

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 15 February 2016

PE3 – Wollondilly LEP 2011 Housekeeping Amendment to Original Holdings Maps

PE3

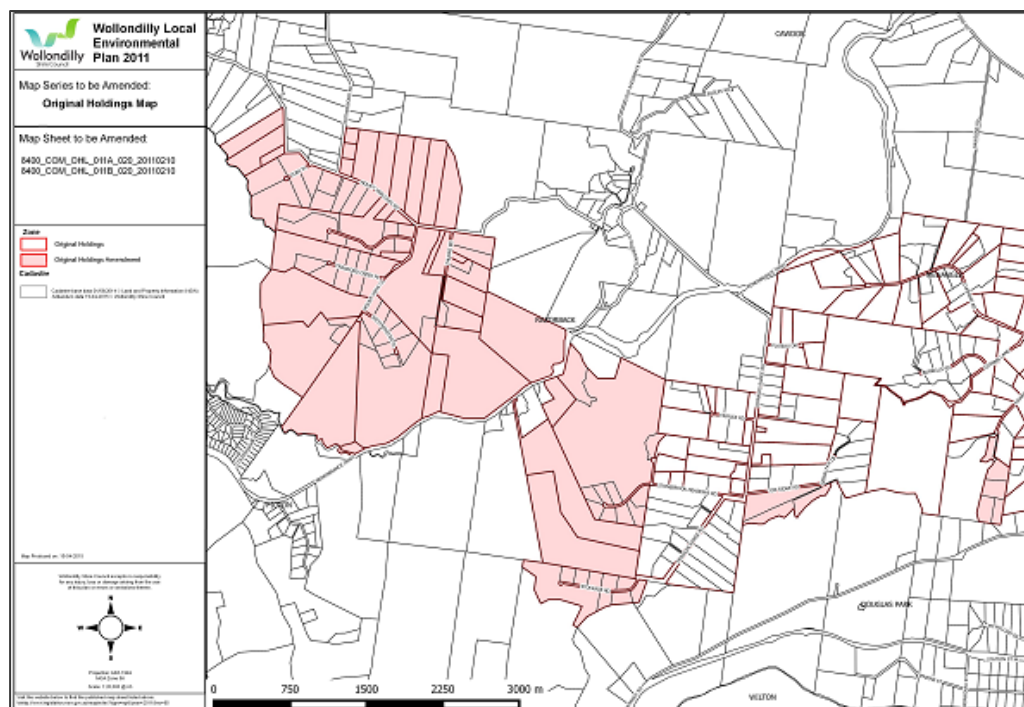
Wollondilly Local Environmental Plan 2011 Housekeeping Amendment to correct Original Holdings Maps applying to certain land at Razorback and Menangle

1010

TRIM 8277

Applicant: Council
Owner: Various

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Stage	Completed
Preliminary notification	Not required
Gateway Determination	7 October, 2015
Consultation with Public Agencies	None required
Specialist Studies	None required
Public exhibition/community consultation	18 November, 2015 to 16 December, 2015
Referred to Minister for Publication	N/A

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EXECUTIVE SUMMARY

- This Planning Proposal has been initiated by Wollondilly Shire Council. It seeks to amend the Original Holdings Map contained within Wollondilly Local Environmental Plan 2011 to correct errors in the existing published maps.
- The Planning Proposal is consistent with the Key Policy Directions and Assessment Criteria to Council's Growth Management Strategy.
- No submissions were received in response to Community Consultation.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extend to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended that:
 - Council support the Planning Proposal in the form described in this report.
 - The Planning Proposal be finalised and forwarded to the Minister for Planning and Environment for publishing.

REPORT

1.1 SITE DESCRIPTION

The area that is subject to the Planning Proposal comprises 115 lots which are located across portions of Razorback and Menangle. The land to which the Planning Proposal relates typically comprises large lots used for residential purposes. A small number of these lots are also used for pre-existing agricultural uses.

1.2 DESCRIPTION OF PROPOSAL

Wollondilly Local Environmental Plan 2011 (WLEP 2011) contains a clause which has the intention of controlling density within land zoned E4 Environmental Living across the Shire.

The density control only applies to land identified on the Original Holdings Map which form part of WLEP 2011. Several original holding lots in the suburbs of Menangle and Razorback are not currently identified on the WLEP 2011 Original Holdings Map through error.

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The intended outcomes of the Planning Proposal are:

- To correct the WLEP 2011 Original Holdings Map to include all original holdings within E4 zoned land across the Shire;
- To ensure that all subdivision of land within the E4 Environmental Living zone is subject to Clause 4.1B of WLEP 2011 and achieves the density provisions outlined in this clause;
- To ensure that errors on existing mapped land are corrected.

The Original Holdings Map that forms a part of WLEP 2011 consists of a series of map grids which together make up the entire Shire. Two map grids are proposed to be amended and one additional map grid is proposed to ensure that the corrections to the original holding maps are implemented correctly.

BACKGROUND – DENSITY PROVISIONS FOR E4 ZONED LAND

The density controls contained within clause 4.1B of WLEP 2011 originated from two key studies that were previously carried out. These studies and their relationship to the density controls in the E4 zone are explained below:

▪ **Wollondilly Agricultural Land Study**

In 1993, Council published the Wollondilly Agricultural Land Study (“agricultural land study”) in conjunction with the Wollondilly Local Environmental Plan 1991 (amendment No. 11). The study recognised that agriculture is an important land use within the Shire and included 5 recommendations to ensure that agricultural and rural lands continue to grow in a suitable manner. Of particular relevance was recommendation number 2 which stated the following:

2. *That Council carry out a review of its rural zones to prepare a draft Local Environmental Plan which will allow for agricultural production as well as rural residential subdivision. This is to be done utilising the methodology outlined for assessing the agricultural potential of the land.*

In response to the recommendation above, the Review of Rural Lands Report was prepared by Council.

