

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

PE5 – Queen Victoria Memorial Home Planning Proposal

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Queen Victoria Memorial Home Planning Proposal

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TRIM 6399

Applicant: RSL Lifecare
Owner: RSL Lifecare Limited

Planning & Economy



LOCATION MAP N ↑

Stage	Completed
Preliminary notification	12 December 2011 - 31 January 2012
Gateway Determination/Revised Consultation with Public Agencies	26 March 2013/4 December 2013 13 September 2013 and 24 January 2014
Specialist Studies	12 June 2015
Public exhibition/community consultation	18 November 2015 - 18 December 2015
Referred to Minister for Publication	

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EXECUTIVE SUMMARY

- This Planning Proposal has been prepared by Wollondilly Shire Council. It seeks to amend the provisions of Wollondilly Local Environmental Plan, 2011 as they apply to Lot 1 DP 264150 (590 Thirlmere Way) and Lot 31 DP 1022462 (No 220 Bridge Street) and Lots 32 and 33 DP 1022462 (615 & 555 Thirlmere Way), Thirlmere to:
 - Add an additional land use 'seniors housing' as a permissible use with consent to the existing zone SP2 Health Facilities and change the title of the zone to SP2 Health Facilities and Seniors Housing.
 - Introduce minimum lot sizes for the site of 16 hectares for Lot 1 DP 264150 and 100 hectares for Lots 31, 32 and 33 DP 1022462.
 - Increase the maximum height of building to 15 metres for the amended curtilage of the existing heritage item I265 (Queen Victoria Hospital).
 - Change the heritage map to reduce the curtilage associated with existing heritage item I265 (Queen Victoria Hospital).
 - Add Harmony House as a new archaeological heritage item within Lot 31 DP 1022462.
 - Change the Natural Resources Biodiversity map to add land within the site.
 - Change the Natural Resources Water Map to extend the 10m buffer on a watercourse.
- The Planning Proposal also seeks amendments to the Wollondilly Development Control Plan, 2011 to introduce site specific controls for the future development of the site.
- The Planning Proposal is consistent with the Key Policy Directions and Assessment Criteria in the Growth Management Strategy.
- Three (3) submissions were received in response to Community Consultation. Of these submissions two objected and one was in support.
- 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 with amendments as described in this report.
 - the Planning Proposal be finalised and forwarded to the Minister for Planning and Environment for publishing.

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- Council amend the Wollondilly Development Control Plan 2016 with amendments effective from the date at which the amended LEP is published.
- The applicant and persons who made submissions be notified of Council's decision.

REPORT

1.1 SITE DESCRIPTION

The draft Planning Proposal applies to the land which houses the Queen Victoria Memorial Home which is operated by RSL Lifecare Limited a non-government organisation specialising in provision of health care and residential services for seniors. Nursing and rehabilitation services are currently provided on-site for the elderly. This home and the site was formerly owned and run by South West Sydney Area Health Service. The site comprises four land parcels with a total area of over 120 hectares. All parcels are zoned SP2 Health Services Facility.

The property details are provided below:

Address	Cadastre Details Lot/DP	Area of Land Hectares
590 Thirlmere Way	1/261450	24.38
220 Bridge Street	31/1022462	24.52
615 Thirlmere Way	32/1022462	36.39
555Thirlmere Way	33/1022462	35.00
Total		120.59

Lot 1 is the northern-most lot and is separated from the remainder of the site by Thirlmere Way and the Thirlmere Railway Museum tourist railway line. The lot is irregular in shape and bordered by Matthews Creek to the west and partially on the eastern side. Most of the site is covered in bushland.

Lot 31 is located on the eastern side of the site and has frontages to Thirlmere Way and Bridge Street. A small portion of the lot is located south of Bridge Street. The southern half of this lot and part of the north east corner is covered in bushland. The northern half is largely cleared with watercourses and is used for horse agistment. The lot contains the archaeological remains of Harmony House the original country retreat dwelling of Colonel John Hay Goodlet, a significant historic figure. Harmony House was built prior to the first private hospital on the site (which was constructed in 1877) and demolished in 1933. These archaeological remains have been assessed as having local level archaeological significance. The archaeological remains are not currently separately listed in the Wollondilly Local Environmental Plan 2011 (WLEP 2011).

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Lot 32 contains the “Queen Victoria Memorial Hospital” which is a heritage item of Local and State Significance. The lower areas of the site are cleared grassed paddocks. The elevated area south of the Hospital buildings has remnant native vegetation. Vehicular access to the site is via a sealed driveway from the roundabout in Thirlmere Way.

Lot 33 is mostly cleared and contains a watercourse and large farm dam in the north east corner.

1.2 DESCRIPTION OF PROPOSAL

This planning proposal aims to amend the Wollondilly Local Environmental Plan 2011 (WLEP 2011) to make housing for seniors permissible with consent within this site. Currently the site is zoned SP2 Infrastructure - Health Services Facility which is a 'special purpose' land use zone. The corresponding permitted use annotated on the Land Zoning Map for the site is - "Health Services Facility" which would not enable the site to be developed for "Seniors Housing."

The proposal is to permit 'seniors housing' as a permissible land use in the SP2 zone by amending the annotated permitted use on the Land Zoning Map to "Health Services Facility & Seniors Housing" and potentially allow for the development of a total of around 750 self-care dwellings.

An integrated development is proposed with the existing health care facilities and future services and facilities ancillary to the '*seniors housing*' land use. The landowner has indicated that the development of the site would be undertaken over a 20 year period or more.

The planning proposal also seeks to protect heritage, landscape character and environmentally sensitive land within the site by:

- Listing Harmony House as an archaeological heritage item
- Protecting the existing heritage listed Queen Victoria Hospital memorial home by introducing a maximum height limit to ensure future development is compatible with the heritage landscape and scenic values of the site and its setting
- Extending the length of the riparian buffer along a watercourse in the south eastern part of the site
- Protecting ecologically significant land.

The change to the minimum area for subdivision reflects future development intent, land use constraints and conservation requirements.

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1.3 GATEWAY DETERMINATION

A Gateway Determination was issued on the 26 March 2013 and was altered by a revised Gateway Determination on the 4 December 2013. 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:
1. Prior to undertaking public exhibition Council is to update the planning proposal, including amending the project timeline to reflect the 12 month timeframe allocated for completing the LEP.	Completed.
2. Council should ensure that all mapping is at an appropriate scale and clearly identifies the subject site. Council is to ensure that all proposed maps, including the Natural Resources- Water Map, are included.	Completed
3. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 - Remediation of Land. An initial site contamination investigation report is required and shall be part of the public exhibition material	Completed. The site is suitable for the proposed land use. Further investigation of potential contamination and remediation would be required prior to any future development.
4. Additional information regarding specialist studies is to be placed on public exhibition with the planning proposal. Once this information is provided and Council has consulted with public authorities consistency with S117 Directions 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport and 4.3 Flood Prone Land can be determined.	Completed. See section 2.9 for the consideration of consistency with Section 117 Directions.
5. Community consultation is required for 28 days in accordance with planning guidelines.	Completed
6. Consultation is required with relevant public authorities or organisations.	Completed

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7. A public hearing is not required to be held.	Noted
8. The timeframe for completing the LEP is to be 6 months from the week following the 4 December 2013 - date of Gateway Determination.	The timeframe has been extended until 23 March 2016 to enable the planning proposal to be finalised.

CONSULTATION

2.1 CONSULTATION WITH COUNCIL STAFF

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

Manager Infrastructure Planning

Areas of the site around three watercourses are subject to minor localised flooding. Further information was required in relation to flood levels and this was provided by the proponent. Any future development proposal for seniors housing and aged care will need to consider flood impacts and ensure that there are adequate measures for emergency evacuation.

Manager Environmental Services

The flora and fauna study needed revision to reflect the existence of Shale Sandstone Transition Forest (SSTF) and Cumberland Plain Woodland (CPW) which are Critically Endangered Ecological Communities (CEEC). The Environmental Services team supports the NSW Government Office of Environment and Heritage proposal to rezone areas containing environmentally significant native vegetation within the site to E2 Environmental Conservation.

