

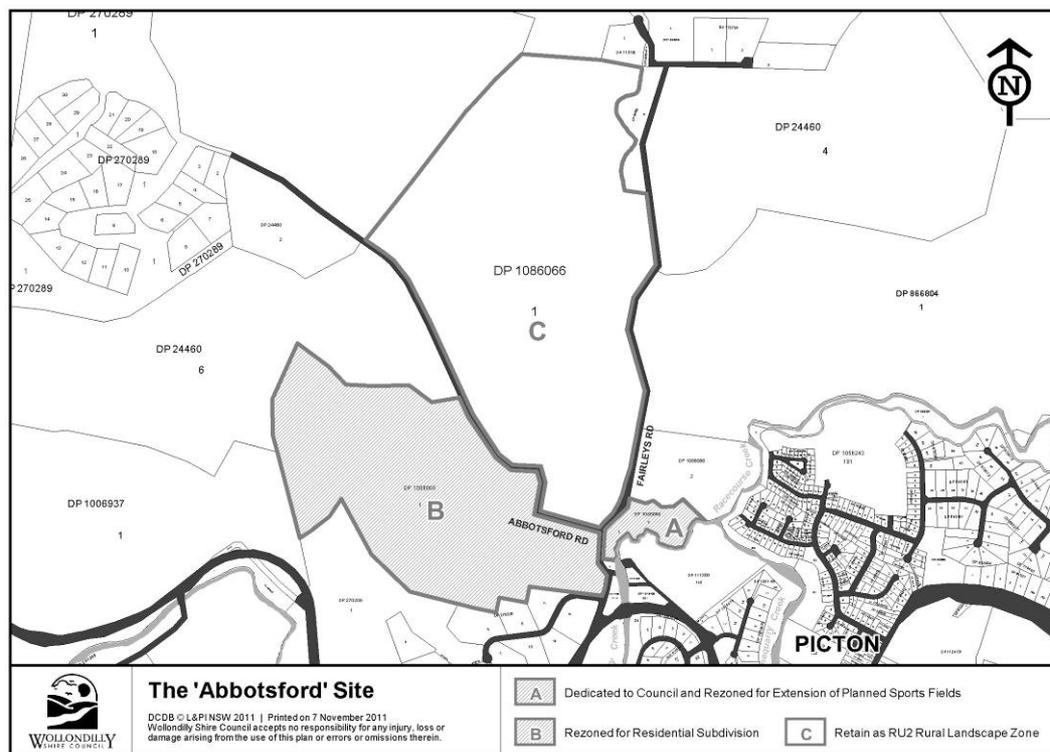
PE7

**Draft Planning Proposal – ‘Abbotsford’ Planning Proposal**  
249JSEL

TRIM 6497

**APPLICANT:**  
**OWNER:**

**Rein Warry & Co**  
**R & F Zeims Pty Ltd**



**EXECUTIVE SUMMARY**

- Council has received a draft Planning Proposal to rezone part of the property known as ‘Abbotsford’ at 1 Abbotsford Road, Picton (Part 1 Lot 1 DP1086066) for large lot residential, recreational and environmental management purposes.
- The subject site is not identified as a potential residential growth area on the Growth Management Strategy (GMS) Structure Plan for Picton.
- Notwithstanding this, a preliminary assessment of the proposal against the GMS key policy directions indicates it is generally consistent with the strategy’s aims by siting large lot residential development on the periphery of the Picton urban area.
- There have not been any disclosures of political donations made in regard to this application
- Accordingly this report recommends:
  - That Council support the draft Planning Proposal for the rezoning of part of the ‘Abbotsford’ site, 1 Abbotsford Road, Picton (Part 1 Lot 1 DP1086066).
  - That the draft Planning Proposal be forwarded to the Minister for Planning & Infrastructure for a Gateway Determination; and
  - That the persons who made submissions regarding the draft Planning Proposal be notified of Council’s decision.