▪ **Review of Rural Lands Report**

In September, 1996 the Council completed the Review of Rural Lands Report (“the rural lands report”). This report was the catalyst for the introduction of the 7(c) Environmental Protection Rural Living zone into the Shire. The report was also the foundation for the density control currently contained within clause 4.1B of WLEP 2011.

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The objectives identified in the rural lands report not only involve the protection of agricultural lands but also to maintain the rural landscape character of the Wollondilly Local Government Area by providing a balance between agriculture and other land uses. These objectives would be achieved by the introduction of three new rural zones:

- 1(a) Agriculture
- 1(b) Agricultural Landscape
- 7(c) Environmental Protection Rural Living

According to section 7.3 of the rural lands report, the 7(c) zone is to provide: rural living opportunities within a sensitive environment and that subdivision and dwelling houses must cater for the protection of that sensitive environment. The lot size and density standards to achieve these rural living opportunities were then determined as follows:

“The 2ha subdivision minimum lot size and 4ha density was arrived at after an assessment of the existing lot size range, landscape as well as topographical considerations. It was considered that by providing a density of 4ha, the integrity of the landscape would be preserved and that land degradation would not occur. The 2ha minimum was introduced to allow for a range of lot sizes to be created so that they conform to the landscape and land forms of the area and to provide for a variety in the lots created. It should be pointed out that the primary objective of the zone is to encourage the preservation of the landscape character by ensuring that development does not detract from that character. It is considered that any lesser density would not achieve that objective.

Section 8.3 of the Rural Lands Report states that there are four areas suitable for environmental protection (rural living) within the Wollondilly Local Government Area, being within the following localities:

- Werombi – Theresa Park – Orangeville
- Brownlow Hill
- Menangle
- Razorback and Pheasants Nest.

The Rural Lands Report was used as a basis for the introduction of the 7(c) zone within the areas identified above as they were seen to have a level of scientific, aesthetic, or environmental value and were suitable for residential living in a rural environment. The development standards discussed above in relation to lot size and density were applied to this zone.

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▪ **Wollondilly Local Environmental Plan 1991 and 2011**

Clause 13(b)(1) of WLEP 1991 provided the following development standard which controlled subdivision of land in the 7(c) Environmental Protection (Rural Living) Zone:

"The total number of lots into which the original holding will be divided after the subdivision will not exceed the number obtained by dividing by 4, the area (in hectares) of the original holding that is within Zone No. 7(c) only, the dividend being rounded down to the nearest whole number."

This effectively allowed the original holding to be subdivided to a density of no greater than one lot per 4 hectares.

This clause also contained a definition of original holding being "a lot in a current plan (within the meaning of section 327AA(1) of the Local Government Act, 1919) as at the date of publication in the Gazette of Wollondilly Local Environmental Plan 1991 (Amendment No. 11)". The date of publication of amendment No. 11 was 20 September, 1996. Therefore any allotment within 7(c) zoned land that was created before this date is considered to be an "original holding" for the purposes of this clause.

On 23 February, 2011, WLEP 1991 was superseded by WLEP 2011. The NSW Department of Planning's Standard Instrument (Local Environmental Plan) Order 2006 provided that the land use zone E4 Environmental Living would be used in WLEP 2011 as an equivalent to zone to the 7(c) (Environmental Protection (Rural Living)) Zone.

Clause 4.1B in WLEP 2011 provided density controls for the E4 zone in a similar manner to those provided by WLEP 1991. Clause 4.1B in WLEP 2011 provides the following:

"4.1B Subdivision of certain land in Zone E4 Environmental Living

- (1) *The objective of this clause is to ensure that certain land within Zone E4 Environmental Living is not subdivided to significantly increase the density of development on the land.*
- (2) *This clause applies to the land identified as "Original holdings" on the Original Holdings Map.*
- (3) *Despite clause 4.1, development consent must not be granted for the subdivision of land to which this clause applies if the total number of lots comprising the land will exceed 1 lot per 4 hectares as a result of the subdivision.*
- (4) *In this clause, Original Holdings Map means the Wollondilly Local Environmental Plan 2011 Original Holdings Map."*

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The density provision of one lot per 4 hectares was retained in WLEP 2011; however no definition of original holding was included in the clause as all original holding lots were to be identified on an original holding map that would form part of WLEP, 2011. The density control only applies to land which is mapped on the Original Holdings Map as outlined by sub-clause (2) above. When WLEP 2011 was gazetted by the NSW Department of Planning in 2011, some E4 zoned land across Razorback and Menangle was not included on the original holdings maps in error and these lands are therefore not subject to the density provisions in WLEP, 2011. This Planning Proposal seeks to correct this anomaly.

1.3 GATEWAY DETERMINATION

A Gateway Determination for the Planning Proposal was issued dated on 7 October, 2015. The Determination permitted the proposal to proceed. The conditions of the Gateway Determination are summarised in the following table with comments as to how these have been addressed in the Planning Proposal process.

