350 dwellings as well as redevelopment of the site for a range of other uses including adaptive reuse of the "Creamery" site".

GR3 – Draft Planning Agreement for Station Street, Menangle

The Planning Proposal was publicly exhibited from 1 July 2015 to 28 July 2015. No significant changes have been made to the proposal following exhibition. However, Council deferred further consideration of the Planning Proposal which resulted in the South West Sydney Planning Panel (the Planning Panel) becoming the relevant planning authority. As part of their consideration of the proposal the Planning Panel directed Council to work with the developer to ensure the infrastructure required to serve the community resulting from the development will be provided. In particular the Planning Panel included the following recommendation as an outcome of the public meeting held in July 2016.

Arrangements be made to provide certainty that the necessary infrastructure required to support the development will be available in a timely manner.

To help implement this recommendation, Council and the developer have prepared a Draft Planning Agreement (the Draft Agreement) which will provide approximately \$13.4 million of infrastructure including:

- Traffic management
- Drainage basins
- Passive open space
- Shared pathways
- Shared pathway over rail line
- Restoration of the historic 'Creamery' precinct.

A contribution will also be made to the maintenance of the open space and drainage facilities in the short to medium term. In addition to the provision of the above facilities, the developer is offering to make a monetary contribution towards those facilities that are not to be provided on site such as active open space and community facilities as well as shire-wide facilities such as the library.

The developer has also requested that the subject site be incorporated into the Greater Macarthur Priority Growth Area. Council considered a report on this matter at its meeting on 15 May 2017 and resolved to advise the Department of Planning and Environment that it did not support its inclusion as the assessment of the proposal is already well advanced. No response has been received from the Department on this matter and the negotiation of the Draft Agreement is proceeding.

A separate report to this Council meeting seeking support to publicly exhibit a Draft Development Control Plan which includes site specific planning controls to guide future development on the Station Street site is also included in this Business Paper.

GR3 – Draft Planning Agreement for Station Street, Menangle
1.2 THE MAIN FEATURES OF THE DRAFT AGREEMENT

The main features of the Draft Agreement are as follows.

Land Dedications

The Draft Agreement proposes the following land dedications:

Item	Description	Area (m2)
Station St/Menangle Road Roundabout	Additional land required to provide the roundabout	216
Eastern Public Park	Local park	3,379
Western Public Park	Local park	14,045
Eastern Detention Basins	Five (5) small detention basins	9,200 (total)
Western Detention Basin	Single detention basin	5,400
Shared pathway crossings	Two (2) crossings across the riparian corridor through the site (the corridor is to remain in private ownership)	387

These proposed dedications have been assessed against Council's *Draft Land Dedication Policy* and a report prepared for the Land and Property Panel. The proposed dedications generally meet the requirements of Council's *Draft Land Dedication Policy* and are discussed in more detail below.

Traffic Management and Roads

The construction of a single lane roundabout at the corner of Station Street and Menangle Road has been incorporated into the Draft Agreement as this facility will serve demand that is not solely attributed to the development of the subject land. This roundabout will be constructed in conjunction with the first stage of the development. The cost of providing this roundabout will be offset against the contribution that would otherwise be required for Traffic and Transport under Council's Section 94 Plan.

GR3 – Draft Planning Agreement for Station Street, Menangle

All other traffic management facilities and roads will be constructed as part of the general construction works associated with the development as required through conditions of consent of any future development application and therefore do not form part of the Draft Agreement.

Drainage Basins

Approximately six (6) on site detention (OSD) basins are to be constructed to manage stormwater from the site. At this stage, a single large basin will serve the western area of the development whilst a network of five basins will serve the eastern areas of the development. These basins are proposed to be dedicated to Council through the Draft Agreement and a monetary contribution paid to Council for ongoing management of the basins. This contribution for management will be calculated in accordance with Council's *Draft Dedication of Land Policy*.

As this proposal is still at the strategic planning proposal stage, some of the details of the stormwater management system and hence the details of the OSD basins and their associated maintenance costs have not been finalised. However, the applicant has agreed in principle to pay a maintenance contribution to Council in accordance with the *Draft Dedication of Land Policy* though there will be some flexibility included in the Draft Agreement to allow the OSD design to be varied.

Open Space

Two (2) areas of open space are proposed within the development. A large linear park of approximately 1.4 hectares is located in the western area of the site, and a smaller local park of approximately 0.34 hectares is located on the eastern boundary of the site.

There are two (2) areas in which the proposed development does not meet Council's standards in relation to open space. Firstly, the eastern park does not meet the 5,000m² minimum size requirement for parks under Council's *Draft Dedication of Land Policy*. This park will, however, only serve the open space needs of the development surrounding it and embellishment will be low maintenance in nature and is considered acceptable in these circumstances.

Secondly, based on the commonly adopted 2.83ha/1000 persons standard this development has a shortfall of approximately 11,300m² in the total amount of open space required. As a result of discussions with the developer it was agreed that in lieu of the provision of this additional open space a contribution would be made to the embellishment of the park on the old school site as this would provide an area of useable open space that will serve the central area of the development whilst also providing a broader benefit to the existing community. This contribution will reflect the cost of providing and embellishing an equivalent area of open space to the shortfall although some more details as to the nature of the embellishment works will be sought.

GR3 – Draft Planning Agreement for Station Street, Menangle

This has been agreed to by Council's Facilities & Recreation Planner and will be included in the Draft Agreement before it is exhibited.

As the local open space is to be provided on site an offset will be provided against the contribution that would otherwise be payable for Precinct Level open space and recreation.

Shared Pathways

Under the Draft Agreement a network of shared pathways approximately 1.6kms long will be constructed and dedicated to Council. These pathways are mostly contained within the road reserves and public reserves in the estate and as such will not be dedicated separately. There are, however, two (2) locations where the pathways cross a riparian area which will remain in private ownership. In these locations the pathways will be dedicated to Council to ensure continuity of ownership and public access. The dedication of these pathways is included in the Draft Agreement and it is recommended that the pathways be accepted by Council. There may also be a need to investigate further the need for any Right of Ways over the pathways remaining in the riparian area (i.e. those in private ownership).

As part of this shared pathway network, a shared pathway bridge will be constructed over the rail line. Due to the extent of the works required and the nature of the item, it has been separately listed as a works item. Under the Draft Agreement the developer will be responsible for the design and construction of the bridge including any associated approvals. Once completed Council will assume responsibility for the ongoing maintenance and repair of the bridge under licence with ARTC (Australian Rail Track Corporation).

Monetary Contribution

Although the Draft Agreement switches off Section 94 and Section 94A contributions for the development, it contains provisions for the payment of a monetary contribution for those items of infrastructure that will not be provided on site such as active open space and community facilities as well as shire-wide facilities such as the library and aquatic and indoor sports centre. The value of the contributions and the timing for payment will be incorporated in to the Draft Agreement before it is exhibited.

GR3 – Draft Planning Agreement for Station Street, Menangle

Heritage Works

The Planning Panel, as part of its assessment, recommended the restoration of some important heritage buildings within the subject site be undertaken. These buildings (known as the Creamery precinct) have an association with the Macarthur Onslow family and the historical significance of the site and its contribution to the development of rural and pastoral industries. The required works have been determined through a Conservation Management Plan prepared by a heritage consultant and are included in the Draft Agreement. The estimated value of these works for the purposes of the Draft Agreement is \$358,000. These need to be confirmed before the exhibition of the Draft Agreement can proceed.

1.3 OUTSTANDING ISSUES

The Draft Agreement is progressing in a form so that, when complete, it will adequately address the infrastructure requirements for the development. There are, however some outstanding issues that will need to be addressed before the Draft Agreement can be placed on exhibition. These issues were identified earlier in this report and are summarised again below:

Monetary Contribution Rate

The monetary contribution rate is yet to be finalised however an indicative cost of \$3,963 per lot has been provided to the developer. This amount has been based on the value of works under Council's current Section 94 Plan for which there is no equivalent facility to be provided on site. The purpose of this monetary contribution is to ensure that the proposed development can fully meet its infrastructure requirements with minimal financial impact on Council. Consideration will also be given to including in the total rate a contribution for other types of development which would normally be subject to a Section 94A Contribution under the Wollondilly Development Contributions Plan.

Land Valuation

The developer has submitted a formal valuation for the land to be dedicated. A separate independent valuation will be sought by Council to confirm the valuation submitted by the developer is reasonable. Any variation between the Council and developer valuations and their implications for the benefits under the Draft Agreement will be addressed prior to the plan being placed on exhibition.

Although these valuations assist in determining the benefit arising from the Draft Agreement and the value of the future assets of Council, they have little impact on the final monetary contribution to be paid by the developer.

GR3 – Draft Planning Agreement for Station Street, Menangle

Maintenance Contributions

As noted the value of the maintenance contribution to be paid for the maintenance of the OSD basins following their dedication to Council has not been determined. The applicant has agreed to the amount being calculated in accordance with Council's *Draft Dedication of Land Policy* though has requested some flexibility as the OSD design is still to be finalised. This is considered acceptable in principle and options to accommodate this will be considered further before the Draft Agreement is exhibited.

Heritage Works

A review of the scope of the restoration works proposed for the Creamery precinct and the cost as presently included in the Draft Agreement is to be undertaken and the costs confirmed or amended prior to the Draft Agreement being exhibited.

Land Dedications

A number of dedications are proposed in the Draft Agreement which will dedicate land to Council for recreational purposes as well as land to be used as an on-site detention basin and shared pathways. Council's Land and Property Panel sought more information about these dedications before they would agree to accept them. As a result they will be resubmitted to this Panel before the Draft Agreement is exhibited.

Relevant Council Policies

The Draft Agreement has been assessed against the Planning Agreements Policy. The proposal was found to meet the acceptability test requirements. The contents of the draft agreement complied with all policy matters with the exception of the inclusion of a clause allowing the pooling of monetary contributions. This, however, will be rectified prior to exhibition.

Legal Advice

The Draft Agreement has been referred to Council's legal counsel for review and they have advised that a number of issues remain to be resolved. Most of the legal matters requiring further review relate to the procedures for obtaining benefits, or issues of security and risk management for Council. These matters will need to be reviewed before the Draft Agreement can be exhibited.

GR3 – Draft Planning Agreement for Station Street, Menangle

1.4 FURTHER ACTION

As noted above, further work on the Draft Agreement is required to refine the full extent of the benefits to be provided and to resolve some important legal matters. However, it is expected that Council and the applicant will agree to a final version of a Draft Agreement in which the benefits to be provided are substantially as described earlier in this report. The outstanding legal issues will be negotiated further between the two (2) parties and as mostly occurs, a compromise situation acceptable to both parties will be reached. When this occurs, and our legal advisors have confirmed that the Draft Agreement is suitable for exhibition, it can be placed on exhibition. As a result, the Draft Agreement is not being recommended for exhibition at this time. Instead, it is being recommended that Council agree to delegate the General Manager the authority to exhibit the Draft Agreement when he is satisfied, based on advice from Council staff that the outstanding issues including (inter alia) those identified above have been resolved and when legal advice has confirmed that it is in a form suitable for exhibition.

When this occurs, the Draft Agreement and accompanying Explanatory Note will be exhibited for at least 28 days for public feedback.

The outcome of the exhibition will be reviewed and a further report prepared for Council.

Proceeding in this way is consistent with Council's Planning Agreements Policy in which a resolution to exhibit a Draft Planning Agreement is not a necessary requirement. However a Council resolution to endorse a final Planning Agreement is required and this will occur when Council has considered a report on the outcome of the exhibition process and recommends a final Planning Agreement for adoption.

If possible the Draft Agreement should also be exhibited with the Draft Development Control Plan being prepared for the site.

As noted earlier the Planning Panel initially directed Council to ensure that the development is provided with an adequate range of services and infrastructure required to serve the local community. It would be appropriate to advise both the Planning Panel and the Department of Planning and Environment that this will be done through the Draft Agreement at such time the Draft Agreement is in a form suitable for exhibition.

FINANCIAL IMPLICATIONS

Under the Draft Agreement the developer will bear the financial risk of providing the infrastructure required. Council will hold a bank guarantee from the developer that will cover the cost of providing the infrastructure until such time as it is satisfactorily completed which further minimises the financial risk to Council.

Sustainable and Balanced Growth
Report of to the Ordinary Meeting of Council held on Monday 16 October 2017

GR3 – Draft Planning Agreement for Station Street, Menangle

Although the infrastructure within the Draft Agreement will be dedicated to Council, and Council will assume responsibility for its maintenance, provision has been made within the Draft Agreement to ensure the developer will fund the maintenance of some of these items.

It is acknowledged that the development will impact on demand for infrastructure beyond the site for which Council is responsible for funding. Arrangement has been made within the Draft Agreement for a monetary contribution towards the provision of this infrastructure, thus minimising the financial impact on Council.

CONCLUSION

The Draft Agreement is being prepared to comply with the requirements of Council's *Planning Agreement Policy* and is considered to adequately address the infrastructure requirements arising from the development.

Some further work is still required to resolve the benefits to be provided under the Draft Agreement and to resolve some outstanding legal matters.

ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET

1. Map of Land Subject to Draft Planning Agreement and proposed land use zones
2. Assessment against Council's Planning Agreements Policy

RECOMMENDATION

1. That Council note the general terms of the Draft Planning Agreement as described in this report.
2. That the General Manager or his delegate be given delegation to exhibit the Draft Planning Agreement following advice from staff that all relevant outstanding matters have been resolved and legal advice has been obtained that the agreement is in a form suitable for exhibition.
3. That the South West Sydney Planning Panel and the Department of Planning & Environment be advised once the Draft Planning Agreement is in a form suitable for exhibition.
4. That the outcome of the public exhibition be reported back to Council.

Sustainable and Balanced Growth
Report of to the Ordinary Meeting of Council held on Monday 16 October 2017

GR4 – Planning Proposal – Attached Dual Occupancies in Rural Zones and Clarification of Sewer Requirements

GR4

Planning Proposal – Attached Dual Occupancies in Rural Zones and Clarification of Sewer Requirements

272411

TRIM 8290

Applicant: Wollondilly Shire Council
Owner: Various

Stage	Completed
Preliminary notification	N/A
Gateway Determination/Revised	22 June 2015. Revised 15 April 2016 and 05 April 2017
Consultation with Public Agencies	9 June 2017
Specialist Studies	N/A
Public Exhibition/Community Consultation	14 June 2017 to 28 June 2017
Referred to Minister for Publication	Not Completed

EXECUTIVE SUMMARY

- The purpose of this report is to seek Council's endorsement to finalise a planning proposal to permit dual occupancies (attached) with consent on rural zoned land and clarify the requirements for the provision of essential services, namely the disposal and management of sewage, for development on unsewered land in rural and environmental protection zones.
- This Planning Proposal has been prepared by Wollondilly Shire Council. It seeks changes to Wollondilly Local Environmental Plan 2011 and relates to land in the R5 Large Lot Residential, rural (RU1, RU2, RU4) and environmental (E4) zones under this plan.
- The Planning Proposal is consistent with the Key Policy Directions and Assessment Criteria of Council's Growth Management Strategy.
- No submissions were received in response to Community Consultation.
- It is recommended:
 - That Council support the Planning Proposal as exhibited; and
 - That the Planning Proposal be finalised and forwarded to the Greater Sydney Commission for publishing.

GR4 – Planning Proposal – Attached Dual Occupancies in Rural Zones and Clarification of Sewer Requirements

REPORT

1.1 DESCRIPTION OF PROPOSAL

This Planning Proposal intends to amend Wollondilly LEP 2011 (WLEP 2011) in the following manner:

- Amend the Land Use Table and Land Use Matrix to permit dual occupancies (attached) with consent in rural zones (RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots); and
- Amend clause 7.1 of WLEP 2011 to remove subclause (3) in order to clarify that if dual occupancies (attached), rural workers' dwellings and secondary dwellings are permitted on land where reticulated sewer is not available (i.e. rural zones RU1, RU2 and RU4, the R5 Large Lot Residential zone and E4 Environmental Living zone), requirements for adequate disposal and management of sewage can be satisfied by adequate on-site wastewater disposal.

Council supported the planning proposal on 9 February 2015. There have been minor changes to the planning proposal to reflect current policy and previous consultation with relevant government agencies, authorities and organisations.