The Environmental Services team consider that the proposed density of development in Lot 1 DP 261450 as outlined in the concept plan is very high and will have permanent disruption to the CEEC and habitat values of this area. A recommendation would be to refuse or reduce the dwelling potential of this location. The open fields around Queen Victoria Hospital would potentially have less adverse impact overall as there is more cleared areas, however several of the species found in the location do need open grasslands for foraging.

The Environmental Services team undertook an on-site survey to identify the land containing these communities and these areas are included on the Natural Resources Biodiversity map. A requirement for a Bushland Management Plan will be included in site specific provisions for any future development of the site to ensure that the mapped areas are managed to maintain their biodiversity value.

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Manager Development Assessment

There is a need to ensure that future development for seniors housing is undertaken on the flatter parts of the site and not on the more physically constrained and bushfire prone areas. It is agreed that Lot 1 DP 261450 on the western side of Thirlmere Way is unlikely to be suitable for seniors housing as it is entirely bushfire prone, is difficult to access and is relatively isolated from the communal facilities and services currently and proposed to be available on the remainder of the site.

Manager Community Outcomes

The planning proposal appears to have covered the significant issues relating to accommodating seniors as identified in Council's Ageing Strategy. The significance of possible isolation has been considered as people age and cannot rely on a car by proposals for integrating future seniors housing with the current and future on-site community facilities and services. Any future road network will need to cater for public buses.

2.2 CONSULTATION WITH PUBLIC AGENCIES

The Gateway Determination required consultation with the following Public Agencies:

- Greater Sydney Local Land Service (GSLLS) (formerly Hawkesbury-Nepean Catchment Management Authority)
- NSW Office of Environment and Heritage – Environment Division (OEH)
- NSW Department of Industry - Resources & Energy
- NSW Rural Fire Service (RFS)
- Transport for NSW - Roads & Maritime Services
- Mine Subsidence Board (MSB)
- Endeavour Energy
- Sydney Water
- Fire and Rescue NSW
- Disability Council of NSW
- NSW Department of Primary Industries (Agriculture) (DPI Agriculture)
- NSW Department of Primary Industries (Office of Water) (DPI Water)
- NSW Office of Environment and Heritage - Heritage Council of NSW.

Responses were not received from the following agencies:

- Fire and Rescue NSW
- Disability Council of NSW.

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A summary of the matters raised by each of the public agencies is provided at Attachment 8. However the following key points are noted:

- The GSLLS are concerned about the need to retain native vegetation of high conservation value and support the proposed retention of bushland throughout the site
- The OEH have recommended that an E2 zone is proposed for native vegetation of high conservation value lands to provide adequate protection
- The MSB have detailed construction requirements for any future development and the GSNSW are in agreement with this approach
- The RFS have indicated the importance of planning for adequate protection from bushfire hazard
- The DPI - Agriculture raised concerns about potential odour impacts and the need to retain a vegetated buffer.

Greater Sydney Local Land Service

The Flora & Fauna report recognises that there is native vegetation of high conservation value, although Australian Government mapping and the consultant's ground truthing differ as to the presence of SSTF (listed as an EEC) and CPW (listed as part of a CEEC). It is noted that it has been recommended in the Principles Plan in *The Vision, Character and Scenic Quality* study that these areas of bushland are to be retained in the Sensitive Areas on the site.

Development of a Vegetation Management Plan for the bushland and riparian areas within the site is supported to ensure protection, future management & funding into the future. The amendment to the Natural Resources Biodiversity & Water maps is supported.

The *Vision, Character and Scenic Quality* study does not represent a detailed design for any elements of the ultimate development project. It is expected that areas of high conservation value will be effectively buffered from the impacts of sewage & stormwater upon the bushland & riparian areas.

The proposed development should be designed to minimise impacts on native vegetation, in line with the Native Vegetation Act. Any clearing associated with this proposal should be mitigated by establishing appropriate offset areas (either through Biobanking or other suitable means).

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Comment

A Bushland Plan of Management will be required for any future development application to ensure that areas mapped as 'sensitive land' on the Natural Resources Biodiversity Map are conserved and maintained to protect their ecological value. Future seniors housing is not proposed to use the current on-site wastewater system and will be able to connect to reticulated sewerage services.

The *Vision, Character and Scenic Quality* study is conceptual only and any future application for seniors housing development will need to be assessed in detail. However the proposed concept for a caravan/lifestyle village for Lot 1 DP 261450 would potentially have a major impact on SSTF because of the need to clear vegetation for adequate asset protection zones, roads and infrastructure.

Office of Environment and Heritage - Environment Division (OEH)

Biodiversity

The OEH has reviewed this planning proposal a number of times and found that the assessment undertaken by the consultant is incorrect in terms of the vegetation identification. The OEH notes that Wollondilly Shire Council supports the OEH view that vegetation on the site is Cumberland Plain Woodland. Two CEECs namely SSTF and CPW (including derived native grasslands) are located on the site and Moist Shale Woodland is also located on site and is an Endangered Ecological Community (EEC). To summarise:

- The addition of seniors housing to the land use for this site and the proposed future development of 750 houses will result in a dramatic change to the current state of the site which is now rural pastureland and woodland and would permit a range of residential housing across the site with associated asset protection zones, roads and other infrastructure which will impact on areas of native vegetation and threatened species habitat.
- OEH supports the application of an environmental overlay for areas of high conservation value but this alone is not considered adequate to protect these areas.
- An E2 Environmental Conservation zone (E2) is recommended for all areas containing endangered and critically endangered vegetation.
- All bushfire asset protection areas should be outside high conservation lands and riparian corridors.
- Any management and restoration of Cumberland Plain Woodland should adopt the best practice standards contained in the *Cumberland Plain Recovery Plan (DECCW, 2010)* and related guidelines.

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Comment

It is agreed that the proposed additional seniors housing land use and the concepts outlined in the specialist studies would potentially change the nature of the site. In particular all of Lot 1 DP 261450 includes critically endangered Shale Sandstone Transition Forest and the whole of this lot is impacted by bushfire hazard. A significant amount of clearing for asset protection zones would be need for any future proposed development, in addition to roads and infrastructure. It is considered that Lot 1 DP 261450 would be unsuitable for seniors housing.

The remainder of the site on the eastern side of Thirlmere Way is largely cleared with environmentally sensitive vegetation located along watercourses. It is recognised that native derived grasslands would also be impacted by future proposed development but there is more opportunity on this part of the site for vegetated areas to be avoided and for a habitat corridor to be formed through the site.

Council's Environment section has identified significant areas of the site that are proposed to be mapped on the Natural Resources Biodiversity map including the whole of Lot 1 DP 261450 and a potential habitat corridor through Lots 31, 32 and 33 DP 1022462. It is considered that the provisions of clause 7.2 Biodiversity Protection in Wollondilly LEP and the proposed Bushland Management Plan for future management of the biodiversity mapped lands will adequately protect this land. The Wollondilly Development Control Plan 2016 contains further clarification as to the implementation of the WLEP clause and offsetting through biobanking or other measures would be required should clearing be undertaken and it is considered that an E2 Environmental Conservation Zone is not necessary.

Flood Risk Management

The assessment has indicated that the proposed development site is not affected by mainstream flooding. Parts of the site are impacted by local flooding and the assessment detailed the probable maximum flood level (PMF). It is suggested that a habitable floor level above the PMF be used for future development due to the vulnerability to flood risk of future proposed development for aged care. The issue of emergency evacuation for aged care development also needs to be considered for flood prone parts of the site.

Comment

The areas of the site impacted by local flooding are relatively minor and development of these areas can easily be avoided. Any future proposal for development would need to consider flooding and also measures to ensure that emergency evacuation can be undertaken.

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Aboriginal Cultural Heritage

OEH was critical of the Aboriginal Archaeological assessment in terms of the methodology, insufficient detail and lack of cultural values in the management considerations. There are a number of potential archaeological deposits (PAD) found within Lot 1 DP 261450 which would require protection and recording.

Comment

The archaeological consultant has provided a response to address the concerns of OEH. Areas of PAD were identified during a survey of the site and details of these and those found in previous surveys have been recorded in the Aboriginal Heritage Information Management Systems data base. To ensure archaeological heritage is protected adequately provisions are proposed to be included within site-specific controls in Wollondilly Development Control Plan 2016.