Gateway Condition	Addressed by:
<p>Prior to exhibition, the Planning Proposal is to be amended to:</p> <p>a) Clearly identify (list and map) all additional lots that are proposed for inclusion on the original holdings map sheets; and</p> <p>b) Provide historical details (lot and DP number/s) for each land parcel subject to this Planning Proposal, that was previously an “Original Holding” under Clause 13B of former Wollondilly Local Environmental Plan 1991, cross referencing with the current details (lot and DP numbers for each of these parcels).</p>	<p>This condition was addressed in the information that was placed on public exhibition in the following manner:</p> <p>(a) the Lot and DP numbers were provided on the maps (which are attached to this report); and</p> <p>(b) a table was included in the Planning Proposal document with this information.</p>

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Gateway Condition	Addressed by:
<p>Community Consultation is required under sections 56(2)(c) and 57 of the Act as follows:</p> <p>The Planning Proposal must be made publicly available for a minimum of 28 days; and</p> <p>The relevant planning authority must comply with the notice requirements for public exhibition of Planning Proposals and the specifications for material that must be made publicly available along with the Planning Proposals as identified in section 5.5.2 of A Guide to Preparing LEP's (Planning and Infrastructure 2013).</p>	<p>The Planning Proposal was exhibited for 28 days from 18 November, 2015 until 16 December, 2015. This exhibition was carried out in accordance with the requirements contained in the <i>Environmental Planning and Assessment Act, 1979</i> and the Department of Planning & Environment's <i>Guide to Preparing Local Environmental Plans</i>.</p>
<p>A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).</p>	<p>Noted.</p>
<p>The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway Determination.</p>	<p>Noted and the Planning Proposal is currently on track to meet this deadline.</p>

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CONSULTATION

2.1 CONSULTATION WITH COUNCIL STAFF

Consultation with Council staff was not required as part of this Planning Proposal as it merely involved correction of a mapping error.

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2.2 CONSULTATION WITH PUBLIC AGENCIES

No consultation with public agencies was required as part of this Planning Proposal.

2.3 COMMUNITY CONSULTATION

The Gateway Determination specified a 28 day period of community consultation and public exhibition. The exhibition was carried out from 18 November, 2015 to 16 December, 2015.

During this time the Planning Proposal was made available for public viewing on Council's website, at Council's Administration Building and at the Wollondilly Library. A public notice was placed in the local newspaper and written notification was provided to the owners of land to whom the changes relate.

No submissions were received regarding the Planning Proposal.

2.4 PUBLIC HEARING

A public hearing was not required for the Planning Proposal.

2.5 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 DP&E.

Council's options are:

1. Resolve to support the Planning Proposal in the form as described in Section 1.2 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 there is no further action to be taken on the Planning Proposal other than to inform DP&E that the Planning Proposal has been terminated.

Option 1 is the recommendation of this report.

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2.6 A PLAN FOR GROWING SYDNEY

A Plan for Growing Sydney was introduced in December, 2014 and is intended to guide strategic land use planning decisions for Sydney over the next 20 years. The Planning Proposal would not be contrary to any of the key goals outlined in the Plan for Growing Sydney.

2.7 DRAFT SOUTH WEST SUBREGIONAL STRATEGY

The Planning Proposal would not compromise any of the actions or key policy directions contained in the Draft South West sub-regional strategy.

2.8 SECTION 117 MINISTERIAL DIRECTIONS

2.1 Environmental Protection

Ministerial Direction 2.1 is applicable as the planning proposal applies to land in an environmental protection land use zone. Clause (5) of the Direction states that a planning proposal “*must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land)*”.

The Planning Proposal seeks to ensure that the density provisions intended for certain land within the E4 Environmental Living land use zone apply to all Original Holdings as originally planned. This will be achieved by ensuring that Original Holdings are accurately mapped within the WLEP 2011. The purpose of the density provisions is to preserve the landscape character and prevent land degradation on sensitive land. Subsequently the planning proposal will not reduce any environmental protection standards.

2.9 STATE ENVIRONMENTAL PLANNING POLICIES

There are no relevant State Environmental Planning Policies to which this Planning Proposal applies.

2.10 WOLLONDILLY GROWTH MANAGEMENT STRATEGY

Key Policy Direction	Comment
General Policies	
P1 All land use proposals need to be consistent with the key Policy Directions and Assessment Criteria contained within the GMS in order to be supported by Council.	This proposal meets all the relevant Key Policy Directions and Assessment Criteria contained within the GMS.

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P2 All land use proposals need to be compatible with the concept and vision of “Rural Living” (defined in Chapter 2 of the GMS).	The proposal is consistent with the concept and vision of rural living identified in the GMS.
P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.	The proposal has been exhibited for twenty eight (28) days as required by the Gateway Determination and no submissions were received.
P4 The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.	The purpose of the Planning Proposal is to correct mapping errors contained in WLEP 2011 and financial circumstances have not been considered.
P5 Council is committed to the principle of appropriate growth for each of our towns and villages. Each of our settlements has differing characteristics and differing capacities to accommodate different levels and types of growth (due to locational attributes, infrastructure limitations, geophysical constraints, market forces etc.).	The density controls were originally applied to E4 zones due to the sensitive environment that this land typically comprises. The corrections intended by this Planning Proposal would ensure that the density of lots created in all E4 zoned land across the Shire can be suitably controlled.
Housing Policies	
P6 Council will plan for adequate housing to accommodate the Shire’s natural growth forecast.	The inclusion of E4 zoned land in Razorback and part of Menangle on the original holdings maps may reduce potential lots that could be excised from existing holdings, however, the areas identified for potential future growth in Council’s GMS would not be compromised.
P8 Council will support the delivery of a mix of housing types to assist housing diversity and affordability so that Wollondilly can better accommodate the housing needs of its different community members and household types.	The proposal is to correct mapping errors and would not impact the ability of land within the E4 zone to provide housing diversity and affordability.