PERMISSIBILITY OF DUAL OCCUPANCIES (ATTACHED) IN RURAL LAND USE ZONES

Prior to the making of Wollondilly LEP 2011, attached dual occupancies were permissible through the previous planning controls for over 25 years. Council established that there is community support for the permissibility of dual occupancies (attached) in rural zones during the public exhibition of the Wollondilly LEP 2011. The Planning Proposal intends to re-introduce dual occupancies (attached) into the rural zones in line with community support.

PROPOSED CHANGES TO CLAUSE 7.1 ESSENTIAL SERVICES

The planning proposal also seeks to strengthen the requirements for the provision of essential services where there are two or more dwellings proposed on unsewered land in the R5 Large Lot Residential zone, rural zones and the environmental living E4 zone.

Clause 7.1(3) currently defines the term 'disposal and management of sewage' (Figure 1). Through ongoing use of WLEP2011, it has become apparent that this definition may be interpreted to prohibit development involving 2 or more dwellings, such as dual occupancy, rural workers' dwellings and secondary dwellings (granny flats), where there is no connection available to a reticulated sewerage scheme.

GR4 – Planning Proposal – Attached Dual Occupancies in Rural Zones and Clarification of Sewer Requirements

The implication is that these types of developments could be considered as being prohibited within rural land use zones and environmental protection zones, which in most cases are not connected to reticulated sewerage.

Figure 1: Wollondilly Local Environmental Plan 2011 Clause 7.1(3)

(3) In this clause:

Disposal and management of sewage means the disposal and management of sewage in the form of a reticulated sewerage scheme:

- (a) That is provided to each separate lot proposed as part of the development, and
- (b) If a lot contains 2 or more dwellings, is for the purpose of dual occupancy, multi dwelling housing, residential flat buildings, attached dwellings and shop top housing.

reticulated sewerage scheme means a network of pipes that conveys sewage from dwellings to a treatment facility licensed or required to be licensed under the Water Industry Competition Act 2006.

The intent of this clause was to ensure that adequate disposal and management of sewage could be provided before development could go ahead. In rural and environmental protection zones this would be demonstrated by on-site effluent disposal, the adequacy of such would be subject to assessment as part of a development application. The planning proposal seeks to remove clause 7.1(3) from Clause 7.1 Essential Services in order to remove the ambiguity of its application.

1.2 GATEWAY DETERMINATION

A Gateway Determination was issued on 22 June 2015. The Gateway Determination permitted the planning proposal to proceed.

An Alteration to the Gateway Determination was issued on 15 April 2016 to:

- remove condition (1) which required Council to amend the planning proposal to facilitate the exclusion of attached dual occupancies from clause 7.1(3) of WLEP 2011 in rural zones and Zone E4 Environmental Living through an appropriate amending clause;
- Amend condition (5) to extend the timeframe for completing the LEP to 29 December 2016;
- Amend condition (2) to include public authority Sydney Water; and
- Re-label conditions “2-5” to “1-4”.

A further Alteration to the Gateway Determination was issued on 5 April 2017 to extend the timeframe for completing the LEP to 31 October 2017.

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

Sustainable and Balanced Growth
Report of to the Ordinary Meeting of Council held on Monday 16 October 2017

GR4 – Planning Proposal – Attached Dual Occupancies in Rural Zones and Clarification of Sewer Requirements

Gateway Condition	Addressed by:
1. Prior to undertaking community consultation, Council is to consult with the relevant public authorities.	Completed. Letters sent to relevant public authorities on 9 June 2017.
2. The Secretary's delegate approves the inconsistency of the proposal with section 117 Direction 1.2 Rural Zones on the basis that the inconsistency is of minor significance.	Noted. See section 2.7 for consideration of consistency with Section 117 Directions.
3. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979, for a period of 14 days.	Completed. The planning proposal was exhibited for 14 days from 14 June 2017 to 28 June 2017.
4. The timeframe for completing the LEP is by 31 October 2017.	Noted. It is anticipated a gateway extension will be required to complete the LEP.

CONSULTATION

2.1 CONSULTATION WITH COUNCIL STAFF

No comments or objections on the Planning Proposal were received from Council staff. The original need for this proposal was identified by development assessment staff.

2.2 CONSULTATION WITH PUBLIC AGENCIES

The Gateway Determination required consultation with the following Public Agencies:

- NSW Resources and Energy (formerly NSW Resources and Geoscience)
- Subsidence Advisory NSW (formerly NSW Mine Subsidence Board);
- NSW Rural Fire Service (RFS)
- Water NSW (formerly Sydney Catchment Authority)
- Sydney Water
- relevant adjoining LGAs i.e. Blue Mountains City Council, Camden Council, Campbelltown City Council, Goulburn Mulwaree Council, Liverpool City Council, Oberon Council, Penrith City Council, Wingecarribee Shire Council and Wollongong City Council.

GR4 – Planning Proposal – Attached Dual Occupancies in Rural Zones and Clarification of Sewer Requirements

Responses were not received from the following agencies/councils:

- Subsidence Advisory NSW (formerly NSW Mine Subsidence Board (MSB)
- Oberon Council, Wingecarribee Shire Council and Wollongong City Council.

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

NSW RESOURCES AND ENERGY (FORMERLY NSW RESOURCES AND GEOSCIENCE)

NSW Resources and Energy provided comments on the planning proposal in June 2016 and during the public exhibition period in June 2017 expressing a number of concerns with the proposed amendment to permit attached dual occupancies within all rural zoned land.

Comment:

The issues raised by NSW Resources and Energy have been outlined and addressed in detail below. Refer to 2.7 Section 117 Ministerial Directions- 1.3 Mining, Petroleum Production and Extractive Industries.

NSW RURAL FIRE SERVICE (NSW RFS)

NSW RFS raise no objection to the planning proposal proceeding and provide the following information for dual occupancy/secondary dwelling development:

- Secondary dwellings or dual occupancies, where there is no subdivision proposed, on land mapped as bush fire prone, will be required to be assessed under s79BA of the Environmental Planning and Assessment Act 1979. Council should note that the relevant provisions of Planning for Bush Fire Protection 2001 (PBP 2006) and Factsheet 4/12 “Increased Density on a single parcel of land’ applies;
- The minimum specifications for asset protection zones (APZ’s) for dual occupancies in Table A2.5 of PBP 2006 do not correspond directly with the minimum separation distances for BAL 29 construction under Table 2.4.3 of the Australian Standard AS3959 “Construction of buildings in bushfire-prone areas’ (AS3959-2006). Minimum APZ’s for future dual occupancy development should be designed to achieve separation distances consistent with BAL 29 under AS 3959-2009;
- Council should note that AS3959-2009 and the NSW RFS ‘Guide for Bushfire Prone Land Mapping’ includes grasslands as a hazardous vegetation category. Any future dwellings will need to consider this at the design and construction stage.

GR4 – Planning Proposal – Attached Dual Occupancies in Rural Zones and Clarification of Sewer Requirements

Comment

These comments are noted and are considered to be matters that can be addressed at the development application stage.

SYDNEY WATER

Sydney Water raise no objection to the planning proposal proceeding.

Comment

Noted.

WATER NSW (SYDNEY CATCHMENT AUTHORITY)

Water NSW provided comments on the planning proposal prior to community consultation. These were received on 31 May 2016 and raised no objection to the planning proposal.

Water NSW provided a supplementary submission during the public exhibition period and raised concern regarding the amended Gateway Determination to delete Condition 1 regarding the exclusion of attached dual occupancies from clause 7.1(3) of the WLEP in rural zones and Zone E4 Environmental Living through an appropriate amending clause, rather than the deletion of the clause.

Water NSW state that an amended clause would facilitate more sustainable development.

Comment

This Planning Proposal seeks to facilitate a Shire wide policy change (by making attached dual occupancy development permissible within rural land zones and by clarifying the requirements for the disposal and management of sewage) and does not relate to a particular parcel of land.

Any development application on land which is (for example) environmentally sensitive, would be subject to an assessment under the existing statutory provisions. These existing measures are considered to be satisfactory to safeguard the environment and resources.

RELEVANT ADJOINING LGA'S

Six (6) submissions were received from adjoining LGA's including Blue Mountains Council, Goulburn Mulwaree Council, Penrith Council, Campbelltown Council, Camden Council and Liverpool Council. The submissions raised no objection to the planning proposal proceeding.

GR4 – Planning Proposal – Attached Dual Occupancies in Rural Zones and Clarification of Sewer Requirements

2.3 COMMUNITY CONSULTATION

The Gateway Determination specified a **14 day** period of community consultation and public exhibition. During this time the Planning Proposal, specialist studies and other documents as required by the Gateway Determination were made available for public viewing on Council's website and at Council's Administration Building. A public notice was placed in the local newspaper and individuals who enquired about the planning proposal were notified by email of the exhibition.

There were no submissions received from the community on this proposal during the public exhibition.

2.4 PLANNING PROPOSAL

The Planning Proposal has been prepared in accordance with Section 55 to the EP&A Act, 1979 and the guidelines published by the Department of Planning and Environment.

Council's options are:

1. Resolve to support the Planning Proposal in the form as described in Section 2.11 to this report.
2. Resolve to support the Planning Proposal in another form. With this option a new Gateway Determination and a new public exhibition period may be required.
3. Resolve not to support the planning proposal. With this option Council would need to request an Alteration to the Gateway Determination to say that the planning proposal should not proceed.

Option **1** is the recommendation of this report.

2.5 A PLAN FOR GROWING SYDNEY

The planning proposal will not result in an inconsistency with this plan and does not conflict with the directions outlined in the plan for achieving housing diversity, promoting heritage and protecting our natural environment and biodiversity.

2.6 DRAFT SOUTH WEST SYDNEY DISTRICT PLAN (NOVEMBER 2016)

The planning proposal is generally consistent with the draft plan and supports the priorities outlined in the plan for increasing housing choice, diversity and affordability.

GR4 – Planning Proposal – Attached Dual Occupancies in Rural Zones and Clarification of Sewer Requirements

2.7 SECTION 117 MINISTERIAL DIRECTIONS

The Gateway Determination requires consultation with a number of public agencies on the following section 117 Directions inconsistencies:

MINISTERIAL DIRECTION 1.3 MINING, PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES

The objective of Direction 1.3 is to 'ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development'.

As a requirement of the Gateway Determination, NSW Resources and Energy (formerly NSW Resources and Geoscience) were notified of the planning proposal. NSW Resources and Energy provided comments on the planning proposal in June 2016 and during the public exhibition period in June 2017 expressing a number of concerns with the proposed amendment to permit attached dual occupancies within all rural zoned land. The Department's concerns can be summarised as follows:

- The Planning Proposal is not consistent with the intended purpose of the rural zones, which is for commercial primary industry (including opportunities for mining and extractive industries)
- The Planning Proposal supports intensification of dwellings in rural areas, and it is also inconsistent with some of the objectives of the rural zones within the Wollondilly LEP 2011
- The Department provided mapping to show identified and potential (non-energy) resource areas within Wollondilly and noted that the Shire also contains high quality coking coal resources used for steel manufacture. The Department believes that the proposal could lead to an intensification of people residing in rural zoned areas therefore increasing the potential for land use conflict
- Intensification of residences in rural zoned land may have future impacts on Subsidence Management Plans (SMPS) which can impact on future mining methods, limiting resource recovery and possibly jeopardising the viability of future resource extraction
- Potential for cumulative long-term impacts and resource sterilisation associated with intensification in rural zones within the vicinity of identified resources.

GR4 – Planning Proposal – Attached Dual Occupancies in Rural Zones and Clarification of Sewer Requirements

The following considerations are provided in response to the Departments submission:

- The Planning Proposal does not represent urban expansion.
- Attached dual occupancies have been permitted within Wollondilly's rural land use zones since the early 1980s. They only became a prohibited development in February 2011 through the making of Wollondilly LEP 2011.
- The removal of attached dual occupancies as a permissible use from the land use table in the transition to the standard instrument appears unintended. The reason for its removal is not known. It is likely due to the infancy of standard instrument local environment plans and a desire by the Government for the new LEPs to rigidly conform to the LEP template.
- Low impact residential development is compatible with the objectives of the rural land use zones.
- Although the reintroduction of attached dual occupancy development has the potential to permit additional dwelling density on rural zoned land, the proposed changes are not based on a policy to promote housing supply in rural areas. The potential increase in dwellings as a result of the reintroduction of attached dual occupancy development is expected to be negligible. Based on the number of dual occupancy developments that were approved in the 10 year period from 2000 to 2010, the number is anticipated to be between 5 and 10 per year.
- The principle of additional dwellings on rural land already exists as 'Secondary Dwellings' and 'Rural Worker's Dwellings' are currently permissible with consent in all rural land use zones under the Wollondilly LEP 2011.
- Wollondilly Development Control Plan 2016 (DCP) includes requirements for dual occupancy development in rural zones (Volume 4, section 3.16). These were introduced in anticipation of this Planning Proposal. The DCP controls will result in a dwelling that is compatible with and "subservient" to the main dwelling house in a number of ways, including: limiting the length of blank walls; ensuring that the common wall that attaches the 2 dwellings is 50% of the length of that wall; requiring setbacks from all boundaries; limiting the size of garage doors across the front façade; the provision of car parking and private open space; as well as more aesthetic controls such as integrated roof lines; and providing the appearance of 1 dwelling and compatibility with the scale and appearance of surrounding development.
- The Planning Proposal will not lead to the fragmentation of land as Torrens title subdivision is not permitted in association with this type of development.

GR4 – Planning Proposal – Attached Dual Occupancies in Rural Zones and Clarification of Sewer Requirements

However, the submission from NSW Resources and Energy has been considered to make the Planning Proposal inconsistent with Direction 1.3. The submission was provided to the NSW Department of Planning & Environment with a request for confirmation as to whether the inconsistency with this Direction is considered to be of minor significance.

On 16 December 2016 the Department of Planning and Environment responded to Council and stated “that the inconsistency with S117 Direction 1.3 is of minor significance.” No amendments are proposed to the Planning Proposal in light of and after consideration of the submission from NSW Resources and Energy.

MINISTERIAL DIRECTION 4.2 MINE SUBSIDENCE AND UNSTABLE LAND

The objective of Direction 4.2 is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence. While the planning proposal applies to land covered by this Direction, any inconsistency is considered to be of minor significance as the proposed changes will not affect existing statutory provisions which apply to these areas in the assessment of a development application.

As a requirement of the Gateway Determination, Subsidence Advisory NSW (formerly NSW Mine Subsidence Board) were notified of the planning proposal. No comments or objections on the Planning Proposal were received from Subsidence Advisory NSW.

MINISTERIAL DIRECTION 4.4 PLANNING FOR BUSHFIRE PROTECTION

The objective of Direction 4.4 is to protect life, property and the environment from bush fire hazards and to encourage sound management of bush fire prone areas. The planning proposal applies to bushfire prone land covered by this Direction. However, any inconsistency is considered to be of minor significance because the proposed Shire-wide policy changes to the WLEP 2011 will not affect existing statutory provisions which apply to these areas in the assessment of a development application.

As a requirement of the Gateway Determination, NSW RFS were notified of the planning proposal. The NSW RFS raised no objection to the planning proposal proceeding and provided information on requirements for dual occupancy development applications lodged in the future.

GR4 – Planning Proposal – Attached Dual Occupancies in Rural Zones and Clarification of Sewer Requirements

MINISTERIAL DIRECTION 5.2 SYDNEY DRINKING WATER CATCHMENTS

The objective of Direction 5.2 is to protect water quality in the Sydney drinking water catchment. The planning proposal applies to land covered by this Direction. As a requirement of the Gateway Determination, Water NSW (formerly Sydney Catchment Authority) and Sydney Water were notified of the planning proposal. Sydney Water raised no objection to the planning proposal, however Water NSW raised concern as outlined in Section 2.2 above.

Any inconsistency is of minor significance because the proposed Shire-wide policy changes to the WLEP 2011 will not affect existing statutory provisions which apply to these areas in the assessment of a development application.

2.8 STATE ENVIRONMENTAL PLANNING POLICIES

All relevant State Environmental Planning Policies have been considered and are addressed satisfactorily in the planning proposal. The planning proposal is considered to be consistent with all applicable State Environmental Planning Policies and draft State Environmental Planning Policies.