**Planning & Economy**

**REPORT**

**BACKGROUND**

**Site Description**

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

The subject site, Lot 1 DP 1086066, is property is approximately 190 hectares in size separated into three (3) parcels at the intersection of Abbotsford and Fairleys Roads, Picton. The parcels of land are identified as parts A, B and C on the map which accompanies this report:

- **Part A** is a 4.42 hectare area to the east of the intersection.
- **Part B** is an area of 66.56 hectares to the south west of the intersection. It is bounded by the Equestrian Drive Community Title subdivision to the south and west, Fairleys Road to the east and Abbotsford Road and an approved community title subdivision to the north.

The land is cleared of native vegetation with only a few scattered shade trees around the paddocks which contain several farm dams. The most distinct topographical features of the site are:

- flatter lower land, containing the Abbotsford Group heritage Item. This part of the site is around Fairleys Road and Abbotsford Road as well as abutting the Equestrian Drive Community Title development;
- steep slopes that transition the site from the flatter lower land to the plateau. These slopes are mostly devoid of native vegetation and exhibit signs of erosion from past clearing practices;
- the relatively flat plateau in the western section of Part B

The Abbotsford Group is on the State Heritage Register. This group consists of a main residence (in dilapidation), a smaller cottage and a demolished gaol positioned around a central courtyard with a deliberate axial relationship to the hill, driveway and selected trees (details from the Wollondilly Shire Council Heritage Database).

- **Part C** is the 119.3 hectare area to the north west of the intersection. The planning proposal does not seek to amend the zoning provisions applying to Part C.

**Description of Draft Proposal**

The parts of the site which are the subject of this planning proposal are identified as parts A and B on the accompanying map. Part C is to retain its current RU2 Rural Landscape zoning under WLEP 2011.

This planning proposal seeks to rezone:

- **Part A** - Zone RE1 Public Recreation and is proposed to be dedicated to Council in keeping with adjacent Council owned land, the site of the future Picton Sportsfield; and,
- **Part B** - part Zone R5 Large Lot Residential and part Zone E3 Environmental Management. (This may result in approximately 40 lots but this figure is yet to be determined through future studies and development applications).

To achieve the objectives of the Planning Proposal, the following amendments to the Wollondilly Local Environmental Plan (WLEP) 2011 are proposed:

1. Amend the WLEP 2011 Land Use Zoning Map to part Zone R5 Large Lot Residential, part Zone E3 Environmental Management, and part Zone RE1 Public Recreation.
2. Amend the WLEP 2011 Lot Size Map to facilitate R5 Large Lot Residential development of the site, with appropriate lot sizes determined through a range of specialist studies.
3. Amend the WLEP 2011 Height of Buildings Map to 9 metres for the proposed R5 Large Lot Residential and E3 Environmental Management Zones.

### **CONSULTATION**

#### **Preliminary Community Consultation**

In accordance with Council's notification policy, preliminary community consultation has been undertaken with residents adjoining and potentially impacted by future development of the proposal site. In addition, the proposal was published on Council's website.

The preliminary consultation period ran for 21 days from Thursday 20 October with a written submission period of 21 days ending on Friday 11 November. A total of fifty-six (56) letters were sent to residents. No submissions were received.

#### **Consultation with Government Departments**

Consultation is needed with the Department of Planning & Infrastructure (DoPI) and the Office of Environment & Heritage (OEH) on the Planning Proposal. It is considered that should the proposal be supported the Gateway Determination will outline further consultation requirements with the DoPI, OEH and any other relevant government agencies.

#### **Further community consultation**

If this draft proposal progresses, further community consultation opportunities will occur as part of the preparation and exhibition of a draft local environmental plan in accordance with the new Gateway process. Council has the opportunity to recommend the engagement process and other consultation appropriate for this draft proposal.

### **RELEVANCE TO COMMUNITY STRATEGIC PLAN OUTCOMES**

All Planning Proposals are assessed against the key themes and directions of Council's Community Strategic Plan. It is considered that this proposal in principle is capable of delivering outcomes consistent with the CSP, particularly the following:

- The natural environment is protected and conserved and Wollondilly has a healthy, sustainable, and resilient environment with a rural character (EO-1).
- The impact of existing and new development on the environment is reduced in turn reducing the Shire's ecological footprint (EO-2).