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P9 Dwelling densities, where possible and environmentally acceptable, should be higher in proximity to centres and lower on the edges of towns (on the “rural fringe”).	The amendment of the original holdings maps would restore the dwelling densities originally intended for the E4 zones across all E4 zoned land in the Shire and would not restrict the ability of dwelling densities to remain higher closer to the townships.
P10 Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.	The Planning Proposal is not inconsistent with this direction.
Macarthur South Policies	
Key Policy Directions P11, P12, P13 and P14 are not applicable to this planning proposal. The subject land is not with the Macarthur South area.	N/A
Employment Policies	
P15 Council will plan for new employment lands and other employment generating initiatives in order to deliver positive local and regional employment outcomes.	N/A
P16 Council will plan for different types of employment lands to be in different locations in recognition of the need to create employment opportunities in different sectors of the economy in appropriate areas.	N/A
Integrating Growth and Infrastructure	
P17 Council will not support residential and employment lands growth unless increased infrastructure and servicing demands can be clearly demonstrated as being able to be delivered in a timely manner without imposing unsustainable burdens on Council or the Shire’s existing and future community.	N/A

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<p>P18 Council will encourage sustainable growth which supports our existing towns and villages, and makes the provision of services and infrastructure more efficient and viable – this means a greater emphasis on concentrating new housing in and around our existing population centres.</p>	<p>The Planning Proposal would not impact on the ability of growth to occur around surrounding towns and villages.</p>
<p>P19 Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.</p>	<p>The proposal is consistent with this direction as it would ensure that all E4 zoned land across the Shire complies with the density requirements of clause 4.1B of WLEP 2011 and enable growth to be focussed in or adjacent to town centres.</p>
<p>P20 The focus for population growth will be in two key growth centres, being the Picton/Thirlmere/Tahmoor Area (PTT) area and the Bargo Area. Appropriate smaller growth opportunities are identified for other towns.</p>	<p>The Planning Proposal is not inconsistent with this policy direction.</p>
<p>Rural and Resource Lands</p>	
<p>P21 Council acknowledges and seeks to protect the special economic, environmental and cultural values of the Shire’s lands which comprise waterways, drinking water catchments, biodiversity, mineral resources, agricultural lands, aboriginal heritage and European rural landscapes.</p>	<p>E4 zoned land is typically within a sensitive environment. The proposed corrections to include all E4 zoned land within the original holdings maps would ensure that an appropriate density of development is achieved in these areas and protect the environmental and cultural values of these lands.</p>
<p>P22 Council does not support incremental growth involving increased dwelling entitlements and/or rural lands fragmentation in dispersed rural areas. Council is however committed to maintaining where possible practicable,</p>	<p>The 7(c) zone (now E4) was introduced to prevent inappropriate fragmentation of rural land and allow rural living opportunities in a rural environment. The Planning Proposal is consistent with this policy direction as it would ensure that any subdivision</p>

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existing dwelling and subdivision entitlements in rural areas.

within E4 zoned land occurs across the Shire is subject to the relevant density provisions of Clause 4.1B of WLEP 2011. This would avoid inappropriate fragmentation or unreasonably increasing dwelling density in rural lands in across the Shire.

2.11 FINAL FORM OF PLANNING PROPOSAL

It is recommended that the Original Holdings Maps forming part of Wollondilly Local Environmental Plan 2011 be amended to include the land outlined in the maps that form attachment 1 of this report.

2.11.1 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP 2011)

Based on the consultation and engagement there are no changes to the Planning Proposal as it was exhibited.

2.11.2 WOLLONDILLY DEVELOPMENT CONTROL PLAN, 2016 (WDCP 2016)

No amendments are proposed to WDCP 2016.

2.12 FINAL FORM OF VOLUNTARY PLANNING AGREEMENT (VPA)

Not applicable.

FINANCIAL IMPLICATIONS

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

ATTACHMENTS

1. Proposed Amended Original Holdings Maps

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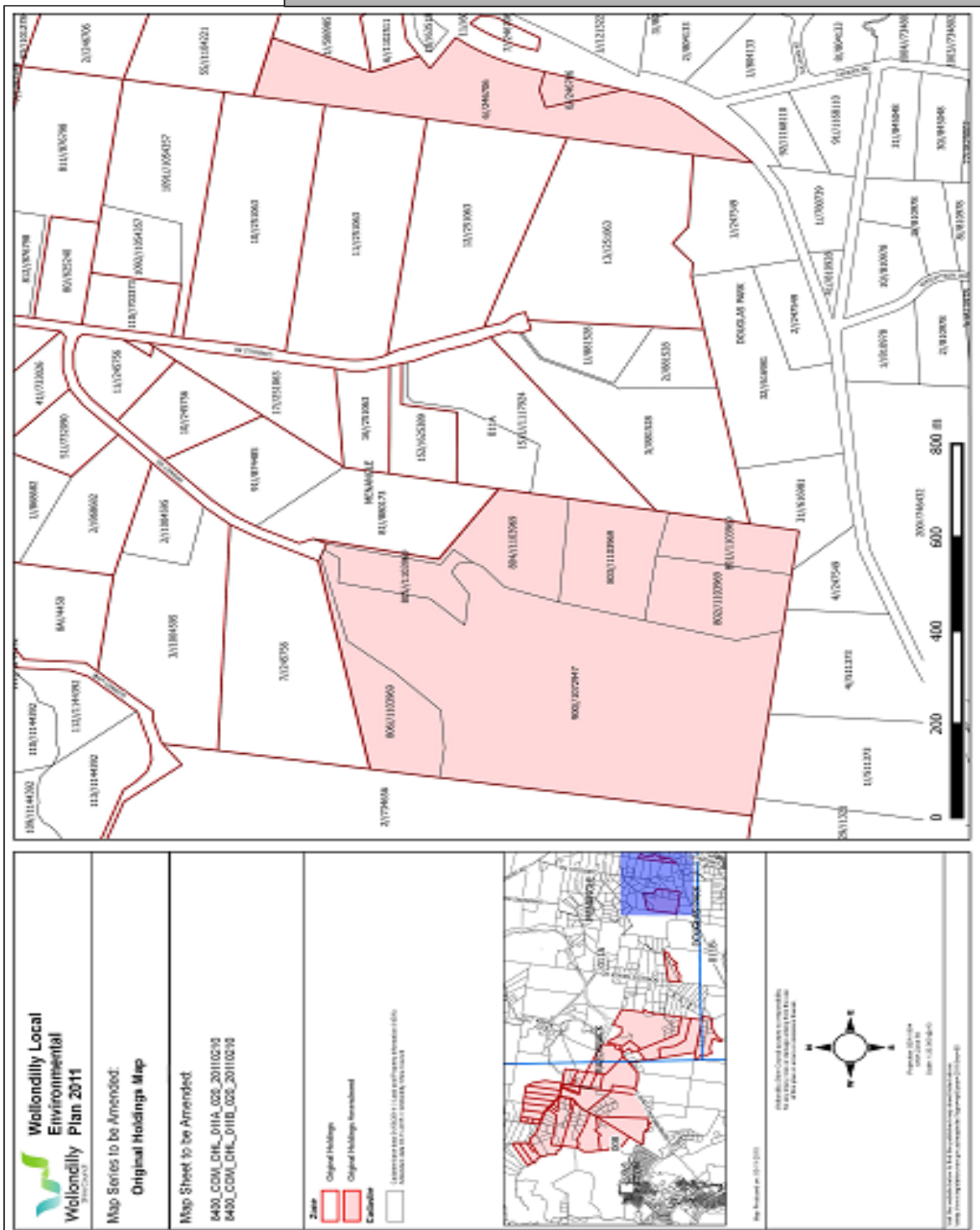
RECOMMENDATION