2.9 WOLLONDILLY GROWTH MANAGEMENT STRATEGY (GMS)

The Planning Proposal is consistent with the Key Policy Directions and Assessment Criteria of Council's Growth Management Strategy. The Planning Proposal represents a sound approach to the permissibility of attached dual occupancy development in appropriate non-urban zones in the Shire of Wollondilly. It also allows alternative, acceptable methods of onsite sewerage disposal, when a reticulated system is not available. Both amendments may also encourage longer term, consistent ownership of rural land; which in turn may offer opportunities to reduce the unwanted fragmentation of existing rural holdings in the Shire.

Permitting attached dual occupancy in rural areas and accepting other types of onsite sewerage disposal would make a positive contribution towards increased housing diversity and affordability in the Wollondilly Shire. This is a key policy direction of the Growth Management Strategy.

2.10 WOLLONDILLY COMMUNITY STRATEGIC PLAN 2033

The planning proposal is generally consistent with the plan and supports the priorities outlined in the plan to engage and communicate with the community, protect and conserve biodiversity and natural resources, and to encourage and manage growth. The proposal is also consistent with Council's adopted position on growth.

GR4 – Planning Proposal – Attached Dual Occupancies in Rural Zones and Clarification of Sewer Requirements

2.11 FINAL FORM OF PLANNING PROPOSAL

Outlined below is the final form of the planning proposal.

2.11.1 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP 2011)

There are no changes to the Planning Proposal as exhibited. The Planning Proposal seeks amendments to WLEP 2011 as described below:

- Amend the Land Use Table and Land Use Matrix to permit dual occupancies (attached) with consent in rural zones (RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots); and
- Amend clause 7.1 to remove subclause (3) in order to clarify that if dual occupancies (attached), rural workers dwellings and secondary dwellings are permitted on land where reticulated sewer is not available (i.e. rural zones, the R5 Large Lot Residential zone and E4 Environmental Living zone), requirements for adequate disposal and management of sewage can be satisfied by adequate on-site wastewater disposal.

2.12 WOLLONDILLY DEVELOPMENT CONTROL PLAN, 2011 (WDCP 2011)

No further amendments are proposed to WDCP 2011 at this stage. Sufficient controls have been introduced into the WDCP 2011 in anticipation of this amendment.

FINANCIAL IMPLICATIONS

Funding for the maintenance of Planning Instruments is part of the ongoing operational budget for Strategic Planning and no additional funding sources are required. This matter has no financial impact on Council's adopted budget of forward estimates. The assistance, free of charge, of the NSW Department of Planning and Environment in drafting this report is acknowledged.

ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET

1. Planning Proposal- Attached Dual Occupancies in Rural Zones and Clarification of Sewer Requirements (June 2017)
2. Proposed Land Use Table for Rural Zones
3. Proposed changes to Wollondilly LEP Land Use Matrix
4. Proposed Clause 7.1 Essential Services.

Sustainable and Balanced Growth
Report of to the Ordinary Meeting of Council held on Monday 16 October 2017

**GR4 – Planning Proposal – Attached Dual Occupancies in Rural Zones
and Clarification of Sewer Requirements**

RECOMMENDATION

1. That Council support the Planning Proposal to permit dual occupancies (attached) with Council's consent in the RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots zones and clarify sewer requirements by removing subclause (3) of clause 7.1 – Essential Services of Wollondilly Local Environmental Plan 2011.
2. That in accordance with Section 59 to the Environmental Planning and Assessment Act, 1979 the Planning Proposal be finalised and forwarded to the Greater Sydney Commission for publishing.

GR5 – Planning Proposal – Land Adjoining Bargo Sportsground

EXECUTIVE SUMMARY

- This report seeks support to request an Alteration to the Gateway Determination for the Land Adjoining Bargo Sportsground Planning Proposal.
- This Planning Proposal seeks to amend the provisions of Wollondilly Local Environmental Plan, 2011 as they apply to Lot 1 DP 635609 (No. 1A) Kader Street, Bargo.
- Amendments are considered necessary in response to feedback received from government agencies and internal consultation. Particularly in relation to the capability of the site in terms of adequately protecting vegetation, safe disposal of waste water and bushfire hazard.
- 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 recommended changes outlined in this report and that a request for an Altered Gateway Determination be forwarded to the Greater Sydney Commission.

REPORT

1.1 SITE DESCRIPTION

The site is a large rural allotment located in the suburb of Bargo. The site is 5.637 hectares in area and is mostly of a rectangular shape, with the exception of a portion of land in the north eastern corner of the site where an access handle extends to Kader Street.

The frontage to Kader Street is 13.72 metres wide. For most part the site contains a gentle slope extending from the south western corner of the site to the north eastern corner.

The site contains two watercourses, one which runs across the access handle in the north eastern corner of the lot. The other watercourse extends across the south west corner of the site and a large earth dam has been constructed within the channel of this watercourse.

There are currently no buildings on the lot. The lot is predominantly cleared; however, there are some areas of the site which contain areas of scattered vegetation, most notably in the north eastern and south western corners of the site.

GR5 – Planning Proposal – Land Adjoining Bargo Sportsground

The adjoining lands to the west are zoned rural and typically contain dense vegetation with no buildings. The northern boundary adjoins two lots that are zoned R2 Low Density Residential. The two (2) lots to the north are under single ownership and contain one dwelling and some outbuildings with much of the remainder of these lots containing dense native vegetation.

To the east of the site is the Bargo Sportsground while to the south of the site is a large lot which is zoned E2 Environmental Conservation. The lot to the south consists mainly of dense vegetation and no buildings. At its nearest point the site is approximately 250 metres from the Bargo Town Centre and approximately 400 metres from Bargo Public School.

1.2 CURRENT PROPOSAL & PROPOSED CHANGES

It is intended to seek an amendment by way of an Altered Gateway Determination to enable the Planning Proposal to proceed in the following manner:

- Amend the land use zoning of the site from RU2 Rural Landscape to R5 Large Lot Residential and E2 Environmental Conservation
- Amend the minimum lot size map to reflect a minimum lot size of 4000 square metres across the R5 zoned land and no minimum lot size to the E2 zoned land
- Amend the height of buildings map to impose a maximum building height limit of 9 metres across the entire site
- A table outlining a comparison between the current Planning Proposal and proposed amendments is provided below:

	Current Arrangement	Current Planning Proposal	Proposed Amendments
Land Use Zoning	RU2 Rural Landscape	R5 Large Lot Residential	R5 Large Lot Residential and E2 Environmental Conservation
Minimum Lot Size	16ha	2,000 square metres	4,000 square metres
Maximum Height of Building	No Maximum Building Height Specified	9 metres	9 metres

1.3 GATEWAY DETERMINATION & BACKGROUND

A Draft Planning Proposal for the amendment of Wollondilly Local Environmental Plan 2011 (WLEP 2011) was submitted to Council in February, 2012 and preliminary consultation was carried out in May, 2012.

GR5 – Planning Proposal – Land Adjoining Bargo Sportsground

ORIGINAL PLANNING PROPOSAL

Council originally supported the Draft Planning Proposal at its Ordinary Meeting of July, 2012 in the following form:

- Amend the land use zoning of part of the site to R2 Low Density Residential (with 450 square metre minimum lot size)
- amend the land use zoning of part of the site to R5 Large Lot Residential (with 1,000 square metre minimum lot size)
- Apply a maximum building height of 9m across the entire site.

A Gateway Determination was issued by the Department of Planning and Environment on 9 February, 2013 which enabled the Planning Proposal to proceed in the manner resolved by Council above.

AMENDMENTS TO PLANNING PROPOSAL – JULY 2014

Following the Gateway Determination by the Department of Planning and Environment, initial consultation with Government Agencies was undertaken. Feedback from Sydney Water identified that there is insufficient capacity in the Bargo Priority Sewerage Program (PSP) to cater for any further low density residential development in the Bargo area. Subsequently, the Planning Proposal was revised to apply an R5 Large Lot Residential zone to the entire site with a minimum lot size of 2000 square metres.

The amendments to the Planning Proposal were supported by Council at its Ordinary Meeting in July 2014. Council sought a revised Gateway Determination from the Department of Planning and Environment, however, their advice at the time was that an Alteration was not required and the proposal could proceed in the manner resolved by Council without a revised Gateway Determination being issued by the Department.

PROPOSED FURTHER AMENDMENTS

Upon completion of the specialist studies for the proposal and further review by Council, it was established that a minimum lot size of 2000 square metres would not be sufficient given the constraints of the site (particularly in relation to accommodating on-site wastewater disposal). It has also been found that the riparian zones in the south-western corner of the site and the north eastern portion should be protected through an environmental conservation zone. It is now recommended that the proposal proceed based on the land use zone of the site being amended to R5 Large Lot Residential and E2 Environmental Conservation and a minimum lot size of 4000 square metres be applied to the R5 zoned land.

GR5 – Planning Proposal – Land Adjoining Bargo Sportsground

BACKGROUND TO VEGETATION ISSUES

The Flora and Fauna investigations undertaken have identified that the site consists of Shale Sandstone Transition Forest and Alluvial Woodland vegetation. Shale Sandstone Transition Forest (SSTF) is listed as a Critically Endangered Ecological Community (CEEC) under the NSW Threatened Species Conservation Act and the Commonwealth Environmental Protection and Biodiversity Conservation Act, and Alluvial Woodland is a component of the listed EEC, River-flat Eucalypt Forest on Coastal Floodplains, listed under the NSW Threatened Species Conservation Act only.

The vegetation communities are found on the site in a highly modified state due to former land uses such as grazing. The vegetation on site is currently found in two condition states (underscrubbed and mixed exotic/native pasture) as shown in attachment 2. Much of the vegetated area will be disturbed either through construction or through the earthworks required to elevate some parts of the site above the 1% AEP flood level.

Although the vegetation on the site is highly modified, the works associated with a future subdivision would likely constitute a significant impact. The significant impact may be offset through the use of the Biobanking Assessment tool. However, until recently, this approach would not have been possible had the land use zoning of the site been amended to an R5 Large Lot Residential Zone. This is because any clearing in the R5 Large Lot Residential zones in the Wollondilly LGA also required approval under the Native Vegetation Act 2003, and OEH is unable to issue a Biobanking Statement on land to which the Native Vegetation Act applies (unless there is an existing development consent or Property Vegetation Plan in place, which could not be obtained prior to the finalisation of the Planning Proposal).

However, on 25 August, 2017 the NSW Government introduced a new Biodiversity Conservation Act and associated regulations which would enable the removal of vegetation in the R5 Large Lot Residential Zone to be offset through the use of the Biobanking Framework. The new Biodiversity Conservation Act does not exclude certain zones from the use of the Biobanking tools.

Although the legislation commenced on 25 August, 2017, it should be noted that there are transitional arrangements in place. For the Local Government Area of Wollondilly, a landowner would have 12 months to submit a development application under the current legislation. It is considered appropriate, however, that the Planning Proposal could proceed based on the new regulations taking effect 12 months from 25 August, 2017 as a development application for subdivision of the land would be unlikely to be lodged before that time.

GR5 – Planning Proposal – Land Adjoining Bargo Sportsground

It is proposed to retain the vegetation which sits adjacent to the riparian corridors on the site. These will be retained by applying an E2 Environmental Conservation Zone to these areas generally in accordance with the map shown in attachment 3. The exact area where the E2 Environmental Conservation Zone will apply will be finalised following the receipt of a final Flora and Fauna Assessment which addresses the matters raised by Council's Environmental Services Team below.

CONSULTATION

2.1 CONSULTATION WITH COUNCIL STAFF

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

ENVIRONMENTAL SERVICES

A site inspection identified sections of the site which contain the Critically Endangered Ecological Community (CEEC) Shale Sandstone Transition Forest. Consequently, the proponent is required to consider the assessment of the impact of the proposal on this community through either the assessment of significance, or offsetting biodiversity losses through the Biobanking framework.

It is apparent that the proponent intends to pursue the Biobanking Statement approach. This option would involve the preparation of a detailed Biodiversity Assessment Report (BAR) which is carried out in accordance with the Biobanking Assessment Methodology. This process would involve the calculation of credits that are necessary to offset biodiversity losses.

The BAR must include the following matters to ensure that biodiversity losses associated with the proposal are accurately identified in accordance with the Biobanking framework:

Demonstrated measures that avoid/minimise/mitigate impacts associated with the proposal on identified areas of SSTF:

- The precise area of intended vegetation clearance to establish the necessary asset protection zones
- The presence of threatened flora and fauna species (flora in particular), as well as likely habitat for these species
- The presence of native grasses in both conserved areas and within the development in accordance with the scientific determinations for both CPW and SSTF Critically Endangered Ecological Communities.

Council's Environmental Services Team identified a number matters in the Flora and Fauna Assessment originally submitted with the proposal which require further attention and it is expected that the preparation of a BAR as part of a future Biobanking Statement application at the subdivision stage would address these issues.

GR5 – Planning Proposal – Land Adjoining Bargo Sportsground

However, it is recommended that the proponent be requested to provide the following information prior to public exhibition of the Planning Proposal:

- Updated vegetation mapping that shows the full extent of SSTF occurring on the site based on the NSW Scientific Determination for this community including any areas that satisfy the definition of as Derived Native Grassland under this determination
- Preliminary calculations based on the BAM which show the credits required to offset all identified, proposed vegetation clearance associated with this proposal (including the establishment of asset protection zones).

It is recommended that the proponent be requested to provide this information within an updated Flora and Fauna Assessment prior to public exhibition of the Proposal.

No objections to the 4000 square metre minimum lot size were raised by Council's Environmental Services Team, however, it was recommended that the riparian corridor in the South Western corner of the site be retained within an Environmental Conservation zone and this is reflected in the recommendations of this report.

ENVIRONMENTAL HEALTH

Council's Environmental Health Officer had previously commented on the Planning Proposal following the submission of Specialist Studies (based on a minimum lot size of 2000 square metres) and the following concerns were raised:

"The on-site effluent disposal study states that 411 metres of effluent disposal area will be required for a 5 bedroom house. Once buffer distances are added to this figure; a quarter of the lot is required to be available for effluent disposal. It is unrealistic that owners would want to keep much of this area free for effluent disposal and as such will likely consider pump out which should only be considered as a last resort emergency option and should not be an option at the Planning stage".

Council's Environmental Health Officer has supported the proposal based on a minimum lot size of 4000 square metres being applied to the site and raised no further concerns with the Planning Proposal. The proponent has agreed to the Planning Proposal being amended and a revised Gateway Determination sought to increase the minimum lot size of the proposed R5 zoned land to 4000 square metres based on the Health Officer's advice.

GR5 – Planning Proposal – Land Adjoining Bargo Sportsground

INFRASTRUCTURE & DRAINAGE (DRAINAGE)

Additional flood modelling was submitted which indicates that the majority of the site is inundated in the 1% Annual Exceedence Probability (AEP) flood level and that it is intended to fill the land to provide acceptable building sites (0.5m freeboard above the 1% AEP Level for a majority of the site).

The difficulty with this scenario is that the site is surrounded by the 1% AEP flood and so evacuation once the roads are cut becomes a problem. This is when the Probable Maximum Flood (PMF) becomes important as we can say the land above this level is flood free. Evacuation is all about a continuously rising route to flood free areas.

The modelling has used a fill platform (using vertical retaining walls). This is also above the PMF so that the site is shown as flood free.

There are two issues with this approach:

- A vertical edge to the floodwaters makes it difficult for any persons caught in the water to exit and it will separate a future lot into two halves
- The filling has impacts on flood behaviour by removing flood storage and acting to block flows and raise levels on adjoining properties.

POSSIBLE CONTROLS

Council's Infrastructure Planning Section have not objected to the proposal but have advised the following requirements.

Limited filling will be permitted to provide building platforms associated with a central road provided that this does not adversely impact the 1% AEP Flood Levels and has limited impact on the PMF on adjacent land.

The road will need to provide access during a 1% AEP flood without adversely impacting 1% AEP flood levels and limited impact on the PMF on adjacent land.

The road will need to provide a continuously rising profile away from any low point to an area of publicly accessible flood free land (this is expected to be required and may be provided in an area at the higher part of the site to the south by limited filling if required).

A pedestrian access into the rear of the sportsground is considered desirable and a flood free island within the site may also tie into this to provide a larger area if appropriate.

GR5 – Planning Proposal – Land Adjoining Bargo Sportsground

The filling shall provide a gentle transition (not sharp) within flood affected land.