Department of Industry - Resources & Energy (GSNSW)

The GSNSW has advised that development within the area was subject to Mine Subsidence Board (MSB) surface development guideline and these have been provided by the MSB. GSNSW has no further resource issues to raise in regard to the proposal.

Comment

Noted

NSW Rural Fire Service (NSW RFS)

The NSW RFS has outlined a range of measures within the requirements of *Planning for Bushfire Protection 2006* that would need to be considered in the planning stages for any future Special Fire Protection Purpose (SFPP) development which includes health services facility and seniors housing. The RFS also recommend considering appropriate bush fire protection measures, particularly asset protection zones to achieve a better bush fire outcome for the existing development footprint based on the bush fire risk posed by existing and/or rehabilitated vegetation.

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Comment

The RFS has outlined their concern that the site is suitable at the planning stage for meeting any future measures required for Special Fire Protection Purposes which relates to both the proposed *seniors housing* land use and the current health services facility land use. As noted under PFBP occupants of SFPP developments may not be able to assist in property protection. They are more likely to be adversely affected by smoke or heat while being evacuated. It is considered that Special Fire Protection Purposes would be able to be addressed adequately for Lots 31, 32 and 33 DP 1022462 as most of these areas are relatively clear of vegetation although grasslands is considered a bushfire hazard but this should be able to be managed with future bushland management and landscaping of the site. The bushfire assessment found that Lot 1 DP 261450 has land within the highest bushfire risk.

Lots 31, 32 and 33 are able to provide opportunities for a number of potential routes to ensure that future residents are evacuated safely in times of emergency. As noted under PFBP SFPP developments are highly dependent on suitable emergency evacuation arrangements which require greater separation from bushfire threats. The only access to Lot 1 DP 261450 is across the Thirlmere tourist railway line which limits potential evacuation routes.

Transport for NSW - Roads and Maritime Services (NSW RMS)

No objection is raised to the planning proposal in principle.

Comment

Noted

Mine Subsidence Board (MSB)

The lots are located in the Picton Mine Subsidence District (MSD), except for a partial exclusion immediately around the site of the QV Memorial Home.

Development on areas within the Picton MSD requires approval from the MSB.

Current mining operations from Glencore Tahmoor Underground will impact on the site from early 2014 to late 2018. The MSB would not recommend additional surface development until after mining is completed or staging of surface development in consultation with MSB staff based on the approved mining plan.

Refer to MSB letter for detailed residential construction requirements (in accordance with MSB surface development guidelines) for areas where development would be considered.

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Comment

It is unlikely that any future proposed seniors living development would commence construction before 2018. Accordingly the additional land use should not be an issue in terms of mine subsidence. Should any development commence prior to this then the surface development guidelines shall be implemented.

Endeavour Energy

The proponent/developer has made a direct enquiry to Endeavour Energy for power supply, and their response indicated that augmentation of the existing network from the Tahmoor Zone Substation would be required to service the whole development and that this would likely need to be provided by any future developer.

Comment

It is noted that to service the whole development augmentation of the electricity network will be required by the developer of the site.

Sydney Water

Sydney Water has indicated that the site will be able to be connected to existing reticulated drinking water services. There is a wastewater main available for connection but there is no current capacity at the Picton Treatment Scheme. Connection to the wastewater main will be available at completion of additional facilities expected in May 2017.

Comment

It is noted that Sydney Water has the capacity to service the site for water at the present time and for wastewater in the near future.

Department of Primary Industries (Agriculture)

It is not recommended that Seniors Housing be located to the west of Thirlmere Way due to proximity to an agricultural production area containing poultry. In certain weather conditions this location may experience odour. The vegetation on the allotment (near Mathews Creek) also assists in providing a landscape buffer to the dwellings to the east.

Comment

It is noted that odour may be a potential issue in relation to Lot 1 DP 261450 which is the land to the west of Thirlmere Way. It is also unclear that seniors housing will be able to be located on this lot west of Thirlmere Way due to poor access across the tourist railway line, its isolation from the remainder of the site and bushfire hazard. All of the vegetation on this part of the site is considered to be of high conservation value and has been mapped on the Natural Resources Biodiversity map.

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Department of Primary Industries (Office of Water)

The Office of Water was consulted and queried the riparian widths indicated in the Riparian Management Plan for Rumker Creek which bounds the north eastern side of Lot 1 and across Thirlmere Way to Lots 32 and 31. The Office of Water recommended that the future development footprint and riparian/sensitive land be determined as part of the planning proposal rather than being deferred to the development application stage.

The Office of Water supports the recommendations for planting and rehabilitation of the Vegetated Riparian Zone (VRZ) outlined in the Riparian Zone Management Plan. They also indicated that any proposed encroachment of detention basins into the outer 50 percent of the VRZ needs to be consistent with the NSW Office of Water's *Guidelines for Controlled Activities on Waterfront Land (2012)*.

The Office of Water suggests zoning the watercourses/riparian corridors on the site which have biodiversity and conservation values as E2 to ensure these natural resources are protected from future development.

Comment

The current 30m riparian corridor mapped on the Natural Resources Water map will remain on Rumker Creek.

The unnamed watercourse located on Lot 31 in the south-east corner of the site will be protected by extending the 10m buffer to the north-west to the boundary with Lot 2.

It is considered that the Natural Resources Biodiversity and Natural Resources Water clauses in the Wollondilly LEP are sufficient to protect the watercourses. A riparian and habitat corridor is proposed through the site and a Bushland Management Plan aims to conserve and improve ecological qualities.

Office of Environment and Heritage (Heritage Council of NSW)

The Heritage Council of NSW was consulted and reviewed the planning proposal and heritage assessment. They advised that they had no objection subject to the appropriate excavation permits being sought from the Heritage Council prior to exposing any ruins at Harmony House.

Comment

The ruins of Harmony House are proposed to be included as a local archaeological heritage item. Clause 5.10 (7) *Archaeological Sites* in Wollondilly Local Environmental Plan requires Council to notify the Heritage Council if an application is received for the carrying out of development on an archaeological site.

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2.3 COMMUNITY CONSULTATION

The Gateway Determination specified a 28 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 and Wollondilly Visitor Information Centre. A public notice was placed in the local newspaper. Letters were sent to adjoining and nearby landowners and those who made previous submissions.

One letter representing a committee, expressed support for the proposal to allow self-care accommodation on the site. The issues raised in the two submissions received objecting to the proposal that are relevant to the assessment of the Planning Proposal are summarised in the following table along with assessment comments. One of these objections related to only part of the site.

Issue Raised	Assessment Comment
What is the definition of seniors living and how many dwellings/population are likely in total.	'Seniors housing' is a land use defined in Wollondilly LEP 2011 and in summary includes a residential care facility or a hostel of a group of self-contained dwellings or a combination of these. The site has potential capacity for a total of 750 dwellings in various forms and a future development application would require assessment of the site under the provisions of the Seniors Housing SEPP, other relevant legislation and with regard to the site constraints. The proponent, RSL Lifecare has indicated that the whole project would be undertaken over a long period – 20 years or more.
Concern about the type of housing proposed in the Caravan park/lifestyle village on the land to the west of Thirlmere Way and its impact in this location.	The concept plan for the future development is an indication only of possible development and has not been assessed in detail as part of this planning proposal. The proposed area, for the 'Caravan Park/Lifestyle Village' on Lot 1 DP 261450 has many constraints including bushfire hazard, biodiversity conservation, riparian buffer, potential odour issues, limited access and isolation from the remainder of the site. For these reasons it is considered that it would be unsuitable for the proposed use for seniors housing.

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<p>Potential loss of rural landscape and dense bushland due to rezoning of Lot 1 DP 264150. Consider this land that provides critical habitat corridors and vegetation buffers should be conserved, mapped and maintained to retain and enhance the biodiversity of the Cumberland Plain Woodland. Is sympathetic to the rezoning of the remainder of the site.</p>	<p>The whole of Lot 1 DP 261450 has been mapped on the Natural Resources Biodiversity mapping layer due to the ecological significance of the native vegetation and the aim would be for the biodiversity to be maintained in accordance with the provisions in Clause 7.2 Biodiversity Protection in Wollondilly LEP 2011. In addition there is currently a 30m riparian buffer mapped on the Natural Resources Water mapping layer. Any future proposal to clear all or part of the site would need development consent and require offsetting with like vegetation through biobanking or similar measures.</p>
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In summary, the matters raised in submissions will be addressed by varying the planning proposal as outlined in Section 2.4 and by proposed amendments to Wollondilly Development Control Plan 2016.