1. That Council support the Planning Proposal to include the land identified on the maps at Attachment 1 on the Wollondilly Local Environmental Plan 2011 Original Holdings Map.
2. That in accordance with Section 59 to the Environmental Planning and Assessment Act, 1979 the Planning Proposal be forwarded to the Director-General with a request to make arrangements for the drafting of the amended Local Environmental Plan and that the Minister make the Plan in the form as detailed in this report and in the Planning Proposal.

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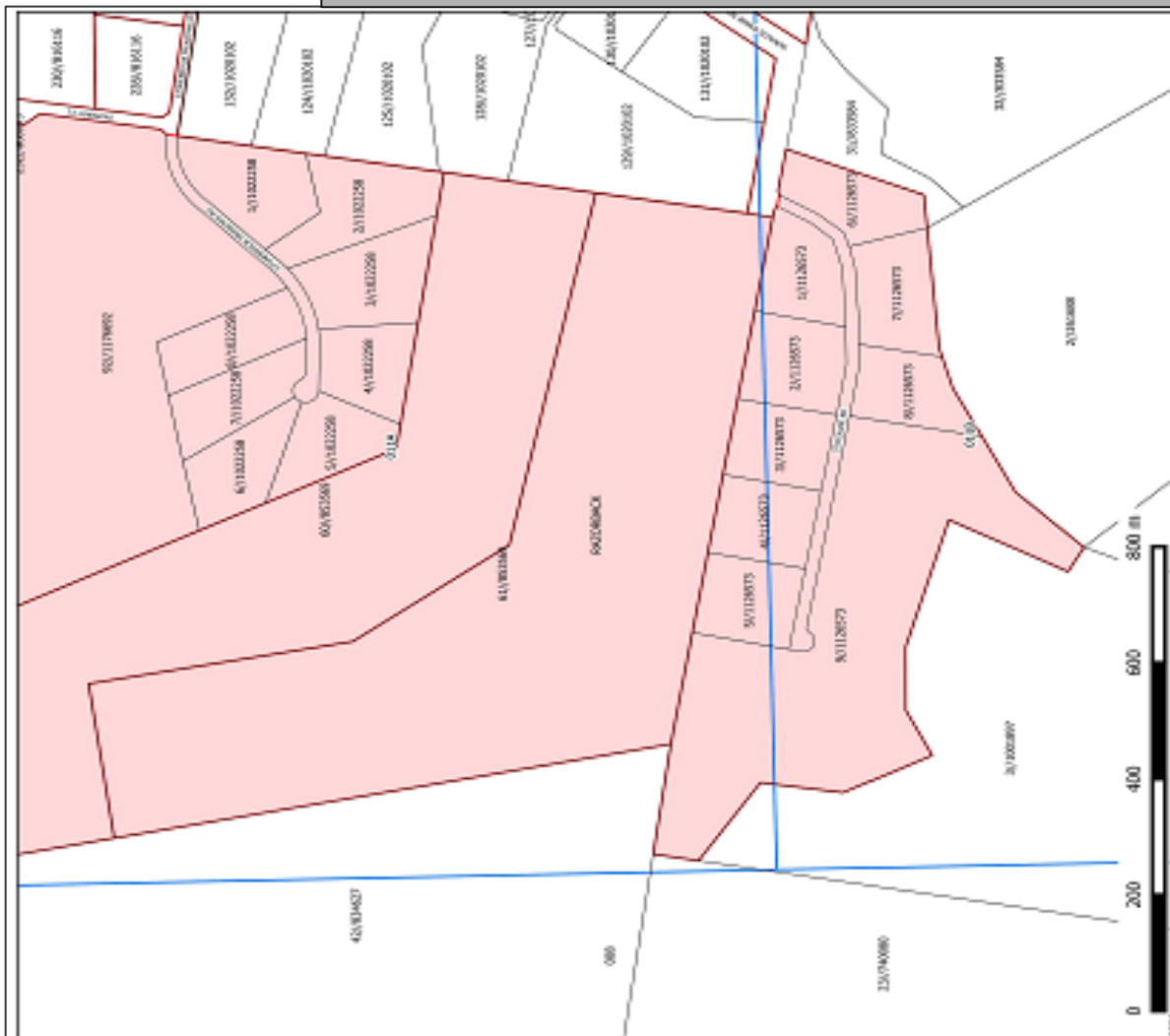