The flood modelling undertaken has indicated that the raising of the land would not impact on the riparian corridor in the south western corner of the site.

2.2 CONSULTATION WITH PUBLIC AGENCIES

The Gateway Determination required consultation with the following Public Agencies:

- Sydney Water
- NSW Rural Fire Service
- NSW Office of Environment and Heritage
- Roads and Maritime Services
- NSW Office of Water
- NSW Trade and Investment (Resources and Energy)
- Local Land Services
- Mine Subsidence Board (now Subsidence Advisory).

Consultation was carried out with the relevant public agencies in September/October, 2014 following the submission of Specialist Studies for the Planning Proposal.

Several government agencies raised concerns with the proposed 2,000 square metre minimum lot size. The following is a summary of the matters raised by public authorities and Council comments on the matters raised:

SYDNEY WATER

Sydney Water has provided advice on numerous occasions in relation to this site and future development in Bargo which states the following:

Water

- The proposed lots will be serviced by a drinking water extension off the 100mm main in Kader Street.

Wastewater

- Sydney Water will not be allowing or considering any sewer connections to the Bargo Priority Sewerage program (PSP) scheme for any proposed development that is outside the subsidised service area until at least 2020
- The reason for this is because there is no spare capacity available due to the current high water infiltration problems being experienced in the area

GR5 – Planning Proposal – Land Adjoining Bargo Sportsground

- In addition to the infiltration issues, the Bargo PSP will also be dependent upon the amplification of the Picton Recycling Plant to provide any future additional capacity. This amplification is not expected to be completed until around 2020
- Even after the amplification has been completed, there is still no guarantee that there will be sufficient spare capacity for developments that are outside the subsidised area. There will be very little additional capacity if any to the Bargo Area.

Comment: The minimum lot size that was originally proposed (being a mix of 450 square metres and 1000 square metres across various parts of the site) was revised upon receipt of this advice from Sydney Water. It is proposed to further revise the minimum lot size to 4000 square metres to ensure that on-site effluent disposal can be provided within individual lots in accordance with Council's On-site Effluent Disposal and grey Water re-use Policy.

NSW Rural Fire Service (NSW RFS)

The RFS advice in relation to the Planning Proposal suggested that the proposal will need to incorporate the following measures:

- An assessment of the level of hazard posed to future development by the land or adjacent land and how the hazard may change as a result of development.
- The provision of asset protection zones in accordance with Appendix 2 of Planning for Bushfire Protection 2006. (In this regard, the bushfire risk posed by classified vegetation located off site on adjoining lands and by proposed revegetated riparian zones located on-site needs to be considered in determining the asset protection zone requirements).
- The provision of access in accordance with section 4.1.3 or 4.2.7 of Planning for Bushfire Protection 2006. This includes the provision of perimeter roads.
- The provision of water supply for fire fighting purposes in accordance with Section 4.1.3 or 4.2.7 of Planning for Bushfire protection, 2006.

Comment: The Bushfire Hazard Assessment undertaken in respect of the Planning Proposal has identified that an asset protection zone of 25 metres from the northern boundary and 20 metres from the existing vegetation in the western and southern areas of the site to ensure that future habitable buildings on the site would satisfy a Bushfire Attack Level (BAL) rating of 29 or less in accordance with Planning for Bushfire Protection 2006. It is unlikely that these asset protection zones could be achieved if a minimum lot size of 2000 square metres was applied across the site and minimum lot size of 4000 square metres for the R5 zoned land is therefore recommended.

GR5 – Planning Proposal – Land Adjoining Bargo Sportsground

The application of a 4000 square metre minimum lot size across the site is likely to result in a future subdivision layout being unable to comply with the access requirements stipulated above. Further advice was received from the Rural Fire Service in relation to the likely non-compliances which is discussed in further detail under Ministerial Directions.

Office of Environment and Heritage (OEH)

Archaeological Assessment

The proposed rezoning to R5 Large Lot Residential with a minimum lot size of 2000 square metres for areas identified as having high archaeological potential was not supported.

The recommendation in the Aboriginal Cultural Heritage (ACH) Assessment that broader consultation be deferred until the development application stage was not supported.

The ACH Assessment is to be revised to ensure that it provides adequate and robust investigations, consultation, assessment and quantification of:

- The consultation with the local aboriginal community in accordance with the OEH Aboriginal Cultural Heritage Consultation requirements for Proponents, 2010
- The nature, extent and significance of archaeological resources and/or cultural values on the site (particularly any areas of high significance)
- Recommendations for appropriate management of areas of cultural and archaeological significance on the site suitable to guide the Planning Proposal and any subsequent decisions by Council to amend the LEP.

Comment: The OEH comments stating that they do not support the current minimum lot size of 2000 square metres are noted and this report recommends an increase to 4000 square metres which will address these concerns. It is recommended that Council request the proponent to provide an updated Aboriginal Cultural Heritage Assessment which addresses the matters raised by OEH prior to the proposal proceeding to Public Exhibition.

Flora and Fauna

OEH raised concerns that the Planning Proposal and the Flora and Fauna Assessment undertaken did not address the potential impacts to vegetation, on the site and to adjoining land from the 10/50 Vegetation Clearing Code of Practice (10/50 COP) and it was recommended that the minimum subdivision lot size be reviewed to ensure that proposed lots can accommodate building envelopes 50m from existing vegetation (including the vegetation to adjoining properties) and other infrastructure requirements (such as irrigation areas for effluent disposal).

GR5 – Planning Proposal – Land Adjoining Bargo Sportsground

The application of an R5 Large Lot Residential Zone for the creek bank and riparian corridor in the south western corner of the site was not supported and an E2 zone for this part of the site was recommended.

OEH recommends offsetting for biodiversity losses where impacts are unavoidable.

Comment: The RFS 10/50 Code of Practice enables landholders to clear vegetation around their homes without consent for the purposes of bushfire protection. The code allows the removal or pruning of any vegetation (including trees) within 10 metres of a dwelling and the removal or pruning of any vegetation (excluding trees) within 50 metres of a dwelling.

The comments from OEH which raised concerns about the impact on vegetation from the clearing under the 10/50 rule were addressed by the changes to the 10/50 code which were introduced in September, 2015. The 10/50 code would have originally enabled any clearing within 50 metres of a dwelling on a future lot to occur.

However, an amended 10/50 Code of Practice took effect in September, 2015. The 10/50 Code does not apply to the following:

- Any vegetation mapped as Shale Sandstone Transition Forest in the Sydney Basin Bioregion
- Vegetation to which a legal obligation to protect that vegetation exists, including any instrument under Section 88B of the Conveyancing Act 1919 that identifies and requires the retention and management of vegetation for conservation purposes.

The effect of the amended code is that the 10/50 code of practice could not be used to clear the SSTF on the site following the construction of future dwellings. It may also be possible to conserve other CEEC on the site within a conservation area under a restriction on the user of the land which would also mean that the vegetation removal under the 10/50 code could not be undertaken. This approach will ensure that all vegetation impacts and required offsetting are able to be considered as part of the Planning Proposal and Development Application for the site.

The recommendation of this report is to apply an E2 Environmental Conservation Zone to the riparian area in the south western corner of the site which is consistent with the advice from OEH.

The amended Biodiversity Conservation Act and associated regulations would enable any biodiversity losses in the R5 zoned part of the land to be offset through the use of the Biobanking Assessment Methodology. This approach is consistent with OEH's suggestion that offsetting be applied to areas that cannot be satisfactorily protected.

GR5 – Planning Proposal – Land Adjoining Bargo Sportsground

The proposed amendment to a minimum lot size of 4000 sqm provides an increased opportunity both for vegetation protection and asset protection.

Roads and Maritime Services

RMS does not object to the proposal in principle. RMS notes that access to the proposed development will be via local surrounding roads and considers the Planning Proposal is unlikely to significantly impact the classified road network.

NSW Office of Water (NOW)

OEH are generally supportive of riparian corridor designation within the site. NOW advice also recommends that the riparian corridors be held within public ownership to ensure that they are appropriately retained and managed.

Comment: The application of an E2 Environmental Conservation zone to the south western portion of the site would enable the retention and proper management of the riparian area. It is not proposed to dedicate this land to Council, however sufficient measures are able to be taken (such as restrictions on the use of the land) to ensure that this area is retained and managed.

Department of Trade and Resources (Investment and Energy)

- The proposal overlies consolidated coal lease CCL 747, held by Bargo Collieries Pty Ltd (Tahmoor Coal). Tahmoor are currently developing this area as part of the Tahmoor South Project which proposes to continue the Tahmoor Mine for an additional 18 years of operation until approximately 2040.
- The small size of the area and the potential number of residences is not likely to have a significant impact on future coal or coal seam gas exploration and development.

Comment: The comments from Trade and Investment are noted. Further consultation will be undertaken during public exhibition of the proposal including consultation with the colliery in accordance with the recent amendments to the Mine Subsidence Act.

NSW Local Land Services

- The Native Vegetation Act, 2003 applies to the current RU2 zoning. If the proposed rezoning goes ahead, the NV Act 2003 would still apply to the land zoned R5 Large Lot Residential and any clearing Native Vegetation within this zoning may require approval under the NV Act and should be referred to LLS.

Sustainable and Balanced Growth
Report of to the Ordinary Meeting of Council held on Monday 16 October 2017

GR5 – Planning Proposal – Land Adjoining Bargo Sportsground

- Local Land Services support the lower density across the site as it would provide greater flexibility for future development to minimise the removal of native vegetation.
- The site contains a third order stream and a significant dam in the south western corner of the site. LLS recommends maintaining the existing native vegetation in these areas as conservation zones to allow for the appropriate vegetated buffer distances between the proposed development, native bushland and watercourses.

Comment: LLS advice that the Native Vegetation Act would apply to the proposed R5 zone is noted. The effect of this is that OEH would not be able to issue a biobanking statement to offset any vegetation removal that would otherwise constitute a significant impact. It is anticipated that the Biodiversity Conservation Act which commenced on 25 August, 2017 would enable use of biobanking to offset vegetation losses.

It is expected that the riparian zone in the south western corner of the site could be retained through the application of an E2 Environmental Conservation zone. The concept map in Attachment 3 demonstrates that a subdivision with a 4000 square metre minimum lot size could accommodate the conservation of the riparian zone.

Mine Subsidence Board (now Subsidence Advisory)

No objections were raised to the proposed rezoning and it was advised that the applicant should seek the board's approval for any proposed subdivision or improvements.

2.3 COMMUNITY CONSULTATION

Preliminary consultation was undertaken in May, 2012. No community consultation has been carried out specifically in relation to the changes to the Planning Proposal in respect of minimum lot size as the changes would result in lower density development than the proposal that was previously exhibited. Further, formal consultation will occur at a future stage of the Planning Proposal.

2.4 PLANNING PROPOSAL

The Planning Proposal has been prepared in accordance with Section 55 of the EP&A Act, 1979 and the guidelines published by the DP&E. The Planning Proposal has been revised from the version previously considered by Council at its July, 2014 Council Meeting in response to matters raised through internal and external consultation.

GR5 – Planning Proposal – Land Adjoining Bargo Sportsground

Council's options are:

1. Resolve to support the Planning Proposal in the form as described in Section 2.12 of this report.
2. Resolve to support the Planning Proposal in another form. If this option were chosen an altered Gateway Determination may be required which reflect the amendments requested.
3. Resolve not to support the Planning Proposal. If this option were chosen then Council would need to request an altered Gateway Determination from the Department which states that the proposal will not proceed. The applicant could choose to submit a new Planning Proposal. There are no appeal rights through the Land and Environment Court against Council's refusal to support the Planning Proposal at this stage of the process.

Option 1 is the recommendation of this report.

2.5 A PLAN FOR GROWING SYDNEY (2014)

The proposed amendments to the Planning Proposal are consistent with all relevant aspects of A Plan for Growing Sydney.

2.6 DRAFT SOUTH WEST DISTRICT PLAN (2017)

The amendments to the Planning Proposal that are outlined in this report are consistent with the relevant actions and priorities contained in the Draft District Plan.

2.7 SECTION 117 MINISTERIAL DIRECTIONS

- 4.4 Planning for Bushfire Protection

This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land. Consultation has been carried out with the Commissioner of the Rural Fire Service following the receipt of the Gateway Determination.

The proposed amendments to the Planning Proposal, particularly the increase in minimum lot size to 4000 square metres will enable the required asset protection zones to be achieved with adequate separation to vegetation within the proposed conservation lands on the site and the vegetation on adjoining lands in accordance with the requirements of the direction.

GR5 – Planning Proposal – Land Adjoining Bargo Sportsground

The proposed amendments to increase the minimum lot size may lead to a future non-compliance with Planning for Bushfire Protection 2006 in respect of the access requirements as a 4000 square metre minimum lot size would make it difficult for any future lot layout to provide a perimeter road. The indicative lot layout provided (as shown in Attachment 3) shows that a future subdivision would be serviced by a dead end road of approximately 350m in length with no alternative access opportunities available.

The RFS advice stated that they would be prepared to accept a revised Bushfire Hazard Assessment as part of a future development application on the site which demonstrates that the proposal will achieve the performance criteria in Planning for Bushfire Protection 2006 notwithstanding the non-compliance with the public roads requirements. An alternate solution may also need to be provided.

Further consultation with the RFS will be undertaken during the public exhibition of the Planning Proposal. It is recommended that an updated Bushfire Hazard Assessment be undertaken prior to public exhibition of the Planning Proposal which provides details of how a future subdivision would meet the performance based criteria in Planning for Bushfire Protection, 2006 to ensure that the proposal meets the requirements of the Ministerial Direction.

Attachment 4 includes advice from the proponent's bushfire expert on the likely non-compliance with PFB requirements.

2.8 STATE ENVIRONMENTAL PLANNING POLICIES

The amendments to the Planning Proposal to increase the proposed minimum allotment size to 4,000 square metres would not create an inconsistency with any relevant SEPP.

2.9 WOLLONDILLY GROWTH MANAGEMENT STRATEGY

The proposal is not identified on any of the structure plans that form part of Council's GMS as an area that is suitable for potential future residential growth. However, the proposal was supported by Council at its ordinary meeting in July, 2012 and later received a Gateway Determination on the basis that it was consistent with all of the key policy directions in the Strategy. The proposed amendments are consistent with the key policy directions in the GMS.

2.10 CREATE WOLLONDILLY COMMUNITY STRATEGIC PLAN 2033

The Create Wollondilly Community Strategic Plan (CSP) 2033 is Council's highest level long term plan. It identifies and expresses the aspirations held by the Community of Wollondilly and sets strategies for achieving those aspirations. The CSP focuses on 5 key themes as follows:

Sustainable and Balanced Growth
Report of to the Ordinary Meeting of Council held on Monday 16 October 2017

GR5 – Planning Proposal – Land Adjoining Bargo Sportsground

- Sustainable and balanced growth
- Management and provision of infrastructure
- Caring for the environment
- Looking after the community
- Efficient and effective Council.

Council's priority focus for growth under the CSP will be the development of a new town at Wilton and Council will only support appropriately scaled growth within and around its existing towns and villages that respects the character, setting and heritage of those towns and villages. An assessment of the Planning Proposal against the 5 themes is provided below:

- *Sustainable and Balanced Growth*
The proposal is consistent with Council's position on growth as it will provide for minor incremental growth around an existing village.
- *Management and Provision of Infrastructure*
Appropriate road and drainage infrastructure would be provided as part of the future development of the site.
- *Caring for the Environment*
The proposed amendments to the Planning Proposal include the application of an environmental zone to certain parts of the site (which was not previously included in the proposal) and an increase in the minimum lot size across the site. This will contribute to improved environmental outcomes including increased retention of vegetation and improved ability to accommodate on-site wastewater disposal within individual lots.
- *Looking after the Community*
The proposed amendments to the Planning Proposal are considered to be in the best interests of the community.
- *Efficient and Effective Council*
Council will continue to work to ensure that the proposal is consistent with the planning of long term growth within the Shire.