2.4 PLANNING PROPOSAL

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

Council’s options are:

1. Resolve to support the Planning Proposal in the form as described in Section 2.12 to this report.
2. Resolve to support the Planning Proposal in another form. With this option a new Gateway Determination, amended specialist studies and a new public exhibition period may be required.
3. Resolve not to support the Planning Proposal. With this option there is no further action to be taken on the Planning Proposal other than to inform the applicant, submitters and the DP&I that the Planning Proposal has been terminated. The applicant could choose to submit a new Planning Proposal. There are no appeal rights through the Land and Environment Court against Council’ refusal to support the Planning Proposal at this stage of the process.

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Option 2 is the recommendation of this report.

It is recommended that the annotated permitted use for the site on the Land Zoning Map be amended to "Health Services Facility & Seniors Housing" for most of the site (i.e. Lots 31, 32 and 33 DP 1022462) but not for Lot 1 DP 261450 which would retain the existing "Health Services Facility" annotation.

The reasons for excluding Lot 1 DP 261450 are outlined in this report which are:

- Lot 1 is wholly bushfire prone and carries the highest level of bushfire risk making it unsuitable for senior housing which is a Special Fire Protection Purpose as defined under the *NSW Rural Fire Service, Planning for Bushfire Protection 2006*.
- Lot 1 contains Shale Sandstone Transition Forest (SSTF) of high conservation status. SSTF is a critically endangered ecological community listed under the *NSW Threatened Species Conservation Act 1995 and requires protection*.
- Lot 1 is significant in terms of the cultural heritage for aboriginals as there are a number of potential aboriginal archaeological deposits (PAD) located there and development for seniors housing may impact on these items or on other deposits not yet discovered.
- The only access to Lot 1 is across the Thirlmere tourist railway line which may prove unsafe for future potentially vulnerable residents in terms of access and egress and emergency evacuation.
- Lot 1 is located on the western side of Thirlmere Way and is relatively isolated from the remainder of the site and the current and proposed on-site community facilities and services for the aged.
- Odour has been identified as having a potential impact on future residents of Lot 1.
- It is unlikely that any future proposed seniors housing for Lot 1 would be able to satisfactorily address the requirements of *State Environmental Planning Policy Housing for Seniors or People with a Disability*.

2.5 A PLAN FOR GROWING SYDNEY

This planning proposal supports the directions outlined in the plan for achieving housing diversity, promoting heritage and protecting our natural environment and biodiversity.

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2.6 SOUTH WESTERN SYDNEY REGIONAL ACTION PLAN (2012)

This plan outlines actions broadly across the region aimed at protecting the environment and providing housing options. It is considered that the planning proposal is in keeping with this plan.

2.7 DRAFT SOUTH WEST SUBREGIONAL STRATEGY TO 2031

New sub regional action delivery plans are proposed

2.8 SECTION 117 MINISTERIAL DIRECTIONS

The Gateway Determination requires consistency with the following ministerial directions:

2.1 Environment Protection Zones

The planning proposal includes provisions that will facilitate the protection and conservation of environmentally sensitive areas by including this land on the Natural Resources Biodiversity Map. The additional seniors housing land use is considered unsuitable for Lot 1 DP 261450 which contains land of high conservation value. It is considered that the planning proposal is consistent with Direction 2.1.

2.3 Heritage Conservation

The planning proposal will facilitate the conservation of existing and proposed heritage items. It is proposed to maintain the existing European heritage item and list an additional European archaeological item in Schedule 5 - Archaeological Sites of Wollondilly LEP 2011. The aboriginal archaeological items are located within riparian land and further archaeological investigation and existing regulations will ensure that they are protected from future development on the land on which they are located. It is considered that the planning proposal is consistent with Direction 2.3.

3.1 Residential Zones

This direction applies because the proposal has the potential to affect the current Zone SP2 Health Services Facility and has the potential for permitting significant residential development.

The planning proposal has the potential to provide some housing choice and meet potential future needs for housing that caters for seniors and people with a disability.

The site has adequate current and future access to infrastructure required to service the development of the land. It is considered that the planning proposal is consistent with Direction 3.1.

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3.4 Integrated Land Use and Transport

The site is currently serviced by public transport and on-site transport is provided for those currently accommodated in the existing facilities. It is considered that the planning proposal is consistent with Direction 3.4.

4.3 Flood Prone Land

An assessment of potential for flooding impacts has been undertaken and found that small areas of the site are flood prone. Future proposed residential development can be avoided on this land and flooding managed to mitigate the impact of such development. The site will be able to be developed without increasing the amount of flood prone land near the site.

It is considered that the planning proposal is consistent with Direction 4.3.

2.9 STATE ENVIRONMENTAL PLANNING POLICIES

Housing for Seniors or People with a Disability (Seniors SEPP)

Although a site compatibility certificate will not be required should seniors housing become permissible, development applications for any future proposal for seniors housing will need to address the requirements of this policy. The Seniors SEPP requires that a development application for seniors housing address certain parts of Clause 25 *Application for site compatibility certificate* related to impact on the natural environment, availability of services and facilities and the built impact on the land. It is considered that while the majority of the site namely Lots 31, 32 and 33 DP 1022462 would satisfy these requirements, Lot 1 DP 261450 is unlikely to be compatible as the whole site is bushfire prone, it is relatively isolated from the facilities and services available on the eastern part of the site and any future development would have a major impact on the biodiversity of the site as clearing of the critically endangered Shale Sandstone Transition forest would be required.

Clause 26 - *Location and access to facilities* of the Seniors SEPP would also need to be satisfied. The current landowner and service organisation RSL Lifecare Limited has indicated that bus shuttle services currently operate from the site. The memorial home is also included as a stop on the local bus line timetable Picton Bus lines, for services to and from Picton, Tahmoor and Thirlmere. Some community facilities and medical practitioner's rooms are proposed to be provided as part of any future development for seniors living.

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The only access to Lot 1 DP 261450 is across the Thirlmere tourist railway line and although there are limited services on this line, access could be restricted at certain times. This would be a major issue should there be a fire or emergency related to any future seniors housing development on this site. In addition, as stated previously, as Lot 1 is on the western side of Thirlmere Way it is relatively isolated from the services and facilities available on the eastern portion of the site. The provision of transport services augmented by on-site community services for all new future residents should enable the requirements of Clause 26 of the Seniors SEPP to be met for the eastern portion of the site namely Lots 31, 32 and 33 DP 1022462.

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

2.10 AMENDMENT TO THE STATE ENVIRONMENTAL PLANNING POLICY (MINING, PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES) (COAL SEAM GAS EXCLUSION ZONES) 2013

The site is located within the 2km buffer area around a residential zone and therefore falls within the coal seam gas exclusion zone.

2.11 WOLLONDILLY GROWTH MANAGEMENT STRATEGY 2011

Key Policy Direction	Comment
General Policies	
P1 All land use proposals need to be consistent with the key Policy Directions and Assessment Criteria contained within the GMS in order to be supported by Council.	The proposal, as noted throughout this table, satisfies this Key Policy Direction.
P2 All land use proposals need to be compatible with the concept and vision of "Rural Living" (defined in Chapter 2 of the GMS)	This proposal is generally consistent with the concept and vision of 'Rural Living'. The site already permits health services facilities and is therefore not vacant rural land. The development that this Planning Proposal would allow is an expansion of an existing facility that would cater for future market needs that are likely to require additional seniors housing to cater for an ageing population. The site has or can be provided with adequate infrastructure, including roads and transport needs and has appropriate regard for environmental issues. It is considered that Lot 1 DP 264150 is

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Key Policy Direction	Comment
	unsuitable for seniors housing and this land use should not be permitted.
P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.	The planning proposal was placed on public exhibition for a period of 28 days and at the end of that period three submissions were received. The concerns raised in these submissions have been addressed.
P4 The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.	The personal financial circumstances of landowners has not been a planning consideration in relation to this planning proposal.
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 proposal is not typical “growth” as anticipated and guided by the GMS. However, the capacity and suitability of the site to accommodate Seniors Housing has been assessed through the Planning Proposal process and it is considered that this site is suitable for seniors housing, to accompany the existing aged care facility on the site.
Housing Policies	
P6 Council will plan for adequate housing to accommodate the Shire’s natural growth forecast.	This Planning Proposal will assist in providing the capacity for future seniors housing, to cater for the growing and ageing population of Wollondilly.
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 GMS identifies the need for a diversity of housing types including appropriate housing to accommodate an increasing number of seniors’ households. The proposal has the potential to meet this demand.
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 land is located between the towns of Thirlmere, Tahmoor and Picton and the density of development will be compatible with the semi-rural setting, the site’s natural attributes and the need to provide adequate services and facilities for seniors.