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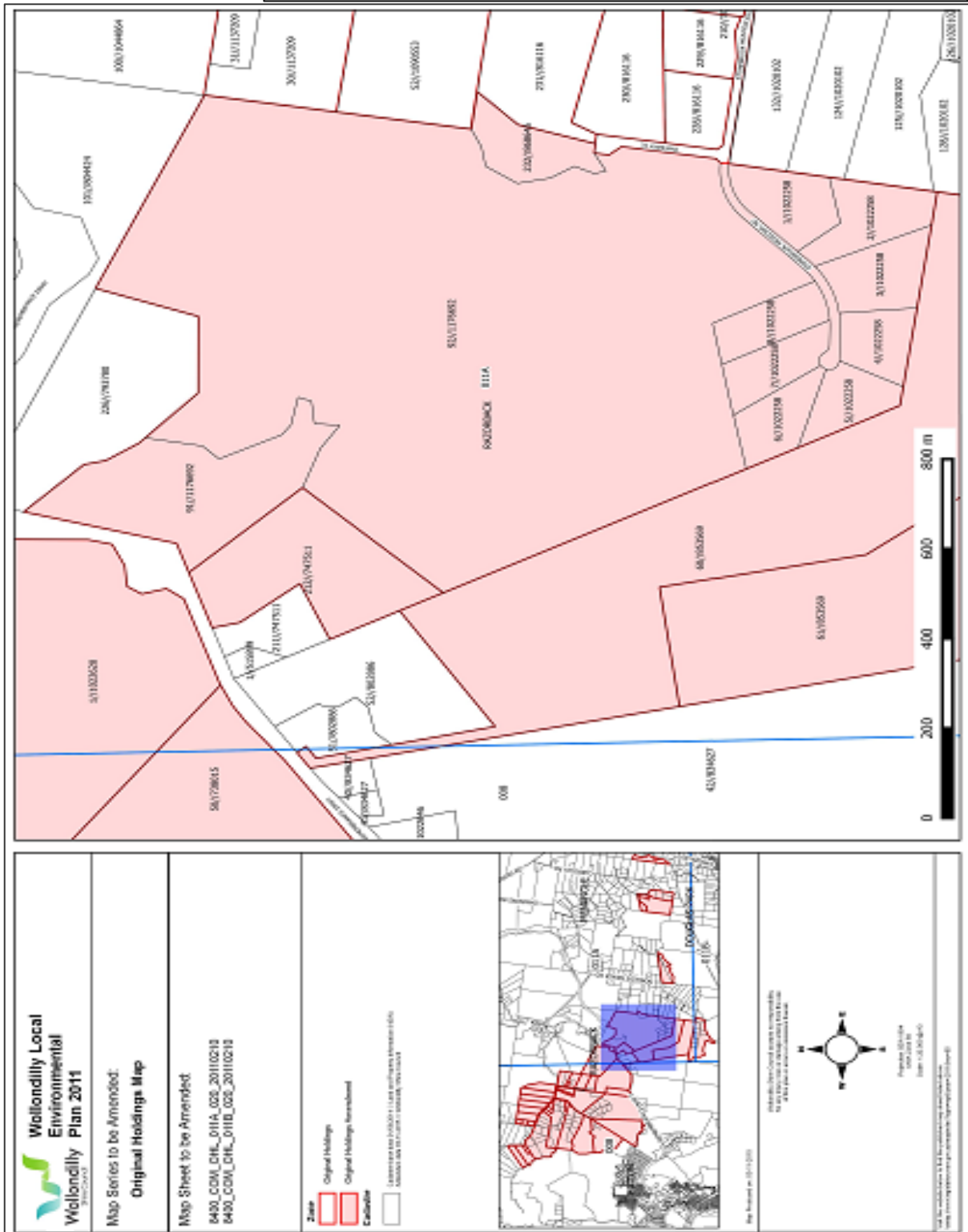
<p>Wollondilly Local Environmental Plan 2011</p>	<p>Map Series to be Amended: Original Holdings Map</p>	<p>Map Sheet to be Amended: 8490_C00L_CML_011A_002_20110215 8490_C00L_CML_011B_002_20110215</p>	<p>Zone</p> <p>Original Holdings (Red outline)</p> <p>Original Holdings, Amended (Red outline)</p> <p>Category</p> <p>Environmentally Sensitive Land with Special Provisions (ES1) (Blue outline)</p> <p>General Residential (R1) (Black outline)</p>		<p>Map Number: 8277-15</p> <p>Scale: 1:20,000</p> <p>North Arrow</p> <p>Prepared by: [Name]</p> <p>Date: 15/02/2016</p>
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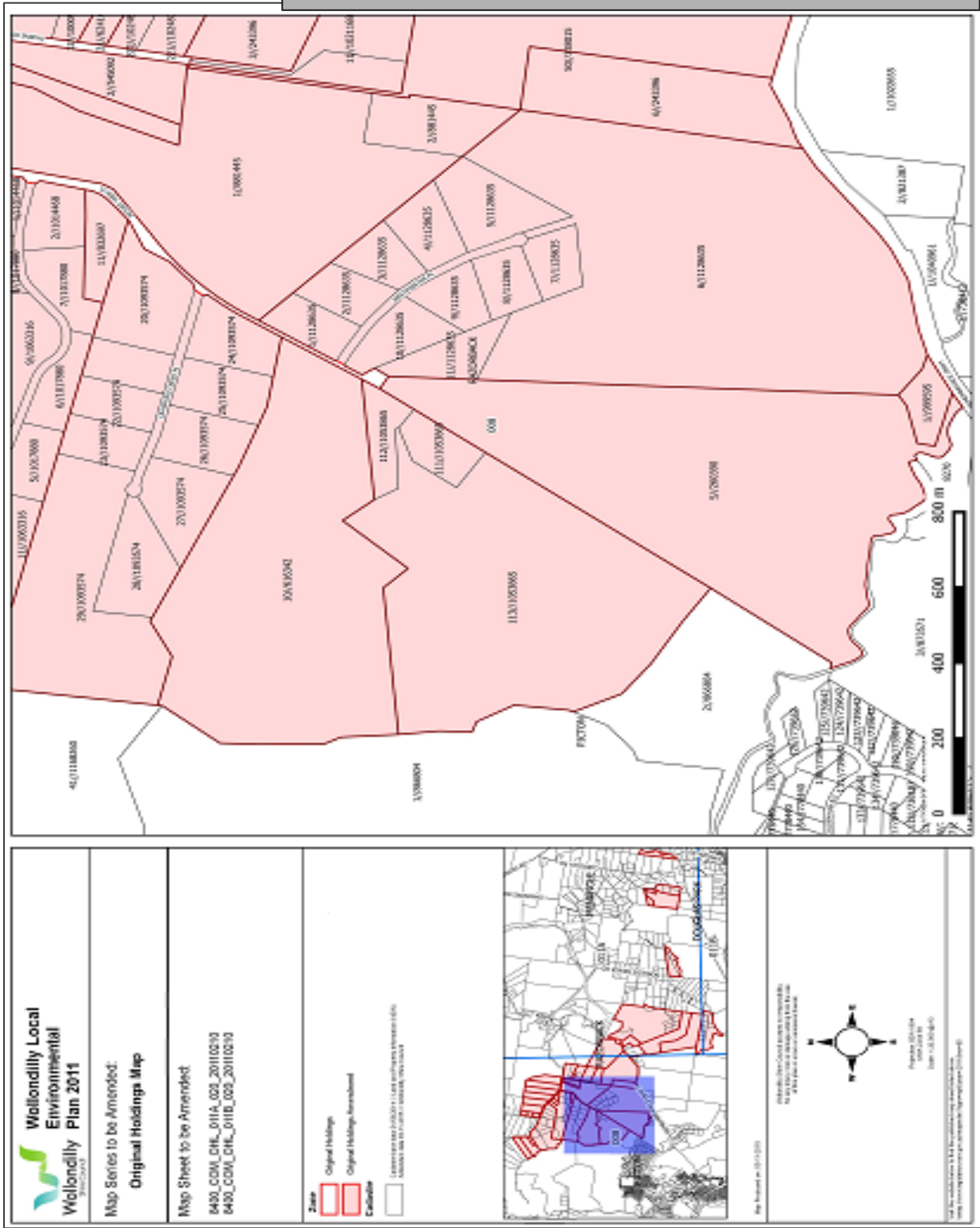