2.11 FINAL FORM OF PLANNING PROPOSAL

2.11.1 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP 2011)

It is recommended that a revised Gateway Determination be sought from the Greater Sydney Commission to enable the Planning Proposal to proceed and make the following amendments to Wollondilly Local Environmental Plan 2011 as they apply to the site:

GR5 – Planning Proposal – Land Adjoining Bargo Sportsground

- Amend the Land Zoning Map from Zone RU2 rural landscape to Zone R5 Large Lot Residential and E2 Environmental Conservation
- Amend the Lot Size Map from a minimum lot size category of 16 hectares to 4,000 square metres across the R5 zoned part of the site. No minimum lot size shall apply to the proposed E2 zoned land
- Amend the Height of Buildings Map to reflect a Maximum Building Height Category of 9 metres across the entire site.

2.11.2 WOLLONDILLY DEVELOPMENT CONTROL PLAN, 2011 (WDGP 2011)

It is likely that site specific DCP controls will be required for this site in relation to Aboriginal heritage, flooding and on-site vegetation management. These controls will be drafted prior to the finalisation of the Planning Proposal.

FINANCIAL IMPLICATIONS

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

ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET

1. Vegetation Mapping
2. Ecological Constraints Mapping
3. Map showing indicative lot layout and possible Environmental Conservation Area (shown in blue)
4. Advice from proponents Bushfire Expert

GR5 – Planning Proposal – Land Adjoining Bargo Sportsground

RECOMMENDATION

1. That Council support the proposed amendment to the Land Adjoining Bargo Sportsground Planning Proposal to enable the Planning Proposal to Proceed in the following manner:
 - Amend the Land Zoning Map from Zone RU2 Rural Landscape to Zone R5 Large Lot Residential and E2 Environmental Conservation
 - Amend the Lot Size Map from a minimum lot size category of 16 hectares to 4,000 square metres across the R5 rural landscape zoned part of the site. No minimum lot size shall apply to the proposed E2 environmental conservation zoned land
 - Amend the Height of Buildings Map to reflect a Maximum Building Height Category of 9 metres across the entire site.
2. That the updated Planning Proposal be forwarded to the Greater Sydney Commission for a revised Gateway Determination to reflect the above changes.
3. That the proponent be requested to provide the following prior to the public exhibition of the proposal:
 - An updated Flora and Fauna Study which addresses the environmental concerns raised in section 2.1 of this report prior to Public Exhibition of the proposal
 - An updated Aboriginal Cultural Heritage Assessment which addresses the concerns raised by the NSW Office of Environment and Heritage which are detailed in section 2.2 of this report
 - An updated Bushfire Hazard Assessment which addresses the access requirements identified in section 2.7 of this report.
4. That the proponent be informed of Council's resolution.

GR6 – Planning Proposal – Boundary Adjustment and Minimum Subdivision Lot Size for Community Title Scheme & Associated Amendments to Wollondilly Development Control Plan 2016

GR6

Planning Proposal – Boundary Adjustment and Minimum Subdivision Lot Size for Community Title Scheme & Associated Amendments to Wollondilly Development Control Plan 2016

259421

TRIM 9019

Applicant: Wollondilly Shire Council
Owner: N/A

Stage	Completed
Preliminary notification	N/A
Gateway Determination	6 September 2016
Consultation with Public Agencies	September to November 2016
Specialist Studies	None required
Public exhibition/community consultation	February/March 2017
Referred to Minister for Publication	Not yet complete

EXECUTIVE SUMMARY

- This report addresses matters raised in discussion by Council when this matter was considered at the Ordinary Meeting of Council on 19 June 2017.
- It also seeks to finalise the Planning Proposal and accompanying amendments to the Wollondilly Development Control Plan 2016 (DCP).
- This Planning Proposal, prepared by Wollondilly Shire Council, seeks two (2) separate amendments to the *Wollondilly Local Environmental Plan 2011* to introduce development standards which will apply to the subdivision of community title schemes and to allow boundary adjustments.
- The Planning Proposal is accompanied by proposed amendments to the DCP to guide the assessment of development applications seeking boundary adjustments.
- 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.

GR6 – Planning Proposal – Boundary Adjustment and Minimum Subdivision Lot Size for Community Title Scheme & Associated Amendments to Wollondilly Development Control Plan 2016

- It is recommended that:
 - Council support the Planning Proposal in the form subject to community consultation
 - the Planning Proposal be forwarded to the Greater Sydney Commission for finalisation
 - Council amend the Wollondilly Development Control Plan, 2016 with amendments effective from the date at which the amended LEP is published
 - a fact sheet on boundary adjustments is prepared to complement the amendments
 - the applicant and persons who made submissions be notified of Council's decision.

REPORT

1.1 DESCRIPTION OF PROPOSAL

The Planning Proposal brings together two (2) separate changes to *Part 4 – Principal development standards* of the *Wollondilly Local Environmental Plan 2011* (Wollondilly LEP).

1. Introduction of a minimum lot size for the subdivision of community title schemes (proposed Clause 4.1AA).
2. To allow boundary adjustments with development consent on land within certain land use zones (proposed clause 4.2B).

The planning proposal has two (2) objectives.

- To prevent land fragmentation and inappropriate densities across the shire which result from community title schemes in inappropriate locations.
- To enable boundary adjustments within all rural land use zones, E4 Environmental Living and R5 Large Lot Residential to provide greater flexibility to landowners.

The intended outcome of the proposal is the orderly development of land across the shire.

GR6 – Planning Proposal – Boundary Adjustment and Minimum Subdivision Lot Size for Community Title Scheme & Associated Amendments to Wollondilly Development Control Plan 2016

1.2 NOTABLE CHANGES TO STATE ENVIRONMENTAL PLANNING POLICY FOR EXEMPT DEVELOPMENT

On 14 July 2017 changes were made to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) which affect boundary adjustments.

As a result of the recent changes the likelihood of development applications for boundary adjustments under the proposed new boundary adjustment clause in the Wollondilly LEP has been significantly reduced.

In previous versions of the Codes SEPP, boundary realignments or boundary adjustments could only be undertaken (without the need for development consent) so long as the boundary adjustment did not result in any lot being smaller than the minimum lot size.

The recent changes involved an amendment to the wording and now provide more flexibility. Subject to development standards, boundary realignments can now be undertaken as exempt development, which will result in lots smaller than the minimum lot size if those lots were already smaller than the lot size.

The recent change has mostly addressed the issue this planning proposal seeks to rectify. However, the proposed amendment to the Wollondilly LEP is still considered to have strategic planning merit as there will be land that the exempt development provisions don't apply to. The amendment will enable consideration of boundary adjustments which don't meet the development standards for exempt development but are otherwise minor.

1.3 RESPONSE TO MATTERS RAISED BY COUNCIL AT MEETING ON 19 JUNE 2017

A report was considered by Council at the Ordinary Meeting of Council on 19 June 2017. The purpose of the report was to advise Council of the outcome of the public exhibition and seek support to finalise the amendment to the Wollondilly LEP and draft amendments to the *Wollondilly Development Control Plan 2016*. A copy of the report & minutes from the June meeting is provided at Attachment 1.

GR6 – Planning Proposal – Boundary Adjustment and Minimum Subdivision Lot Size for Community Title Scheme & Associated Amendments to Wollondilly Development Control Plan 2016

A number of matters were raised during the discussion of the report and Council resolved to defer the matter.

- That Council planners meet with the Mulley and the Mulley-James families
- Potential ambiguity & robustness of DCP provisions relating to reconfiguration of the lot & resemblance of lots
- Potential rural interface concerns (particularly in relation to R5 land)
- Preventing the consolidation of lots
- Protecting rural land
- Protecting environmentally sensitive land.

Council planners to meet with the Mulley and Mulley-James families

Council planners were asked to meet with the Mulley and Mulley-James families to identify whether they can be assisted.

The Mulley and Mulley-James families addressed the Community Forum on 13 June 2017 and support the principle of the proposal to introduce boundary adjustments as they consider this would benefit their desire to adjust the boundary on land they own in Wollondilly.

Council's Manager Sustainable Growth has met with the Mulley and Mulley-James families.

The principle of the proposed boundary adjustment amendment is to enable a 'boundary adjustment' only and not a 'boundary change', i.e. allow a minor realignment of lot boundaries but not any change such as a reconfiguration of the lots.

Based on the limited information provided, the Mulley and Mulley-James proposal would appear to be a reconfiguration of the lots (a re-subdivision) and not a boundary adjustment. As a result, the proposed amendment to the Wollondilly LEP will not assist their plans.

It is not considered possible or appropriate to amend the planning proposal for a development standard change to suit an individual scenario. No changes are recommended to address this matter.

GR6 – Planning Proposal – Boundary Adjustment and Minimum Subdivision Lot Size for Community Title Scheme & Associated Amendments to Wollondilly Development Control Plan 2016

Potential ambiguity & robustness of DCP provisions relating to reconfiguration of the lot & resemblance of lots

Concern has been raised with two (2) of the proposed criteria included within the proposed development control plans, which set out that a boundary adjustment must:

- *Not result in a significant reconfiguration of the lots and*
- *Bear some resemblance to the lots which existed before the adjustment.*

In particular, that this criteria is unclear and will not adequately control development applications for boundary adjustments.

There is no known widely adopted definition of a boundary adjustment however, the Land & Environment Court (the Court) has considered the term in a number of cases.

Based on a review of previous considerations by the Court it was considered that the best approach was not to define 'boundary adjustments' within the Wollondilly LEP and instead include a list of criteria within the DCP. One reason for this is that the Land and Environment Court have not established what constitutes a boundary adjustment. It is also noted that a definition does not exist in other local environmental plans within NSW that have boundary adjustment clauses.

Inclusion of some criteria within the DCP is considered beneficial to provide clear indication that a boundary adjustment does not include all or any changes to boundaries. However, it is still considered beneficial to provide a degree of flexibility in its interpretation. This is because development applications seeking boundary adjustments are likely to vary considerably and any assessment will be heavily based on the individual merit of the case.

The criteria reflect the key types of consideration given by the Land & Environment Court. Additional controls could be included.

- To prevent the creation of 'new' boundaries.
- To limit alteration of boundaries to corrections and regularisations.
- That any new boundary must have a relationship to an existing boundary.

These have not been included as they may be too restrictive to apply in all situations.

GR6 – Planning Proposal – Boundary Adjustment and Minimum Subdivision Lot Size for Community Title Scheme & Associated Amendments to Wollondilly Development Control Plan 2016

One alternative is to prepare a Fact Sheet to complement the proposed controls within the development control plan. A Fact Sheet, while it will not have any statutory power, would allow a more detailed explanation of a boundary adjustment which is difficult to provide within the DCP which is limited by its legal format. The Fact Sheet could also include diagrams to illustrate what is meant by a lot reconfiguration and the need to bear resemblance to the original lot. The Fact Sheet could be made available on Council's website to assist customers.

Please note that the reference to the lots which existed before the adjustment in control 2.11(1)(b) is not a reference to the Original Land Holding.

Potential rural interface concerns (particularly in relation to R5 land)

There is a concern that the introduced permissibility of boundary adjustments may allow the creation of small lots, such as 450sq.m, in periphery areas that could lead to land use conflict.

This scenario is unlikely to occur. A boundary adjustment does not include any or all alterations of a boundary. So unless the existing lot arrangement already includes a small lot than it is unlikely that a boundary adjustment would result in this sort of configuration because the development proposal would not meet the requirements of a boundary adjustment. This is because the resulting lots are unlikely to bear some resemblance to the lots which existed before the adjustment and it may also be considered a reconfiguration.

For this reason it is not considered necessary to specifically limit boundary adjustments on land zoned *R5 Large Lot Residential* so that the lot size cannot be changed by more than 20%. It is noted that there may be scenarios where a change of more than 20% could still provide a logical outcome.

Preventing the consolidation of lots

There was concern that the inclusion of draft control 2.11(1)(c) would prevent the consolidation of lots. This is not the intention of the proposed control.

Control 2.11(1)(c) indicates that the boundary adjustment must *not result in a consolidation of the lots...*

Consolidation of lots can be undertaken without development consent and the draft controls within the DCP will not change this right.

GR6 – Planning Proposal – Boundary Adjustment and Minimum Subdivision Lot Size for Community Title Scheme & Associated Amendments to Wollondilly Development Control Plan 2016

The reason for including draft control 2.11(1)(c) is to assist in indirectly defining a boundary adjustment and does not prevent the consolidation of lots outside boundary adjustments. Its particular relevance is to indicate that a boundary adjustment does not include the consolidation of lots and their re-subdivision into new lots even if the result is still the same number of lots.

Protecting Rural Land

There was a concern that boundary adjustments could impact the agricultural viability of rural land by fragmenting it.

Proposed DCP Clause 2.11(1)(e) already seeks to prevent fragmentation of land. It indicates that a boundary adjustment must *not fragment or degrade land*. However the inclusion of additional criteria with a focus on rural land would provide a clear intent.

It is proposed that the additional criteria should refer to ‘agricultural potential’ rather than ‘rural use’:

Not negatively alter the agricultural potential of rural zoned land

Protecting environmentally sensitive land

Concern was also raised about the potential for a boundary adjustment to fragment land within an environmental protection zone (i.e. E2 Environmental Conservation and E3 Environmental Management) or land which includes threatened ecological communities.

The controls which will apply to development applications for boundary adjustments will be located within the Wollondilly LEP and the Wollondilly DCP 2016. A table is provided at Attachment 2 to show how these controls work together across a number of development considerations to control boundary adjustments.

A provision to protect environmentally sensitive land is included within the proposed local environmental plan amendment. Proposed clause 4.2B(4)(e) will require that before determining a development application the consent authority must consider that the boundary adjustment *will minimise any impact upon threatened species, ecological endangered communities and vegetation*.

The Wollondilly LEP has more statutory power than the DCP. As legislation that must be applied, it therefore provides stronger protection for environmentally sensitive land. The DCP only provides guidance and its controls can be varied where justified.

It is not considered necessary to include additional controls within the DCP.

GR6 – Planning Proposal – Boundary Adjustment and Minimum Subdivision Lot Size for Community Title Scheme & Associated Amendments to Wollondilly Development Control Plan 2016

2. PLANNING PROPOSAL

The Planning Proposal has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act, 1979 and the guidelines published by the Department of Planning and Environment. As discussed in this report some of the wording to the proposed clauses within the Planning Proposal has been revised from what was publicly exhibited in response to matters raised through consultation.

Council's options are:

1. Resolve to support the Planning Proposal in the form as described in Section 2.1 to this report.
2. Resolve to support the Planning Proposal in another form. With this option a new Gateway Determination and a new public exhibition period may be required.
3. Resolve not to support the Planning Proposal.

Option 1 is the recommendation of this report.

2.1 FINAL FORM OF PLANNING PROPOSAL

2.1.2 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP 2011)

Based on the consultation and engagement one (1) minor change is proposed to the planning proposal as exhibited.

The change is to extend the type of land to which boundary adjustments clause will apply to include land within an E3 Environmental Management land use zone. This change is considered to be minor and is in response to an internal submission from specialist staff. The change to the relevant clause is shown in **bold** below:

(2) *This clause applies to the following land use zones:*

- (a) Zone RU1 Primary Production,
- (b) Zone RU2 Rural Landscape,
- (c) Zone RU4 Primary Production Small Lots,
- (d) Zone R5 Large Lot Residential,
- (e) **Zone E3 Environmental Management,**
- (f) Zone E4 Environmental Living.

GR6 – Planning Proposal – Boundary Adjustment and Minimum Subdivision Lot Size for Community Title Scheme & Associated Amendments to Wollondilly Development Control Plan 2016

The Planning Proposal seeks amendments to Wollondilly LEP 2011 as described below:

- Adopt option *Standard Instrument – Principal Local Environmental Plan* clause 4.1AA *Minimum subdivision lot size for community title schemes*
- Insert new clause 4.2B *Boundary adjustment within certain residential, environment protection and rural zones.*

2.1.3 WOLLONDILLY DEVELOPMENT CONTROL PLAN, 2016 (WDCP 2016)

Amendments are proposed to WDCP 2016 to include additional controls within *Volume 3 – Subdivision of Land, Part 2 – General Requirements for All Development* to provide guidance to support the proposed Clause 4.2B which introduces the permissibility of boundary adjustments with development consent.

The table at Attachment 2 provides a description of the proposed controls which seek to guide development in terms of:

- defining a boundary adjustment
- biodiversity/environmentally sensitive land
- land fragmentation
- orderly and logical development.

These amendments were placed on public exhibition for more than 28 days with the Planning Proposal. No submissions raised issues relevant to the proposed amendments to WDCP 2016.