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Key Policy Direction	Comment
P10 Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.	The site does not adjoin an existing town or village, however, it is well located in relation to Picton, Tahmoor and Thirlmere and is accessible by public transport. Council is satisfied that the site has the capacity to accommodate the planned growth.
Macarthur South Policies	
Key Policy Directions P11, P12, P13 and P14 are not applicable to this planning proposal. The subject land is not within the Macarthur South area	Not applicable.
Employment Policies	
P15 Council will plan for new employment lands and other employment generating initiatives in order to deliver positive local and regional employment outcomes	The planning proposal provides employment opportunities in association with the construction of new seniors housing and potentially longer term employment in services and health related professions.
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.	The site is not proposed to be zoned to facilitate further employment opportunities although as indicated in P15 there may be future potential employment opportunities generated.
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.	This Planning Proposal has demonstrated that appropriate infrastructure can be provided in the form of the provision of reticulated services for water and sewer and the management of stormwater and flooding. Developer contributions payable at the development application stage will further fund the necessary local infrastructure required to support any future development.

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Key Policy Direction	Comment
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>The site other than Lot 1 DP 261450 is considered suitable for seniors housing as a logical extension of the current use of the site as an aged care facility.</p> <p>Adequate infrastructure is either currently available or can be made available to the subject site.</p> <p>The proposed seniors housing development will have the potential to stimulate demand for services within the existing Picton, Tahmoor and Thirlmere town centres, which will strengthen the local economy.</p>
P19 Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.	The site will enable a small community to develop with links to nearby towns.
P20 The focus for population growth will be in two key growth centres, being the Picton/Thirlmere/Tahmoor Area (PTT) area and the Bargo Area. Appropriate smaller growth opportunities are identified for other towns.	The subject site is situated relatively close to the Thirlmere and Picton town centres.
Rural and Resource Lands	
P21 Council acknowledges and seeks to protect the special economic, environmental and cultural values of the Shire's lands which comprise waterways, drinking water catchments, biodiversity, mineral resources, agricultural lands, aboriginal heritage and European rural landscapes.	<p>This Planning Proposal contains measures to protect against potential impacts from future development on the site, including biodiversity, heritage and aboriginal heritage.</p> <p>The Natural Resources – Water map is proposed to be amended to further identify part of a stream in the south-east portion of the site.</p> <p>Environmentally sensitive land and riparian land is protected under the biodiversity and water protection provisions of Wollondilly LEP 2011 and Wollondilly DCP 2011.</p>

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Key Policy Direction	Comment
P22 Council does not support incremental growth involving increased dwelling entitlements and/or rural lands fragmentation in dispersed rural areas. Council is however committed to maintaining where possible practicable, existing dwelling and subdivision entitlements in rural areas.	Key Policy Direction P22 is not applicable to the proposal.

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2.12 FINAL FORM OF PLANNING PROPOSAL

Outlined below is the final form of the planning proposal.

2.12.1 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WOLLONDILLY LEP 2011)

Based on the specialist studies and consultation and engagement there are changes to the Planning Proposal as exhibited.

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

- Amend the Land Zoning Map so that:
 - (i) an additional land use ‘Seniors Housing’ is added to the zone for Lots 31, 32 and 33 DP 1022462 and the title of the SP2 Health Services Facility Zone is changed to ‘SP2 Health Services Facility and Seniors Housing’; and
- Amend the Height of Buildings Map so that:
 - (i) the area within the curtilage of the existing heritage item I265 (Queen Victoria Hospital) will have a maximum building height of 15 metres; and
- Amend Wollondilly LEP 2011 Lot Size Map so that:
 - (i) Lot 1 DP 264150 has a minimum lot size of 16 hectares in accordance with the Lot Size Maps attached; and
 - (ii) the remainder of the site being Lots 31, 32 and 33 DP 1022462 has a minimum lot size of 100 hectares; and
- Amend the Heritage Map so that:
 - (i) the curtilage of the existing heritage item I265 (Queen Victoria Hospital) is reduced from mapping the entire Lot 32 DP 1022462 to the curtilage as indicated in the Heritage Map; and
 - (ii) Harmony House a new Archaeological Heritage Item within Lot 31 DP 1022462 is added to the Heritage Map and included within Schedule 5 Environmental Heritage, Part 3 Archaeological site; and

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- Amend the Natural Resources – Biodiversity Map so that the biodiversity layer applies to various parts of the subject site; and
- Amend the Natural Resources – Water Map Sheet NRW to extend the 10m buffer on the watercourse in Lot 31 DP 1022462 in the south-east corner of the site to the north-west to the boundary with Lot 2 DP 800462.

2.12.2 WOLLONDILLY DEVELOPMENT CONTROL PLAN, 2016 (WDCP 2016)

Amendments are proposed to Wollondilly Development Control Plan 2016 to provide additional site-specific guidelines for the future development of the planning proposal site. The draft amendments are proposed to Volume 3 Subdivision of Land of WDCP 2016 and are summarised:

1. Land Contamination

Guidelines to ensure that remediation of any contaminated areas of the site is undertaken before any development consent is granted for seniors housing.

2. Archaeological Heritage

Guidelines to protect aboriginal archaeological heritage by requiring:
Further archaeological investigation; and
That all necessary permits are in place prior to any development of archaeological sites; and
That no earth works are undertaken before all requirements are met.

3. Biodiversity

Guidelines to protect environmentally sensitive land mapped on the Natural Resources Biodiversity Map and include:
The requirement for a Bushland Management Plan for this sensitive land; and
A Restriction on Title for this land requiring measures for implementing the plan and for the location of asset protection zones and limiting clearing for fencing, and provision of infrastructure, utilities or driveways.

These amendments were placed on public exhibition with the Planning Proposal and at the end of the consultation no submissions were received with respect to these draft amendments. A copy of the draft amendments is attached to this report.

FINANCIAL IMPLICATIONS

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

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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:

1. Draft Land Zone Map as exhibited (proposed to exclude the seniors housing definition from Lot 1 DP 261450
2. Draft Lot Size Map
3. Draft Height of Building Map
4. Draft Heritage Map
5. Draft Natural Resources Biodiversity Map
6. Draft Natural Resources Water Map
7. Draft Amendments to Wollondilly Development Control Plan 2016

RECOMMENDATION

1. That Council support the Planning Proposal for land being Lot 1 DP 264150 (590 Thirlmere Way) and Lot 31 DP 1022462 (No 220 Bridge Street) and Lots 32 and 33 DP 1022462 (615 and 555 Thirlmere Way), Thirlmere to amend Wollondilly Local Environmental Plan, 2011 as follows:
 - Amend the Land Zoning Map so that an additional land use 'Seniors Housing' is added to the zone for Lots 31, 32 and 33 DP 1022462 and the title of the SP2 Health Services Facility Zone is changed to 'SP2 Health Services Facility and Seniors Housing; and
 - Amend the Height of Buildings Map so that the area within the curtilage of the existing heritage item I265 (Queen Victoria Hospital) will have a maximum building height of 15 metres; and
 - Amend Wollondilly LEP 2011 Lot Size Map so that Lot 1 DP 264150 has a minimum lot size of 16 hectares in accordance with the Lot Size Maps attached; and the remainder of the site being Lots 31, 32 and 33 DP 1022462 has a minimum lot size of 100 hectares; and