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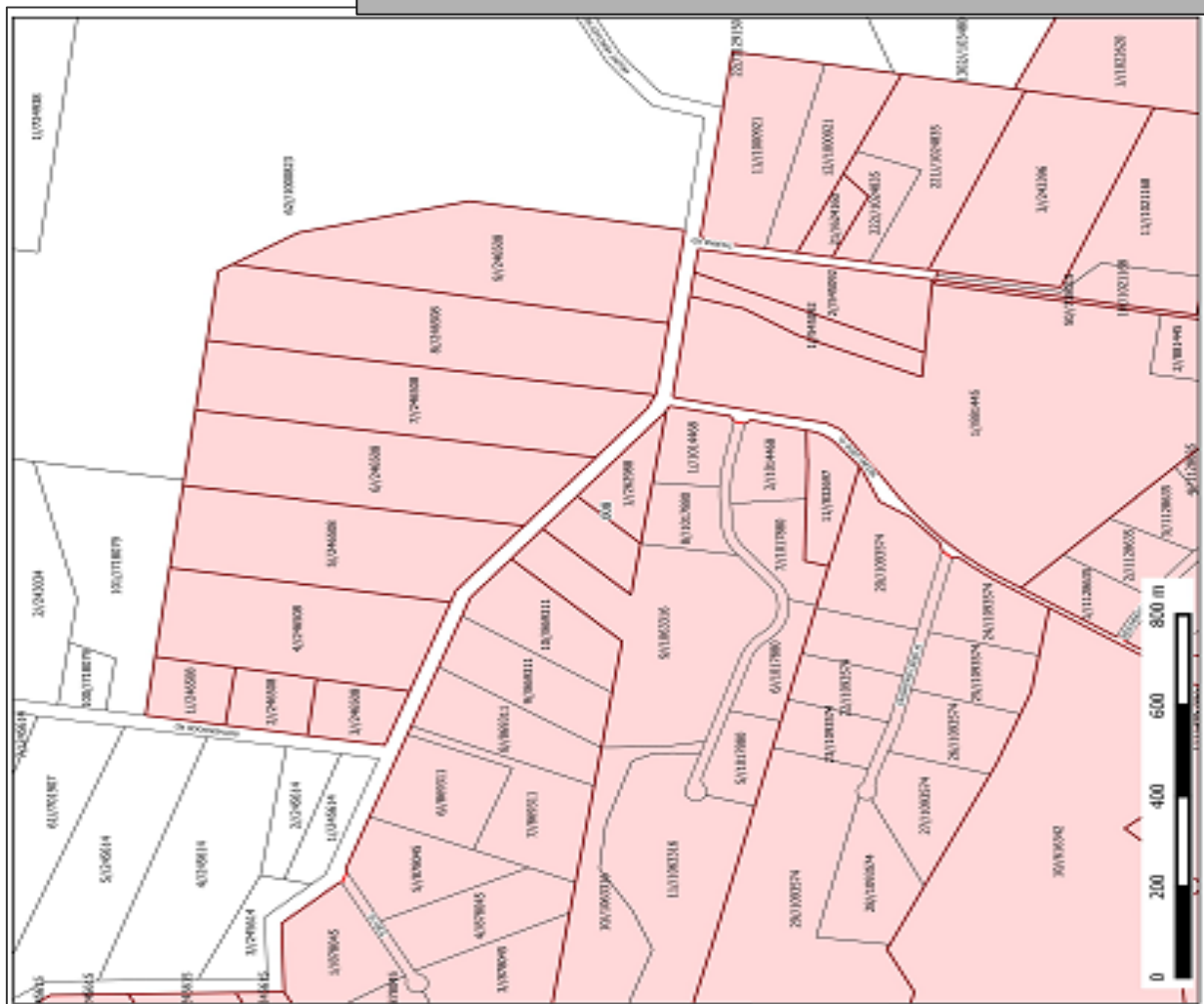