Based on discussion of this matter at the Ordinary Meeting of Council on 19 June 2017 it is proposed to amend control 1 to include an additional criteria. The additional criteria is shown in **bold** below.

1. *The boundary adjustment must:*
 - a. *Not result in a significant reconfiguration of the lots; and*
 - b. *Bear some resemblance to the lots which existed before the adjustment; and*
 - c. *Result in an orderly and logical lot pattern; and*
 - d. *Not fragment or degrade the land; and*
 - e. ***Not negatively alter the agricultural potential of rural zoned land.***

A copy of the full proposed amendments to the WDCP 2016 is provided at Attachment 4.

GR6 – Planning Proposal – Boundary Adjustment and Minimum Subdivision Lot Size for Community Title Scheme & Associated Amendments to Wollondilly Development Control Plan 2016

FINANCIAL IMPLICATIONS

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

ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET

1. Report & Minutes to Ordinary Meeting of Council on 19 June 2017
2. Table showing how the proposed planning controls will address development considerations
3. Clause 4.1AA Minimum subdivision lot size for community title schemes
4. Clause 4.2B Boundary adjustment within certain residential, environment protection and rural zones
5. Draft Amendment to Wollondilly Development Control Plan 2016 for adoption

RECOMMENDATION

1. That Council support the amendment to the planning proposal as described in Section 2.1.2 and adopt and make the draft Local Environmental Plan under delegation for the Boundary Adjustment and Minimum Subdivision Lot Size for Community Title Schemes Planning Proposal to amend the Wollondilly Local Environmental Plan 2016 as follows:
 - amend Part 4 to insert clause 4.1AA Minimum Subdivision lot size for community title schemes, and
 - amend Part 4 to insert new clause 4.2B Boundary adjustment within certain residential, environmental protection and rural zones.
2. That in accordance with Section 59 to the Environmental Planning and Assessment Act, 1979 the Planning Proposal be forwarded to Parliamentary Counsel and the Greater Sydney Commission with a request to make arrangements for the drafting of the amended Local Environmental Plan in the form as detailed in this report and in the Planning Proposal.

Sustainable and Balanced Growth
Report of to the Ordinary Meeting of Council held on Monday 16 October 2017

GR6 – Planning Proposal – Boundary Adjustment and Minimum Subdivision Lot Size for Community Title Scheme & Associated Amendments to Wollondilly Development Control Plan 2016

3. That Council support the amendments to WDCP 2016 as described in Section 2.1.3 to this report.
4. That in accordance with Clause 21 of the Environmental Planning and Assessment Regulation 2000 public notice is given of Council's decision to adopt the Wollondilly Development Control Plan 2016 in a local newspaper within 28 days.
5. That a Fact Sheet be prepared to complement the boundary adjustment controls within the amendment to the local environmental plan and the development control plan.
6. That the Fact Sheet be made available on Council's website.
7. That the applicant and persons who made submissions regarding the Planning Proposal be notified of Council's decision.

Looking after the Community

Looking after the Community
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

Relevance to Community Strategic Plan
--

LOOKING AFTER THE COMMUNITY

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

Looking after the Community
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

CO1 – Memorandum of Understanding with NSW Education

CO1

Memorandum of Understanding with NSW Education

271

TRIM 9867

EXECUTIVE SUMMARY

- The purpose of this report is to advise of a proposal to enter into a Memorandum of Understanding with NSW Education as a basis for ongoing cooperation regarding joint use of facilities and land.
- This report recommends that Council enters into a Memorandum of Understanding with NSW Education.

REPORT

BACKGROUND

As the NSW population continues to grow, there is ongoing pressure for access to quality community infrastructure to meet increasing recreational, social and community needs. Senior Council staff have recently held discussions with representatives of NSW Education regarding the potential for Joint Use Projects relating to educational facilities.

The concept of “joint use” is where new or upgraded facilities, whether or not on school land, are jointly shared between the school and another organisation (e.g. a local Council). The benefits of joint use can be:

- More efficient use of assets
- Reduced costs due to sharing arrangements
- Higher quality assets
- Better relationships between schools and their communities.

The aim of the MOU is to form a non-binding partnership between Council and NSW Education to investigate opportunities for joint use projects. These projects would then be progressed through the framework of legally binding Joint Use Project Agreements (JUPAs).

EXAMPLES OF JOINT USE PROJECTS

These two examples are taken from NSW Education’s “*Joint Use of School Facilities and Land Policy Guidelines*”.

- A Council and the department jointly invest in a new synthetic oval, flood lighting and change rooms on school grounds. The oval is leased to Council with exclusive after-hours access but is used by the school on a cost-neutral basis.

Looking after the Community
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

CO1 – Memorandum of Understanding with NSW Education

- The department builds a new school on a smaller site and instead of buying additional land, the department provides community facilities on Council land, such as a high standard playing field and larger sized hall which are operated by the Council and used by the community when not in use by the school.

Note that a JUPA is not needed when there is no significant investment in land or capital required to enable shared use of school facilities (e.g. local community groups using a school hall in the evening). For these kinds of arrangements the existing NSW Education policy “*Community Use of School Facilities*” applies.

THE MOU COMMITMENTS

There are a number of steps in working towards the implementation of any JUPA and entering into the MOU is part of Phase 1 of the process.

Although the MOU is non-binding, it commits Council to:

- Work collaboratively with NSW Education in accordance with the framework outlined in the MOU and contained in the Department’s “*Joint Use of School Facilities and Land Policy Guidelines*”.
- Establish a Joint Use Project Advisory Group which consists of key Council staff and department representatives.
- Pursue the development of JUPAs via this Advisory Group.

OTHER NSW COUNCILS

The MOU and its associated arrangements is a standardised approach being used by NSW Education in partnership with a number of NSW Councils. The following Councils, for example, have either signed an MOU, or are in the process of seeking Council resolutions to do so:

- Fairfield City Council
- Ku-ring-gai Council
- The Hills Council
- City of Sydney Council
- Yass Valley Council.

FINANCIAL IMPLICATIONS

Entering into the MOU has no direct financial implications. The MOU is a non-binding agreement of good faith. Specific joint use projects arising from this MOU which may be pursued in the future could however have financial implications for Council. Any such projects would need to be considered on a case by case basis at the appropriate time and reported to Council.

Looking after the Community
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

CO1 – Memorandum of Understanding with NSW Education

There will be staff resourcing implications associated with attendance and management of the JUPA Advisory Group and project feasibility investigations and other tasks will be required. This work is however strategically important and can be accommodated within Council's current staff resource capabilities.

CONCLUSION

Wollondilly Shire faces current and future challenges regarding the provision of education facilities, community facilities and recreation facilities. It is therefore important to pursue approaches which will assist to create better access to these types of facilities. Working in partnership with the State Government to explore opportunities for Joint Use Projects is particularly relevant in the context of future population growth and the development of a new town at Wilton.

ATTACHMENT

1. Joint Use Project Agreement – Memorandum of Understanding – Wollondilly Shire Council (to be provided under separate cover)

RECOMMENDATION

That Council enters into a Memorandum of Understanding with NSW Education as a basis for ongoing cooperation regarding joint use of facilities and land.

Looking after the Community
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

CO2 – Memorandum of Understanding with Southern Tablelands Arts

CO2

Memorandum of Understanding with Southern Tablelands Arts

249738

TRIM 1931-5

EXECUTIVE SUMMARY

- The purpose of this report is to provide recommendation for the endorsement of a Memorandum of Understanding with Southern Tablelands Arts Inc. for the period 1 November 2017 to 31 December 2020.
- It is recommended that Council endorse the Memorandum of Understanding for the period 1 November 2017 to 31 December 2020 and agree to the proposed financial contribution of 0.60 cents per head of population with an annual increase linked to the rate pegging applied to Council multiplied by per head of population.

REPORT

SOUTHERN TABLELANDS ARTS

Southern Tablelands Arts (STA) has been operating for 21 years across a region that now comprises seven (7) Local Government Areas (LGAs) including Wollondilly, Goulburn Mulwaree, Hilltops, Upper Lachlan, Queanbeyan Palerang, Wingecarribee and Yass Valley Councils.

The seven (7) member Councils contribute to and support Southern Tablelands Arts in recognition that the organisation is a catalyst and vehicle for the enhancement of regional arts and cultural development for the social and economic benefit of local communities.

The member Councils recognise that effective cultural development is achieved through strategic planning and management of cultural services, facilities and programs which contribute to the local identity, sense of place and quality of life.

Southern Tablelands Arts receives core funding support and commitment from the NSW State Government through Create NSW. The viability of Southern Tablelands Arts and its aims and objectives are contingent upon continuing support of this mix of contributions from Local and State governments.

There are 14 (fourteen) Regional Arts Development Organisations (RADOs) in NSW, each providing strategic direction for sustainable arts and cultural development in their region. Arts NSW contribute almost \$2 million annually to support the RADO Network.

Looking after the Community
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

CO2 – Memorandum of Understanding with Southern Tablelands Arts

RADOs include representatives from local government, tourism, education, arts councils, other community arts organisations and community members. Each employs an Executive Director and, in most instances, other staff who co-ordinate a cultural development program across the contributing local government areas in their region.

Create NSW recognises the key role played by the RADO Network in delivering strategic support for arts and cultural development activities across regional NSW.

Create NSW (then Arts NSW) undertook a review of Regional Arts Development organisations in 2014-15. As a result of the review a number of actions were identified. These include:

- That the Regional Arts Development Officer position title be renamed Executive Director
- That the regional organisations will be renamed as Regional Arts Development Organisation (RADO)
- That it is recommended that each RADO enter into a Memorandum of Understanding (MOU) with each contributing Council.

CURRENT PARTNERSHIP

Wollondilly Shire Council has been a partner and financial contributor of STA since formalising a partnership in 1996.

Southern Tablelands Arts is managed by a skills based Board and engages two (2) representatives from Wollondilly Shire Council including Cr Michael Banasik as Council Delegate and Rob Moran Team Leader Community Projects and Events as a General Board Member.

STA currently provides a high level of service to Wollondilly Shire Council with the following examples of creative and cultural partnerships over the 2016/17 Financial Year:

- IlluminARTE
- Wollondilly Creative Spirits
- Bee Aware
- Neural Knitting
- Love Food Hate Waste
- Lantern Workshops
- WAG Curator Workshops
- Country Artist Support Program
- Brainwave.

Looking after the Community
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

CO2 – Memorandum of Understanding with Southern Tablelands Arts

Council has recently identified the importance of Art / Cultural Development and its relationship to Tourism/Economic Development and has committed to developing a Public Art Strategy for the Shire in 2017/18. STA have agreed to support the research and development of the strategy. The Public Art Strategy aligns with the CSP objectives and will inform the Tourism Strategy, Action Plan and will contribute to an Events and Festivals Marketing Plan.

PROPOSED MEMORANDUM OF UNDERSTANDING

The proposed Memorandum of Understanding (MOU) will commence on 1 November 2017 and operate initially on a three (3) year term to 31 December 2020 then move to a four (4) year term in line with Local Government Elections.

The purpose of the MOU will:

- Clarify expectations, roles and accountabilities for Southern Tablelands Arts and Wollondilly Shire Council
- Define the scope and standards of services to be provided
- Define the basis of funding contributions
- Support improved management and service performance.

By clarifying the roles, accountabilities and supporting improved management and service performance, the MOU will help to:

- Enhance existing arts and cultural services and activities within the Wollondilly LGA
- Identify and assist the development of new and existing arts and cultural programs and activities in Wollondilly
- Integrate cultural considerations as an integral part of the management and development of the Wollondilly Region's social, arts, cultural, natural, built and economic environments
- Foster an informed, literate and skilled community as the basis of an involved, productive and creative community
- Establish partnerships for arts and cultural development with Wollondilly Shire Council, community, other local and regional organisations, government agencies and the private sector
- Conserve and enhance the Wollondilly Region's cultural heritage in its built and natural physical and social manifestations
- Demonstrate the current and potential economic benefits of cultural development to the region's economy.

CONSULTATION

Consultation has occurred in each Local Government Area with the STA Executive Director and through meetings with the General Manager of each Council.

Looking after the Community
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

CO2 – Memorandum of Understanding with Southern Tablelands Arts

FINANCIAL IMPLICATIONS

Wollondilly Shire Council currently contributes 0.08cents per head of population per annum to STA towards their operational costs. Of the seven (7) Councils that financially support STA, Wollondilly contributes the least amount.

The draft MOU proposes that Wollondilly's future financial contributions increase to 0.60 cents per head of population and will therefore see the current contribution rise from \$4,163 to \$29,465 per annum (an increase of more than 700%).

As Council's population increases, so too will the amount Council is required to contribute. The MOU also proposes that the contributions will be subject to annual increases linked to the rate pegging percentage i.e. the proposed annual increase will be determined by multiplying head of population with statistical data obtained through Council's ID Profile statistics and the rate pegging percentage as the index mechanism.

For example: If the population this year is 50,000 and the contribution rate is 0.60 cents per head, the contribution amount will be \$30,000 in the first year. If the population then increases by 2% to 51,000 next year and IPART announce a rate peg increase of say 2%, then the annual contribution in year 2 will increase to \$31,212 (ie: a 4.04% increase).

This matter will have a material financial impact on Council's current 2017/18 budget (a pro-rata payment of approximately \$20,000 would be required for the remainder of the financial year) which will require the adoption of a budget variation in the upcoming September Quarterly Budget Review. Council's forward estimates will also need to be adjusted to accommodate the additional contribution amounts on an annual basis.

Note that Council is expected to experience significant growth over coming years which will therefore result in potentially significant increases in annual contribution amounts under the proposed model. Because the MOU is only for the period up to 31 December 2020, Council will monitor the degree of these increases over the next three (3) years or so. Council will then need to consider whether it is financially prudent to enter into a similar MOU for 2021 onwards.

In addition to the abovementioned financial contribution towards operational costs, it should be noted that Council also financially contributes to various STA projects in the form of grants, sponsorships, etc. (generally around a few thousand dollars each year).

Looking after the Community
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

CO2 – Memorandum of Understanding with Southern Tablelands Arts

ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET

1. Draft Memorandum of Understanding
2. STA Annual Report 2016/17

RECOMMENDATION

That Council endorse the Memorandum of Understanding for the period 1 November 2017 to 31 December 2020 and agree to the proposed financial contribution of 0.60 cents per head of population with an annual increase linked to the rate pegging applied to Council multiplied by per head of population.

Efficient and Effective Council

Efficient and Effective Council
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

Relevance to Community Strategic Plan
--

EFFECTIVE AND EFFICIENT COUNCIL

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

Efficient and Effective Council
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

EC1 – Investment of Funds as at 31 August 2017

EC1

Investment of Funds as at 31 August 2017

112

TRIM 1022-5

EXECUTIVE SUMMARY

- This report provides details of Council's invested funds as at 31 August 2017.
- It is recommended that the information and certification in relation to the investment of Council funds as at 31 August 2017 be noted.

REPORT

At its last meeting, the Reserve Bank maintained the cash rate at 1.50%. In relation to the domestic market, the Board of the Reserve Bank commented that:

"The recent data have been consistent with the Bank's expectation that growth in the Australian economy will gradually pick up over the coming year...Retail sales have picked up recently, although slow growth in real wages and high levels of household debt are likely to constrain future growth in spending.

Employment growth has been stronger over recent months and has increased in all states. The various forward-looking indicators point to solid growth in employment over the period ahead. The unemployment rate is expected to decline a little over the next couple of years.