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- Amend the Heritage Map so that the curtilage of the existing heritage item I265 (Queen Victoria Hospital) is reduced from mapping the entire Lot 32 DP 1022462 to the curtilage as indicated in the Heritage Map; and Harmony House a new Archaeological Heritage Item within Lot 31 DP 1022462 is added to the Heritage Map and included within Schedule 5 Environmental Heritage, Part 3 Archaeological site; and
 - Amend the Natural Resources – Biodiversity Map so that the biodiversity layer applies to various parts of the subject site; and
 - Amend the Natural Resources – Water Map Sheet NRW to extend the 10m buffer on the watercourse in Lot 31 DP 1022462 in the south-east corner of the site to the north-west to the boundary with Lot 2 DP 800462.
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 if necessary support a Gateway alteration to allow for the change to the planning proposal by not allowing Lot 1 DP 261450 to be rezoned to include seniors housing as an annotated permitted use as this part of the site is considered unsuitable for the following reasons:
- The whole of Lot 1 is bushfire prone and carries the highest level of bushfire risk which makes it unsuitable for senior housing which is a Special Fire Protection Purpose as defined under the *NSW Rural Fire Service, Planning for Bushfire Protection 2006*.
 - Lot 1 contains Shale Sandstone Transition Forest of high conservation status. SSTF is a critically endangered ecological community listed under the *NSW Threatened Species Conservation Act 1995* and requires protection.
 - Lot 1 is significant in terms of its cultural heritage for aboriginals as there are a number of potential aboriginal archaeological deposits (PAD) located there and development for seniors housing may impact on these items or on other deposits not yet discovered.
 - The only access to Lot 1 is across the Thirlmere tourist railway line which may prove unsafe for future potentially vulnerable residents in terms of access and egress and emergency evacuation.
 - Lot 1 is located on the western side of Thirlmere Way and is relatively isolated from the remainder of the site and the current and proposed on-site community facilities and services for the aged.
 - Odour has been identified as having a potential impact on future residents of Lot 1.

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- It is unlikely that any future proposed seniors housing for Lot 1 would be able to satisfactorily address the requirements of State Environmental Planning Policy Housing for Seniors or People with a Disability.

or in a form the Minister may determine appropriate to account for the issue outstanding for the Office of Environment and Heritage.

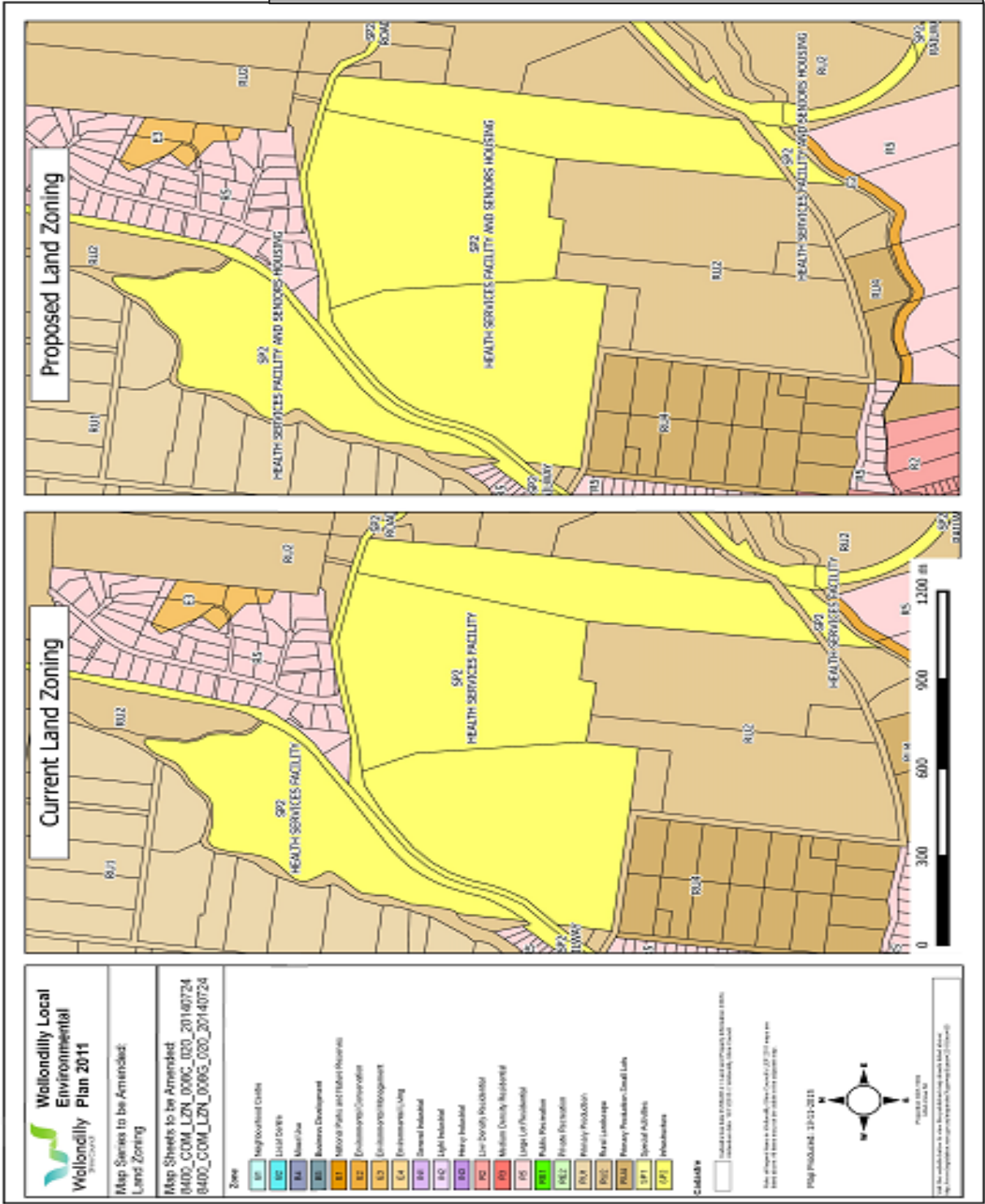
3. That Council approve the amendments as publicly exhibited to Controls for Specific Locations for Queen Victoria Memorial Home Planning Proposal in the subdivision volume of Wollondilly Development Control Plan 2016 and that the amended WDCP replace the current plan.
4. That in accordance with Clause 21 of the Environmental Planning and Assessment Regulation 2000 public notice is given of Council's decision in a local newspaper within 28 days.
5. That the applicant and persons who made submissions regarding the Planning Proposal be notified of Council's decision.

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ATTACHMENT 1 - 6399 – 15 FEBRUARY 2016