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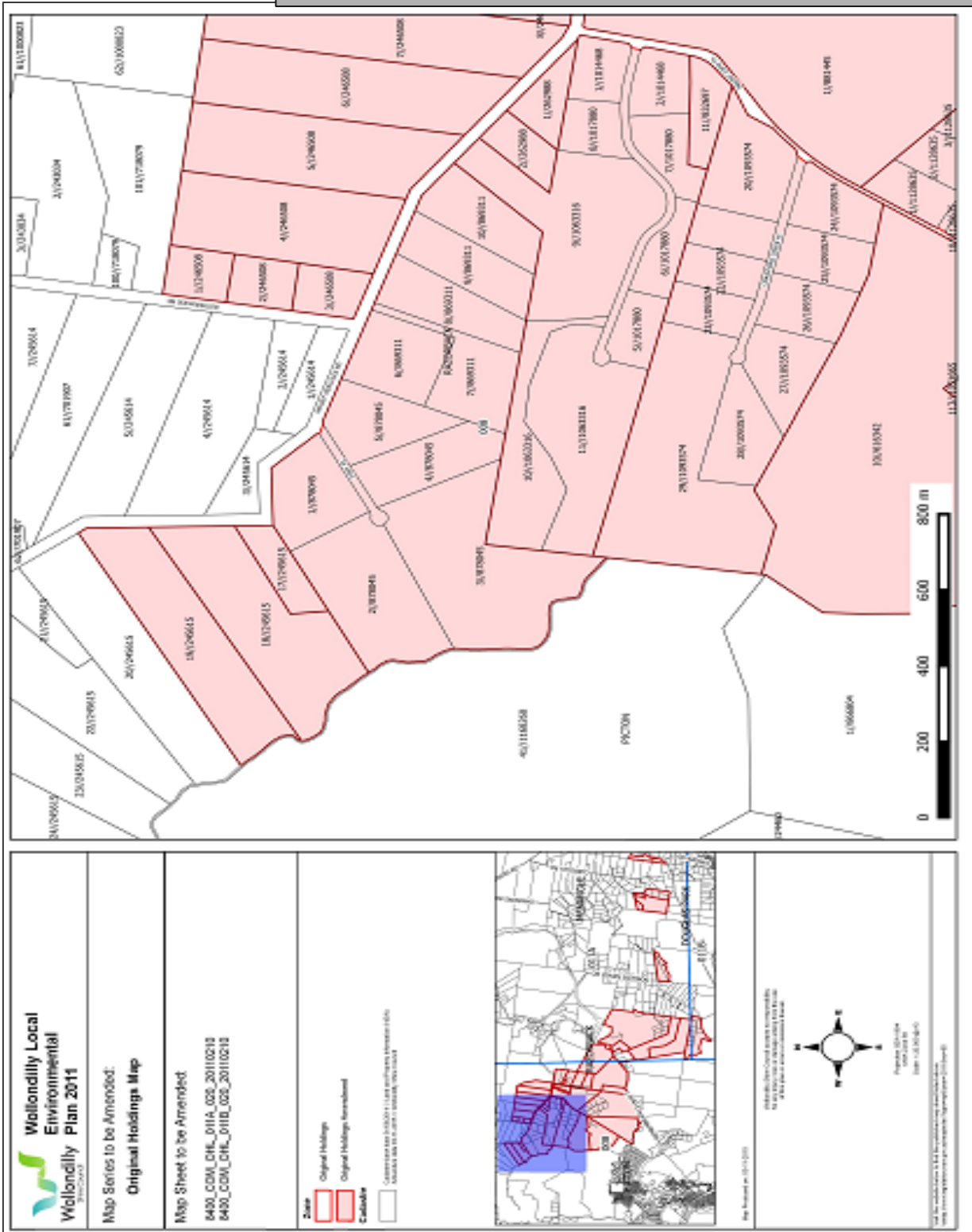
<p>Wollondilly Local Environmental Plan 2011</p>	<p>Map Series to be Amended: Original Holdings Map</p>	<p>Map Sheet to be Amended: 6430_CDM_CHL_011A_002_20110210 6430_CDM_CHL_011B_002_20110210</p>	<p>Zone</p> <ul style="list-style-type: none"> Original Holdings Original Holdings to be Amended Calibrated <p><small>1. Land parcels are shown in red and blue to indicate original holdings and holdings to be amended. Holdings shown in black are not shown on this map.</small></p>	<p>The inset map shows the Wollondilly Shire Council area with a red rectangle indicating the location of the main map area. The main map area is also highlighted in red on the inset map.</p>	<p>Map prepared on: 15/02/2016</p> <p>Wollondilly Shire Council is not responsible for the accuracy of the information on this map. It is for general information only.</p> <p>North</p> <p>Project ID: 15/02/16 Date: 15/02/2016</p> <p><small>Wollondilly Shire Council is not responsible for the accuracy of the information on this map. It is for general information only.</small></p>
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