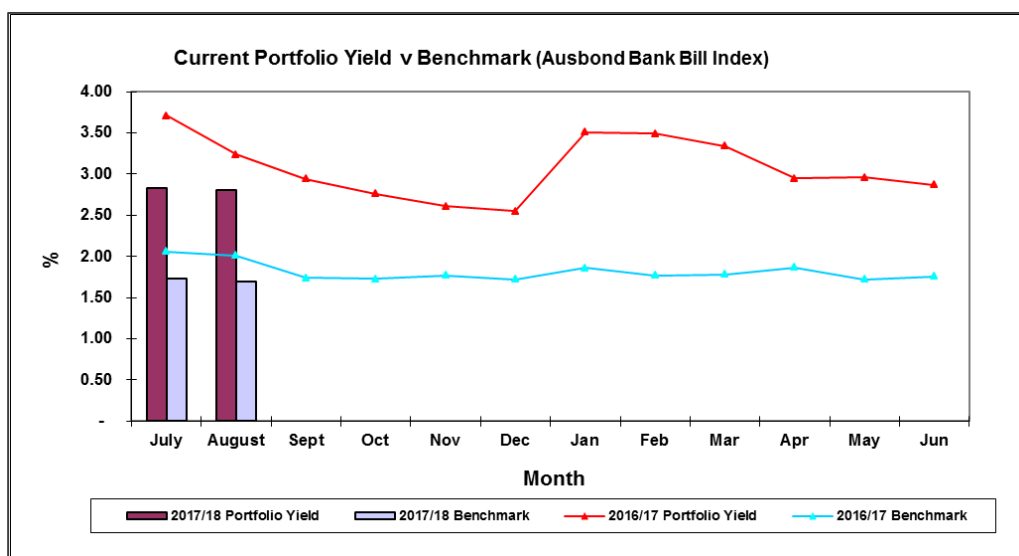
Wage growth remains low. This is likely to continue for a while yet, although stronger conditions in the labour market should see some lift in wages growth over time. Inflation also remains low and is expected to pick up gradually as the economy strengthens."

The majority of Council's investment portfolio (96%) is invested in deposits / securities with Australian Authorised Deposit taking Institutions (ADI's). Council has been taking advantage of term deposit "specials" from various institutions without overexposing the portfolio to any one institution. Note that the marked to market valuations on some of the direct investment products in Council's portfolio remain at less than the face value of the investment. The marked to market value of these investments is expected to be equal to or greater than the face value by the time they reach their maturity date. Early exit from these products would realise losses.

The following chart compares Council's portfolio yield with the benchmark AusBond Bank Bill Index rate in each month for 2016/17 and 2017/18.

Efficient and Effective Council
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

EC1 – Investment of Funds as at 31 August 2017



As shown in the chart above, Council's portfolio yield has continually exceeded the benchmark AusBond 3 month Bank Bill Index due to the prudent investment of Council's portfolio.

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

Council's investment portfolio as at 31 August 2017 is summarised below.

By Product	Face Value (\$)	Current Value (\$)	Current Yield (%)
Bonds	2,000,000.00	1,980,960.00	7.1692
Cash	3,121,000.00	3,121,000.00	1.5500
Floating Rate Note	15,000,000.00	15,179,667.71	2.8287
Mortgage Backed Security	1,629,895.21	1,100,606.75	2.2044
Term Deposit	37,750,000.00	38,157,585.55	2.7821
	59,500,895.21	59,539,820.01	2.8608

Details of Council's investment portfolio as at 31 August 2017 are provided in attachment 1.

CONSULTATION

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

Efficient and Effective Council
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

EC1 – Investment of Funds as at 31 August 2017

FINANCIAL IMPLICATIONS

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

The RBA has continued to keep interest rates low and the expected investment income will be reviewed and revised as more information becomes available.

CERTIFICATION

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

Ashley Christie
Chief Financial Officer
WOLLONDILLY SHIRE COUNCIL

ATTACHMENT INCLUDED IN A SEPARATE BOOKLET

1. Investment Summary Report as at 31 August 2017.

RECOMMENDATION

That the information and certification in relation to the investment of Council funds as at 31 August 2017 be noted.

Efficient and Effective Council
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

EC2 – Annual Financial Statements for the Year Ended 30 June 2017

EC2	<u>Annual Financial Statements for the Year Ended 30 June 2017</u>	
	56	TRIM 234-12

EXECUTIVE SUMMARY

- Council officers have prepared the Annual Financial Statements for the year ended 30 June 2017.
- The statements have been reviewed by Prosperity Audit Services Pty Ltd and the NSW Audit Office and will be presented to the Audit Committee on 10 October 2017.
- The statements are now presented to Council for endorsement and the signing of the "Statement by Councillors and Management" (as attached).
- It is recommended that the 2016/17 Annual Financial Statements be endorsed and an opinion be formed in the prescribed format on the General Purpose Financial Reports and the audited financial reports, together with the Auditor's reports, to be presented to the public at the 20 November 2017 Council meeting.

REPORT

The Local Government Act 1993 requires Council to prepare financial reports for each year and refer them for audit as soon as practicable after the end of that year.

A Council's financial reports must include:

- a general purpose financial report
- any other matter prescribed by the regulations
- a statement in the approved form by the Council as to its opinion on the general purpose financial report.

The Annual Financial Statements are required to be prepared in accordance with the Local Government Act 1993, the Local Government Code of Accounting Practice and Financial Reporting, and the Australian Accounting Standards, including the Australian equivalents to International Financial Reporting Standards (AIFRS).

The legislative requirements under the Local Government Act 1993, relevant to the approval and audit process of annual financial statements are as follows:

Section 413(1) - A Council must prepare financial reports for each year, and must refer them for audit as soon as practicable.

Efficient and Effective Council
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

EC2 – Annual Financial Statements for the Year Ended 30 June 2017

Section 413(2) - A Council's financial reports must include:

- a) a general purpose financial report, and
- b) any other matter prescribed by the regulations, and
- c) a statement in the approved form by the Council as to its opinion on the general purpose financial report.

Section 415(1) - Council's auditor must audit financial reports as soon as practicable after receipt.

Section 416(1) - Council's financial reports must be completed and audited within 4 months after year end.

Section 417(1) - A Council's auditor must prepare 2 reports:

a report on the general purpose financial report, a report on the conduct of the audit.

Section 417(2) - The report on the Council's financial reports must include the following:

- a) a statement as to whether, in the opinion of the auditor, the Council's accounting records have been kept in accordance with the requirements of this Division,
- b) a statement as to whether, in the opinion of the auditor, the Council's financial reports:
 - i. have been prepared in accordance with the requirements of this Division, and
 - ii. are consistent with the Council's accounting records, and
 - iii. present fairly the Council's financial position and the results of its operations,
- c) a statement as to whether, in the opinion of the auditor, any information relevant to the conduct of the audit has been unobtainable by the auditor,
- d) a statement setting out particulars of any material deficiency in the accounting records or financial reports that has come to light in the course of the audit.

Section 417(3) - The report on the conduct of the audit may contain such statements, comments and recommendations as to the conduct of the audit of the Council's financial reports as the auditor considers appropriate to include in the report.

Section 417(4) - As soon as practicable after completing the audit, the auditor must send a copy of the auditor's reports to the Director-General and to the Council.

Efficient and Effective Council
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

EC2 – Annual Financial Statements for the Year Ended 30 June 2017

Section 417(5) - As soon as practicable after receiving the auditor's reports, the Council must send a copy of the auditor's report on the Council's financial reports, together with a copy of the Council's audited financial reports, to the Director-General and to the Australian Bureau of Statistics.

Council's Auditors have completed their audit of the financial reports and those financial reports are now formally presented.

Section 413 of the Local Government Act 1993 requires the Council to form an opinion as to whether Council's annual financial reports have been drawn up in accordance with the Local Government Act and associated Codes and Australian Accounting Standards as prescribed by the Regulations. Statements to this effect have been prepared and are presented to Council for signature. Subsequent to these opinions being signed, Council's Auditors will present their audit reports to Council.

Section 418 of the Local Government Act 1993 (as amended) requires that Council, as soon as practical after receiving a copy of the Auditor's reports, fix a date for a meeting at which it proposes to present its audited financial reports, together with the Auditor's reports to the public. The Council must also give public notice of the date so fixed.

It is proposed that the 20 November 2017 Council meeting be set as the date to present the audited financial statements to the public.

Section 420 of the Local Government Act 1993 provides that any person may make submissions to the Council with respect to the financial reports or the Auditor's reports and those submissions must be made in writing and lodged with the Council within seven (7) days of the public meeting.

CONSULTATION

The audited financial reports will be presented to the Audit Committee prior to submission to Council.

The Audit Manager and staff of Prosperity Audit Services and the NSW Audit Office have been consulted throughout the preparation of the annual financial reports.

FINANCIAL IMPLICATIONS

Council is now presented with a set of annual financial reports that have been prepared in accordance with the Local Government Act 1993, Australian Accounting Standards and other professional pronouncements and the Code of Accounting Practice and Financial Reporting. The annual financial reports show Council to be in a sound and stable financial position.

Efficient and Effective Council
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

EC2 – Annual Financial Statements for the Year Ended 30 June 2017

ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET

1. Draft 2016/17 Annual Financial Statements (to be tabled)
2. Statement by Councillors and Management on the General Purpose Financial Report

RECOMMENDATION

1. That Council form an opinion in the prescribed format (as attached) on the General Purpose Financial Reports for the year ended 30 June 2017.
2. That the audited financial reports, together with the Auditor's reports, be presented to the public at the 20 November 2017 Council meeting.

EC3 – Proposed Closure and Purchase of Parts of York Street, Thirlmere Way & George Street and Dedication of Land in York Street and Thirlmere Way, Tahmoor

EC3

Proposed Closure and Purchase of Parts of York Street, Thirlmere Way & George Street and Dedication of Land in York Street and Thirlmere Way, Tahmoor

239945

TRIM 5288

EXECUTIVE SUMMARY

- The purpose of this report is to endorse Council's Resolution No. 296/2010, 18 October 2010 to support in principle the proposed road closure, sale and purchase of parts of York Street, Thirlmere Way and George Street, Tahmoor to accommodate the extension to the existing Tahmoor Town Shopping Centre (copy of previous report and minutes attached).
- It is recommended that the Mayor and General Manager be authorised to execute all documentation in relation to this matter, including those requiring the Common Seal of Council.
- If the applicant is not successful in obtaining Development Consent, all costs incurred by Council up until that point will be the responsibility of the Developer. If Development Consent requires land to be dedicated to Council, then the dedication shall be considered necessary for the purposes of the development and therefore shall be dedicated at no cost to Council and there shall be no opportunity to seek compensation for such dedication under the terms of any agreement relating to the road closure.
- The existing road configuration in York Street shall be retained until the new alternate access arrangements are in place with all legal instruments in place and the alternate access road and traffic facilities constructed to Council's satisfaction and approval.
- The road closure is conditional on the following:
 - a) That 24 hour access being maintained along the closed section of York Street for passenger vehicles and pedestrians.
 - b) That the minimum clear height of access along the closed section of York Street is no less than 2.6m.
 - c) That a 24 hours security management plan be prepared and implemented, after endorsement by Council and NSW Police.
 - d) That conspicuous signage be provided at each end of the closed section of York Street advising that through access is available for passenger vehicles and pedestrians along York Street.

Efficient and Effective Council
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

EC3 – Proposed Closure and Purchase of Parts of York Street, Thirlmere Way & George Street and Dedication of Land in York Street and Thirlmere Way, Tahmoor

- It is further recommended that:
 - the future owner of the closed road reserve enters into a "Deed of Agreement". The agreed compensation will be \$600 per square metre. If the developer does not enter into the agreement within a reasonable timeframe, then Council reserves the right to revalue and renegotiate the agreement.
 - the road will be classified as "Operational Land" in accordance with the Local Government Act 1993 to enable the land to be transferred to the future owner.

REPORT

An application for the proposed road closure, sale and purchase of York and George Street, Thirlmere Way Tahmoor was reported to Council on 18 October 2010. Unforeseen circumstances by the applicant prevented finalisation of the agreement. The applicant has re-applied to continue with the application and it is considered prudent due to the time lapse that Council reconsider the application and endorse its Resolution No. 296/2010.

The recommendation and considerations of the report and minutes submitted to Council on 18 October, 2010 will remain valid, subject to the developer progressing with the application in a reasonable timeframe.

The area required for the development may change upon final creation of the allotment and will be subject to final survey.

To go forward with the proposal, the Developer is to enter into a Deed of Agreement to ensure the process is carried out according to Council's obligations under the Roads Act 1993 Part 4 Division 1. Council's solicitor will be engaged to complete the terms and conditions of the Deed of Agreement which is to be in Council's best interest.

To enter into the agreement the applicant is responsible to pay all associated costs and has provided an up-to-date undertaking to do so.

Upon endorsement of the recommendation, Council will proceed with notifications to the public and authorities in accordance with NSW Government Trade and Investment Guidelines.

- a) Advertise an intention to close the Council public road in a local paper circulating in the same area.
- b) Send notification of the proposal to all affected parties and authorities.
- c) Consider all submissions received.

Efficient and Effective Council
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

EC3 – Proposed Closure and Purchase of Parts of York Street, Thirlmere Way & George Street and Dedication of Land in York Street and Thirlmere Way, Tahmoor

- d) Once all submissions/objections have been resolved or Council forms the opinion that no further progress can be made, Council prepare a report with a summary and assessment of the submissions/objections with the recommendation and options (if required) to the Minister of NSW Government, Department of Primary Industries.

In 2010 Council carried out extensive community consultation via Community Forum, advertisement, Council's website, Bang the Table, signs in York Street and notification to business operations and owners within the Tahmoor Shopping precinct, as well as letterbox drops to residents along York Street to the north of Thirlmere Way.

Land Valuation

In 2010 three valuations were carried out to determine current value of land. The compensation in 2010 was determined at \$500.00 per square metre with \$1,185,000.00 being estimated compensation.

In 2017 an additional two valuations have been carried out.

Compensation is determined at \$600 per square metre (est.2370sqm x \$600 = \$1,422,000 estimated compensation).

The area of land to be the subject of compensation will be calculated as being the land area for the road closures less the land area for the land dedication. As the final land area will be determined by final road design the amount of compensation to Council will be calculated at \$600 per square metre.

If the applicant does not continue with the application within a reasonable timeframe, Council reserves the right to revalue the land and re-negotiate the terms of agreement.

CONSULTATION

Consultation has occurred with Council's Legal Advisor.

Twenty-eight (28) day community consultation is required to occur.

FINANCIAL IMPLICATIONS

This proposal has not been included in Council's projects or budget and accordingly, all costs will be required to be paid by the applicant.

Compensation received for the closure of the road will assist Council in funding other road related activities, in accordance with the requirements of the Roads Act.

Efficient and Effective Council
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

EC3 – Proposed Closure and Purchase of Parts of York Street, Thirlmere Way & George Street and Dedication of Land in York Street and Thirlmere Way, Tahmoor

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

ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET

1. Minutes 18 October 2010 Council's Ordinary Meeting - IN1 was IN4
2. Agenda 18 October 2010 Council's Ordinary Meeting - IN4

RECOMMENDATION

1. That in accordance with the Roads Act, 1993 Part 4 Division 1, and also due to the time lapse, Council proceed with further community consultation and authority notification for a twenty-eight (28) day time period.
2. That after the consultation period has ended, community comments be forwarded to the Minister and the Governor for approval to close the road reserves being Part York and George Street and Thirlmere Way, Tahmoor.
3. That Council, in assessing the application to formally close a portion of York Street, Tahmoor in accordance with the Roads Act, agrees "in principle" to formal closure, subject to the applicant ensuring access is available at all times along the closed section of York Street for passenger vehicles and pedestrians generally and subject to the following:
 - a) Council agree to the proposal "in principle" to initiate the process to close the roads being part of York and George Street, and Thirlmere Way, Tahmoor.
 - b) If a condition of consent to the Development Application requires the dedication of land to Council then that dedication shall be considered to be necessary for the purposes of the development and therefore shall be dedicated at no cost to Council and there shall be no opportunity to seek compensation for such dedication under the terms of any agreement relating to the road closure.
 - c) The existing road configuration in York Street shall be retained until the new alternate access arrangements are in place with all legal instruments in place and the alternate access road and traffic facilities constructed to Council's satisfaction and approval.