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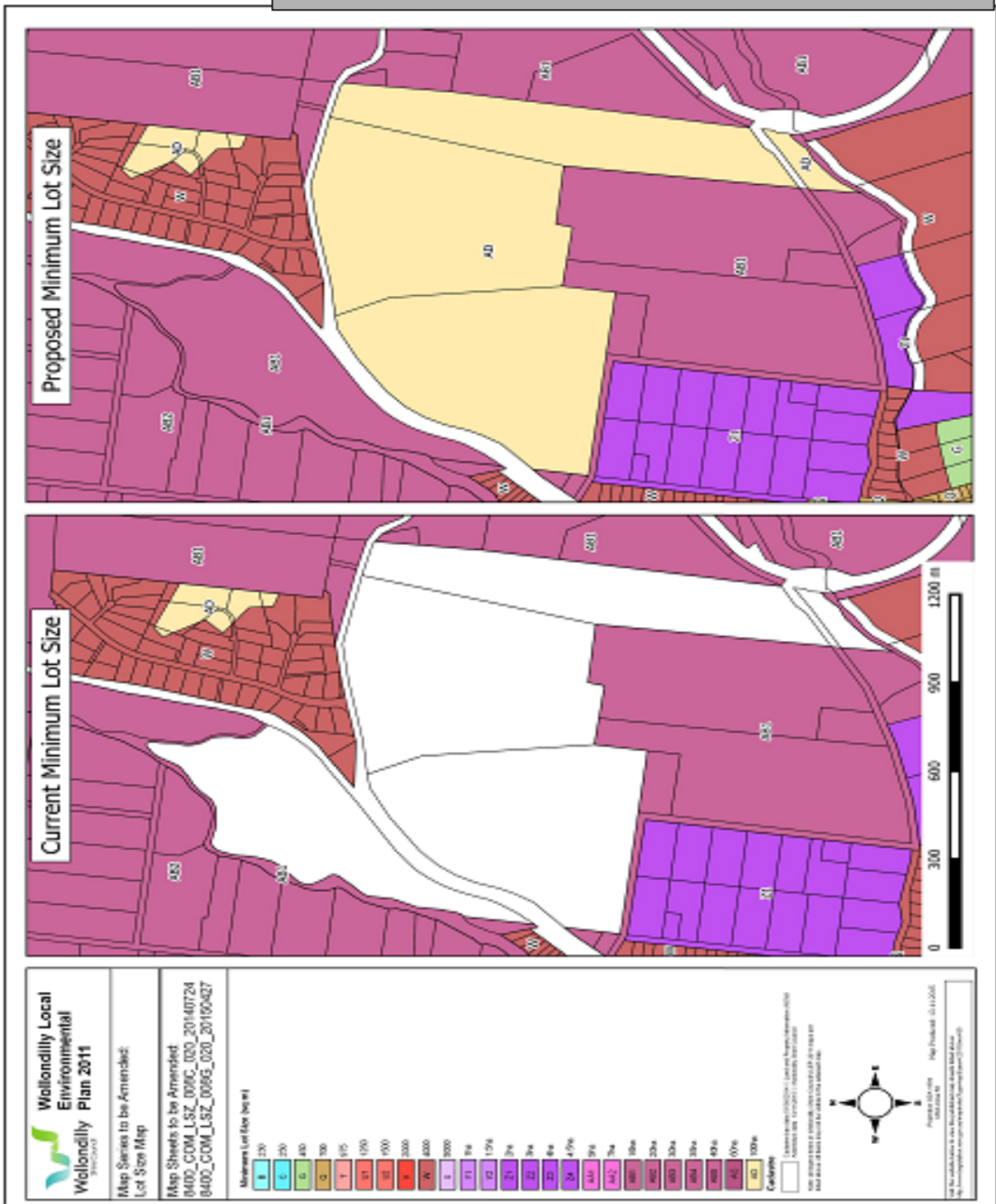


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ATTACHMENT 2 - 6399 – 15 FEBRUARY 2016

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ATTACHMENT 3 - 6399 – 15 FEBRUARY 2016

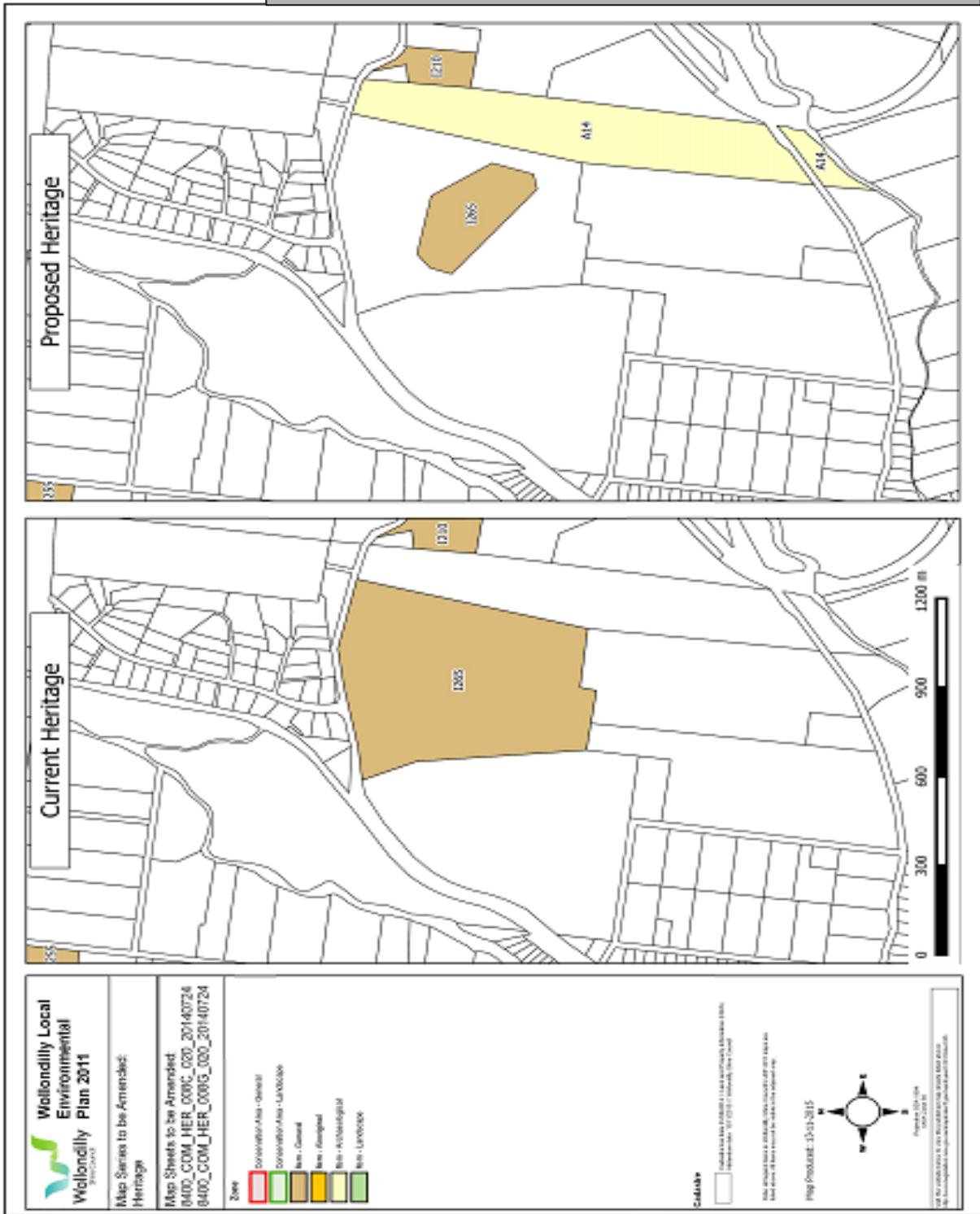


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ATTACHMENT 4 - 6399 – 15 FEBRUARY 2016



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ATTACHMENT 5 - 6399 – 15 FEBRUARY 2016