EC3 – Proposed Closure and Purchase of Parts of York Street, Thirlmere Way & George Street and Dedication of Land in York Street and Thirlmere Way, Tahmoor

- d) The road closure is conditional on the following:
- 24 hour access being maintained along the closed section of York Street for passenger vehicles and pedestrians
 - The minimum clear height of access along the closed section of York Street is no less than 2.6 metres
 - A 24 hour security management plan be prepared and implemented, after endorsement by Council and NSW Police
 - Conspicuous signage being provided at each end of the closed section of York Street advising that through access is available for passenger vehicles and pedestrians along York Street.
- e) The future owner of the closed road reserve, enter into a Deed of Agreement for the proposal to ensure the process is carried out according to Council's obligations under the Roads Act 1993. Council's solicitor will be engaged to complete the terms and conditions of the Deed of Agreement which is to be in Council's best interest.
- f) The agreed compensation for the land is valued at \$600 per square metre. The area of land to be compensation will be calculated as being the land area for the road closures only. The final areas will be determined if development consent is granted, at the time that engineering plans have been approved. If the applicant does not continue with the application within a reasonable timeframe, Council reserves the right to revalue the land and re-negotiate the terms of agreement.
- g) All costs including legal fees and Council's cost for the road closure must be met by the future owner.
- h) The future owner of the closed road be required to prepare a plan of subdivision to allow the affected road to become a new Lot within a new Deposited Plan. Survey and plan preparation will be at the full cost of the future owner. That the Deposited Plan be registered with the Department of Land and Property Information in accordance with the Deed of Agreement.
- i) The applicant complies with Council's Road Closure Policy (PLA0025). The Road Closure fees are paid by the future owner of the closed road prior to application being lodged with the NSW Government Department of Industry Lands.

Efficient and Effective Council
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

EC3 – Proposed Closure and Purchase of Parts of York Street, Thirlmere Way & George Street and Dedication of Land in York Street and Thirlmere Way, Tahmoor

- j) The Mayor and General Manager be authorised to execute all documentation in relation to this matter, including those requiring the Common Seal of Council.
 - k) When the roads are closed the land be classified as "Operational Land" in accordance with the Local Government Act 1993 to enable the land to be transferred to the future owner.
 - l) Proceeds from the sale of the closed roads are secured in the Roads Reserve fund to be used for future road improvements in Tahmoor.
 - m) In the event that the applicant is not successful in obtaining the necessary approvals (Development Consent), the application for the road closure and subsequent purchase and dedication of the land to Council will not proceed from that point onwards. The applicant will be responsible for all costs incurred by Council up until that point in time.
 - n) The proposed agreement will in no way infer or imply approval of any development application submitted to achieve any of these proposals. This agreement is to be made by Council in its role as a land owner and in no way fetters its discretion as a consent authority under the Environmental Planning and Assessment Act, 1979 in the assessment of any future development application relating to these road matters.
4. That Council's decision be reported to the Traffic Committee for information purposes.

Efficient and Effective Council
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

EC4 – Rail Symposium

EC4

Rail Symposium

271

TRIM 10093

EXECUTIVE SUMMARY

- The purpose of this report is to advise of a proposal for Council to hold a Rail Symposium on 9 November 2017.
- It is recommended that Council approve a budget allocation of \$10,000 for the purpose of conducting the Rail Symposium with funds to be provided from the Tourism & Economic Development Restricted Cash Account.

REPORT

The development of rail transport is a critical issue for our Shire and also for the Southwest District of Sydney. With the future development of a new town at Wilton, the potential and importance of rail transport is even greater.

The aim of the proposed Rail Symposium is to bring key stakeholders together to discuss and raise awareness about:

- The importance of rail as a key element of our future transport infrastructure framework (at the National, State, Regional and Local level).
- Key rail projects and ideas with a focus on Wollondilly and its neighbouring regions (eg. High Speed Rail, Maldon-Dombarton or "SWIRL", the North South Rail concept, a rail link to Wilton New Town).
- The status of these proposals.
- How best to advance and advocate for rail transport outcomes.

A number of speakers will present on various rail related topics on the day. Former Deputy Prime Minister, Tim Fischer, a passionate advocate for rail, is scheduled to be a keynote speaker. We are aiming to have representatives from Federal, State and Local Government, academic representatives, industry representatives and interested community members. Numbers will be restricted due to venue limitations so attendance is likely to be by invite and registration only with a limit on available seats.

The Rail Symposium is to be held from 3:00pm to 7:00pm Thursday 9 November 2017 at the NSW Rail Museum in Thirlmere.

Significant media interest in the event is anticipated.

Efficient and Effective Council
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

EC4 – Rail Symposium

FINANCIAL IMPLICATIONS

No funding has been allocated for the Rail Symposium in Council's current budgets.

It is anticipated that the costs of holding the Symposium could be up to \$10,000 (this would include venue hire, speakers' fees, catering, promotions etc.). It is proposed that this funding be sourced from the Tourism & Economic Development Restricted Cash Account.

ATTACHMENTS

Nil

RECOMMENDATION

That Council approve a budget allocation of \$10,000 for the purpose of conducting the Rail Symposium with funds to be provided from the Tourism & Economic Development Restricted Cash Account.

Council

Efficient and Effective Council
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

EC5 – Tourism Action Plan

EC5

Tourism Action Plan
267933

TRIM 1457-1

EXECUTIVE SUMMARY

- The purpose of this report is to present to Council a Tourism Action Plan. In developing this Action Plan, it has been identified that there is a need for a more comprehensive Destination Management Plan to facilitate broad internal and external consultation, in-depth statistical research, economic forecasting, project prioritisation, budgetary consideration and further KPI development.
- It is recommended that Council supports the strategic directions and actions of the Tourism Action Plan to be utilised as a foundation for the development of a comprehensive Destination Management Plan.

REPORT

TOURISM ACTION PLAN

As identified in the Community Strategic Plan 2033 and the Wollondilly Economic Development Strategy, Council is committed to the further development of its tourism industry.

The Tourism Action Plan has therefore been developed to complement and further guide Council's current tourism related activities. The plan provides analysis of the current status of the tourism industry in Wollondilly and is a guiding framework for undertaking a range of tourism initiatives to support industry development.

The plan lays the foundation for the strategic directions and actions to be pursued by Council. It provides baseline data and information for the development of a comprehensive Destination Management Plan (DMP) which would include a Marketing and Branding Plan. Development of the DMP will require broad internal and external consultation, in-depth statistical research, economic forecasting, project prioritisation, budgetary consideration and further KPI development.

VISION AND STRATEGIES

The Tourism Action Plan outlines a vision and four Strategic Directions aligned to Council's Community Strategic Plan 2033.

EC5 – Tourism Action Plan

These are:

- Strategy 1: Destination Management, Development, and Marketing of Wollondilly
- Strategy 2: Partnerships and Support
- Strategy 3: Events and Festivals
- Strategy 4: Nature Tourism and Agriculture.

Associated projects and KPI/Outcomes are outlined under each of these four Strategic Directions.

DESTINATION MANAGEMENT PLANS

A Destination Management Plan (DMP) is a business plan for building and managing the visitor economy of a destination. The purpose of a DMP is to provide clear frameworks to guide Government support at all levels and to facilitate industry investment growth to deliver experiences that match and exceed visitor expectations.

Both the State and Federal Governments have identified the need for a well-developed DMP that adheres to best practice guidelines as a key requirement for accessing grant funding.

The development of a DMP, inclusive of a Marketing & Branding Action Plan for Wollondilly will build upon the current Tourism Action Plan. There will be a strong emphasis on prioritising new product and infrastructure development through more in-depth consultation and research (audits and economic forecasting). As well as, tourism brand concept development, marketing channel reviews, and recommendations to strengthen overall competitive positioning within the tourism sector.

DESTINATION NETWORKS

Destination NSW has established six (6) new Destination Networks with the aim of enabling up to \$300 Million of regional funding to be accessed, improved governance, improved effectiveness and destination management planning throughout Regional NSW.

Wollondilly has been included in the Sydney Surrounds South Destination Network together with Wollongong, Wingecarribee, Shellharbour, Kiama and Shoalhaven LGA's. The network will be developing a regional DMP, which will benefit from the information, insights and key strategic directions of the Wollondilly Tourism Action Plan.

Efficient and Effective Council
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

EC5 – Tourism Action Plan

Wollondilly's development of a DMP is supported by the network who have offered advice and guidance, as it will assist in positioning Wollondilly to be eligible and prepared to participate in joint marketing initiatives and to access grant funding streams.

A Wollondilly DMP will also take into consideration our regional positioning and linkages with Macarthur and Greater Western Sydney, including the impact and alignment of the recently released Western Sydney Visitor Economy Strategy.

DESTINATION MANAGEMENT PLAN TIMEFRAME

It is expected the DMP will be ready for consideration and adoption during the 2017/18 financial year. Although the DMP is a priority, there is difficulty in providing definitive timelines until a scope of works, availability of consultants and access to stakeholders are clarified with respect to the upcoming holiday season. However, stages and indicative timelines include:

DMP Development Stages	Month (Indicative)
Preparation and development of a DMP brief	Oct 2017
Consultant selection process	Nov 2017
Project commencement	Nov/Dec 2017
Project conclusion	March 2018
Councillor workshop	April 2018
Public exhibition	May 2018
Council meeting	June 2018

CONSULTATION

The Tourism Action Plan has been developed by the Economic Development and Tourism team in consultation with the Tourism and Heritage Community Advisory Committee. Formal exhibition of the Action Plan is not considered necessary.

However, the preparation of the DMP will require extensive consultation with all tourism stakeholders and a draft DMP will need to be placed on public exhibition prior to adoption by Council.

Efficient and Effective Council
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

EC5 – Tourism Action Plan

FINANCIAL IMPLICATIONS

The development of the DMP inclusive of a Marketing and Branding plan is estimated to cost between \$30-50,000 dependent on the scope of the final brief. These costs will be primarily for the engagement of specialist consultants. Funding is available in the current Economic Development and Tourism 2017-2018 budget.

The Destination Management Plan, once finalised and adopted, will result in budgetary implications for Council as it will identify a range of projects to be pursued over time with appropriate prioritisation. These budgetary implications will need to be considered in the process of creating the draft DMP and when Council adopts the final DMP.

ATTACHMENT INCLUDED IN A SEPARATE BOOKLET

1. Tourism Action Plan: 2017-2021

RECOMMENDATION

That Council supports the strategic directions and actions of the Tourism Action Plan, to be utilised as a foundation for the development of a comprehensive Destination Management Plan.

Efficient and Effective Council
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

EC6 – Voting Delegates for the 2017 Local Government Conference

EC6

Voting Delegates for the 2017 Local Government Conference

234777

TRIM 3207-10

EXECUTIVE SUMMARY

- The purpose of this report is to determine our voting delegates for the Local Government NSW (LGNSW) Annual Conference 2017.
- This year, delegates will vote on conference motions and in the elections for the Association's Office Bearers and Board. Council can select different delegates for each type of voting.
- The names of our voting delegates must be sent to LGNSW by 1 November 2017. To meet this deadline the names must be determined at this meeting.
- LGNSW will notify us of the number of voting delegates we must nominate by Friday 13 October 2017. Typically we have 3 voting delegates however we are advised there is greater potential for our entitlement to change this year. Councillors will be advised of our entitlement once it is known.
- Council has 7 motions to be submitted to the Conference for discussion.
- It is recommended that:
 1. the voting delegates for the 2017 LGNSW Conference, for each type of voting, be the Mayor, Deputy Mayor and councillor delegates in line with our voting entitlement.
 2. in the event our entitlement is unknown at the time of the meeting a list of delegates be prepared in order of preference to include a fourth, potential reserve, voting delegate.

REPORT

CONFERENCE DATE AND LOCATION

This year's LGNSW Annual Conference will be held at the Hyatt Regency Sydney from Monday, 4 December to Wednesday 6 December 2017. The Conference is the annual policy-making event for NSW councils, associate members and the NSW Aboriginal Land Council.

Efficient and Effective Council
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

EC6 – Voting Delegates for the 2017 Local Government Conference

VOTING

Types of Voting

This year voting for the Association's Office Bearers and Board and voting on policy motions will occur. As ordinary members Council must nominate:

- a) the names of our voting delegates for voting on motions and,
- b) the names of our voting delegates for voting in the elections for the Association's Office Bearers and Board.

Council can decide to nominate the same or different delegates for each type of voting. It is proposed that these remain the same.

Voting Entitlement and Submission Deadlines

LGNSW have advised that we will be advised of our voting entitlement by 13 October 2017. We must then provide the names of our delegates to vote on conference motions, and the names of our delegates to vote in the Board election to LGNSW by 1 November 2017. Timeframes were compressed to allow councils that conducted elections in September to participate fully in the conference.

LGNSW has encouraged members, due to the short timeframe between being advised of our voting entitlement, and the deadline to provide LGNSW with the names of our voting delegates, to prepare notional lists of voting delegates as soon as possible.

Previously we have been entitled to 3 voting delegates however there is greater potential for this number to change this year due to uncertainty with membership levels due to council amalgamations. Councillors will be advised of our entitlement once it is known.

In the event our voting entitlement is unknown at the time of the meeting, it is proposed that a list of four delegates be prepared in order of preference. The fourth voting delegate to be included as a reserve should our entitlement increase. The names of our voting delegates to be taken from this list and submitted to LGNSW up to our entitlement once known.

Substitution of Names permitted

Conference rules allow us to substitute the names of the voting delegate's we submit to LGNSW after the deadline should we need to or wish to following the outcome of the East ward By-Election.

Efficient and Effective Council
Report to the Ordinary Meeting of Council held on Monday 16 October 2017

EC6 – Voting Delegates for the 2017 Local Government Conference

CONFERENCE MOTIONS

The closing date for submission of conference motions is 9 October 2017.

The categories for 2017 motions are:

1. Industrial relations and employment policy
2. Economic policy
3. Infrastructure and planning policy
4. Social policy
5. Environmental policy
6. Governance/Civic Leadership policy (e.g. legislative and regulatory setting, elections, participation, reform).

Council will submit 7 motions to this year's conference relating to the following topics:

1. Review of Tender and Procurement Requirements
2. Agricultural Enterprise Credit Scheme
3. National Competition and Tendering Procedures
4. Retention of existing Natural Vegetation Assets
5. Off the Plan Sales and Land Registrations
6. Appointment of a Minister for Young People
7. Administrators running for Local Government Elections.

CONSULTATION

Consultation with LGNSW was undertaken in relation to deadlines and voting rights.

FINANCIAL IMPLICATIONS

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

ATTACHMENTS

Nil

RECOMMENDATION

1. That the voting delegates for the 2017 LGNSW Conference, for each type of voting, be the Mayor, Deputy Mayor and Councillor delegates in line with our voting entitlement.
2. That in the event our entitlement is unknown at the time of the meeting a list of delegates be prepared in order of preference to include a fourth, potential reserve, voting delegate.

NOTICE OF MOTION

Notice of Motion to the Ordinary Meeting of Council held on Monday 16 October 2017

NOTICE OF MOTION

TRIM 6416-7

NOM1 Notice of Motion No. 1 submitted by Cr Deeth on 15 September 2017 regarding Flyers sent with the Council Rate Notices

MOTION

That Council incorporate a regular insert flyer in its Rates Notices in order to communicate key messages and report back to the community on how Council uses and proposes to use the rates/SRV income.

Notice of Motion to the Ordinary Meeting of Council held on Monday 16 October 2017

TRIM 6416-7

NOM2 Notice of Motion No. 2 submitted by Crs Deeth and Hannan on 22 September 2017 regarding Slow Down and Move Over Laws

MOTION

That Council endorse and call on the NSW State Government to introduce critical legislation in NSW that requires motorists to slow to at least 40km/h when they are approaching emergency vehicles that are stopped either on the road or at the roadside, attending an emergency with their warning lights activated and where possible, and safe to do so, motorists must move across to adjacent lanes to provide a safety buffer during this emergency situation.

This protection should also be afforded to recovery vehicles such as tow trucks and roadside assistance vehicles for broken down vehicles such as the NRMA, if these vehicles are fitted with warning lights.

Further that letters be sent to the following requesting an urgent response:

- Minister for Roads, the Honourable Melinda Pavey, MP
- Premier of NSW, Gladys Berejiklian
- Member for Wollondilly, Jai Rowell, MP
- The Hon Lou Amato MLC
- The RMS.

Notice of Motion to the Ordinary Meeting of Council held on Monday 16 October 2017

TRIM 6416-7

NOM3 Notice of Motion No. 3 submitted by Crs Banasik and Gould on 28 September 2017 regarding Council's Classification Type

MOTION

1. That Council write to the Premier and the Minister for Planning requesting that Wollondilly Shire be reclassified as a regional council instead of being classified as a Sydney Metropolitan Council. Further a copy be sent to the Opposition Leader and Local Member.
2. That in the above correspondence Council also reaffirm its full and active commitment and on-going participation in the city deal.

QUESTIONS FOR NEXT MEETING

Questions for Next Meeting to the Ordinary Meeting of Council held on Monday
16 October 2017

QUESTIONS FOR NEXT MEETING