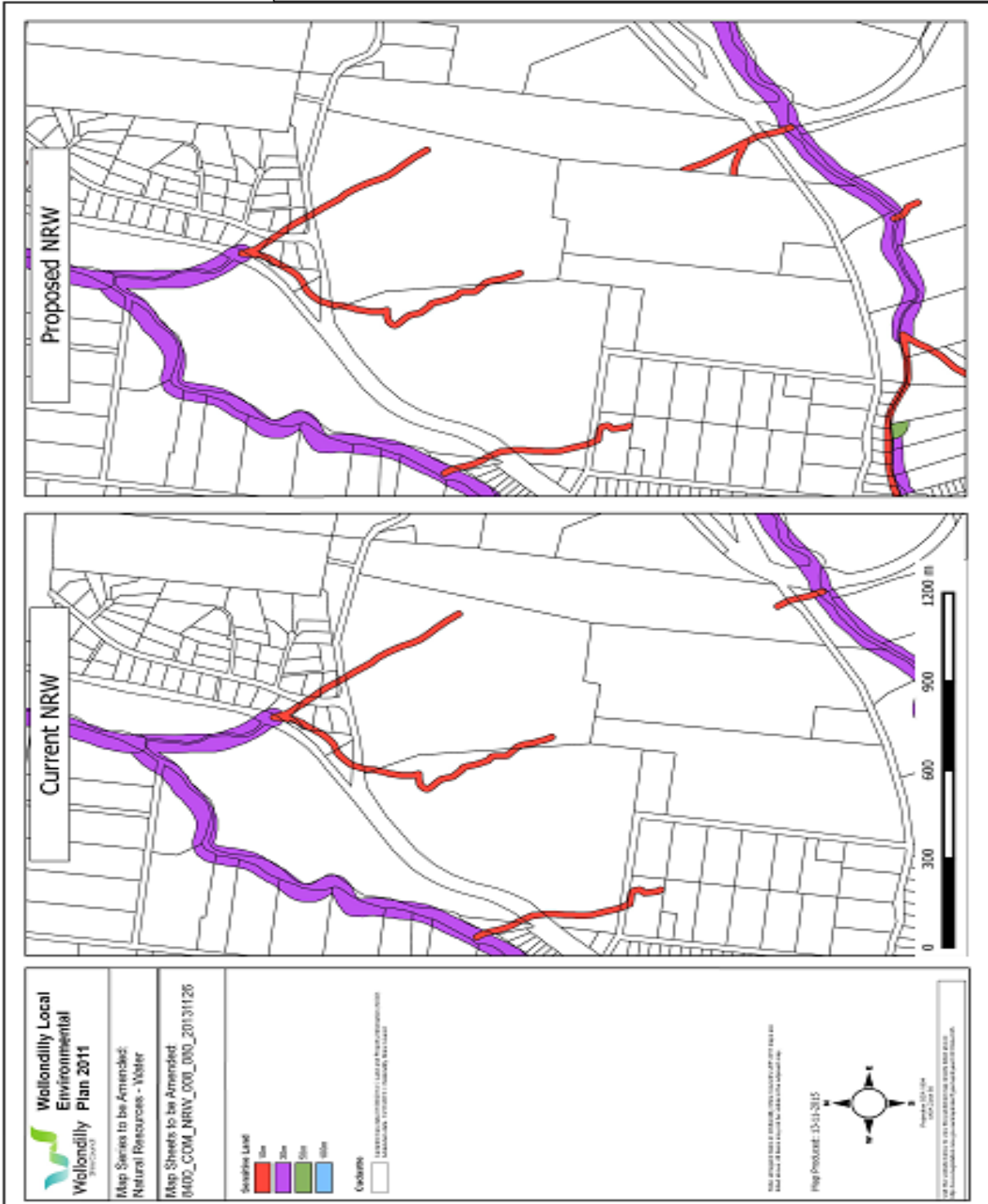


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ATTACHMENT 6 - 6399 – 15 FEBRUARY 2016



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ATTACHMENT 7 - 6399 – 15 FEBRUARY 2016

Draft Amendment to Wollondilly Development Control Plan 2016

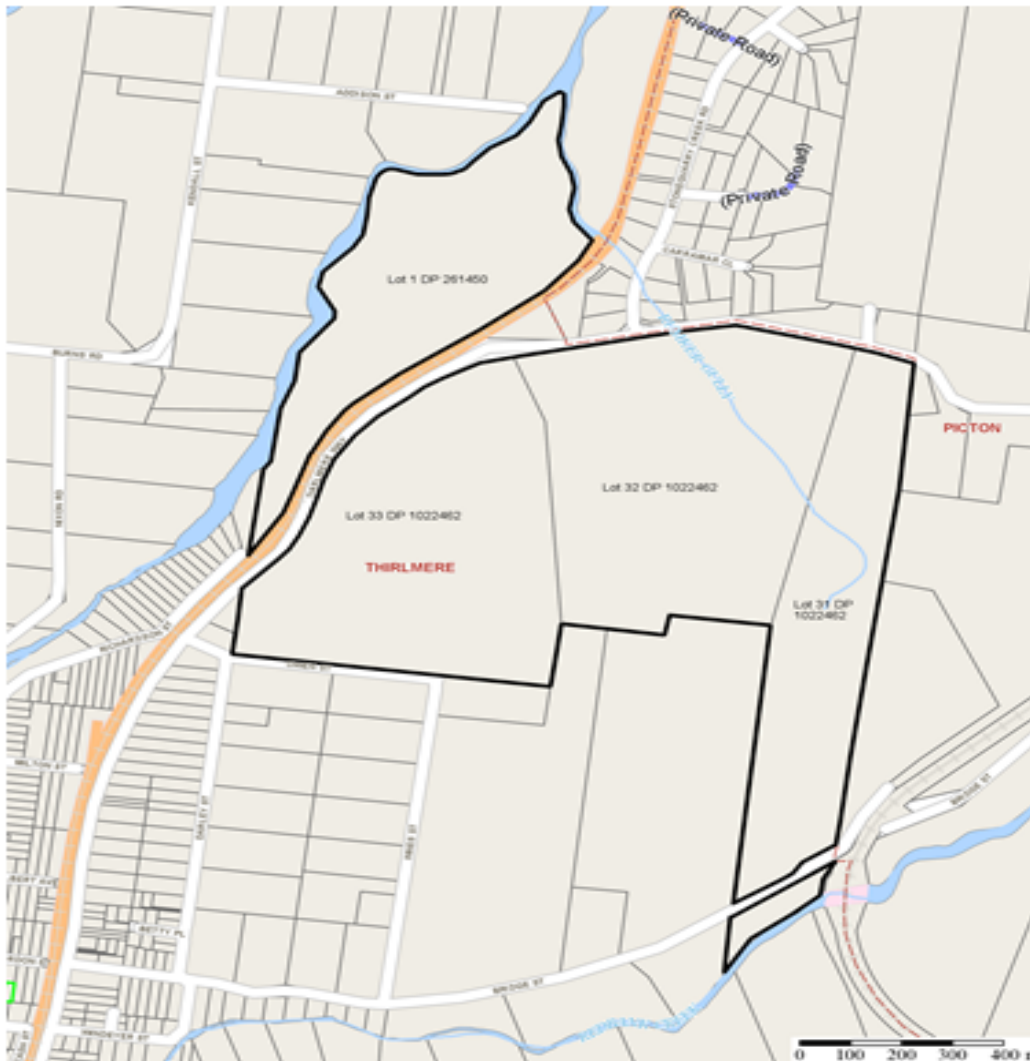
Volume 3 - Subdivision of Land

Part 3 Controls for Specific Locations

3.10 Queen Victoria Memorial Home Planning Proposal Site

Application

1. This section applies to the land identified on the map below:



Draft Amendments to Wollondilly Development Control Plan 2016
January 2016

1

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ATTACHMENT 7 - 6399 – 15 FEBRUARY 2016

Land Contamination

Objectives:

- (a) To ensure remediation measures are undertaken to address any potential contaminants to enable the land to be used for residential purposes.

Requirements:

1. For the purpose of Clause 7(4) of State Environmental Planning Policy No. 55 – Remediation of Land, the site has been identified as containing areas of environmental concern and shall require further assessment and remediation prior to any development consent being granted for seniors housing.

Archaeological Heritage

Objectives

- (a) To protect aboriginal archaeological heritage identified on the site.

Requirements

1. An archaeological report shall be submitted prior to any development application being lodged for Lot 1 DP 264150 which details further investigation in relation to Potential Archaeological Deposits (PAD) identified in the Aboriginal Heritage Report prepared by *Kayandel Archaeological Services*, September 2013 (TRIM 6399#352).
2. Any proposed development of the PAD will require an Aboriginal Heritage Impact Permit (AHIP) under Part 6 of the National Parks and Wildlife Act 1974 and consultation with Aboriginal stakeholders in accordance with the specifications of *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (DECCW 2010a).
3. No earth works shall commence within the PAD areas until an AHIP for the specified works is approved and all conditions satisfied.

Biodiversity

The following requirements apply to all land identified on the Natural Resources Biodiversity Map

Objectives:

- (a) To protect and improve environmentally sensitive land identified on the site.

Requirements:

1. A Bushland Management Plan shall be prepared and submitted with any application for seniors housing in accordance with the Requirements for the Bushland Plan of Management prepared by Wollondilly Shire Council's Environment Section TRIM Ref: 6399#583
2. A Restriction on the Title shall be registered on the title of all lots containing environmentally sensitive land mapped on the Natural Resources Biodiversity Map and include the following measures:
 - a. Requirement to implement the Bushland Management Plan
 - b. Detail that Asset Protection Zones shall be located outside environmentally sensitive land
 - c. Detail that environmentally sensitive land cannot be cleared
 - for the purpose of fencing of allotment boundaries or
 - for the provision of infrastructure, utilities or driveways.