### **POLICIES & LEGISLATION**

#### **Planning Proposals**

The draft Planning Proposal has been prepared in accordance with section 55 of the *Environmental Planning and Assessment Act 1979* and relevant Department of Planning & Infrastructure guidelines including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*. The draft Planning Proposal addresses the matters required by the Director-General to be addressed in all Planning Proposals.

The draft Planning Proposal that has been submitted is requesting the rezoning of the subject land. If Council wishes to proceed with the proposal to rezone the land, Council must resolve to support the draft Planning Proposal and to forward it to the Minister for Planning & Infrastructure for a Gateway Determination.

#### **Council's Options/Role**

In deciding whether to forward the Planning Proposal on to the Minister for Planning & Infrastructure for a Gateway Determination, Council is effectively endorsing the Planning Proposal in principle and from that point on the Planning Proposal is deemed to be *Council's* Planning Proposal - no longer the applicant's Planning Proposal. Despite the Planning Proposal becoming Council's at that point, the costs of any required studies are to be borne by the applicant.

Council's options are:

1. Resolve to support the draft Planning Proposal as submitted. This option means that the existing Planning Proposal from then on becomes *Council's* Planning Proposal. Council then sends it to the Minister for a Gateway Determination. Unresolved matters are assumed to be capable of resolution through future studies as determined by the Gateway process.

2. Resolve that the Planning Proposal needs to be amended before it can receive Council support and be forwarded to the Minister for a Gateway Determination. As is the case with option 1 above, the Planning Proposal becomes *Council's* and unresolved matters are assumed to be capable of resolution through future studies as determined by the Gateway process.
3. Resolve not to support the Planning Proposal. The applicant could choose to revise/amend their proposal and submit a new application. (Note that there are no appeal rights through the Land and Environment Court against Council's refusal to support a Planning Proposal).

Option one (1) is the recommendation of this report

### **Gateway Determination**

When a Planning Proposal has been endorsed by Council, it is then forwarded to the Minister for Planning & Infrastructure for a Gateway Determination. The Gateway Determination is a checkpoint for Planning Proposals before significant resources are committed to carrying out technical studies and investigations. It enables Planning Proposals that are not credible or well founded or not in the public interest to be stopped early in the process before resources are committed to detailed studies and investigations, and before government agencies are asked to commit their own resources to carrying out assessments.

At the Gateway Determination, the Minister will decide:

- Whether the proposal is justified on planning grounds;
- Whether the Planning Proposal should proceed (with or without variation);
- Whether the Planning Proposal should be resubmitted for any reason (including for further studies or other information, or for the revision of the Planning Proposal);
- The community consultation required;
- Any consultation required with State or Commonwealth agencies;
- Whether a public hearing by the Panel Assessment Commission or other specified person or body is required;
- The timeframes for the various stages of the procedure to make the draft amendment;
- Whether the function of making the LEP is to be exercised by the Minister for Planning & Infrastructure or delegated to Council.

Under the new plan making procedures, the Planning Proposal and supporting studies are placed on public exhibition. The written draft local environmental plan amendment (the draft LEP) is prepared by Parliamentary Counsel when the Planning Proposal is finalised, immediately before it is made by the Minister or delegate. The LEP takes effect when it is published on the NSW legislation website.

Once the LEP is made, a development application will need to be lodged for the future subdivision and development of the land to achieve the intended objectives of the Planning Proposal.

### **Wollondilly Local Environmental Plan 2011**

The site is currently zoned as RU2 Rural Landscape under WLEP 2011. The minimum lot size for this area is currently 40 hectares.

It is proposed to rezone the site in the following manner:

- **Part A** as RE1 Public Recreation and is proposed to be dedicated to Council in keeping with adjacent Council owned recreational land; and
- **Part B** for R5 Large Lot Residential and E3 Environmental Management uses.
- **Part C** is to retain its current RU2 Rural Landscape zoning.

Appropriate lot sizes to facilitate residential development of the land, for the proposed large lot residential and environmental management zones, will be determined through a range of specialist studies required to support the planning proposal.

### **Site Specific Development Control Plan (DCP)**

A Site Specific Development Control Plan (DCP) may be prepared for the subject land which would include specific site objectives and development controls for the future development of the site. A Site Specific DCP would be expected to include a range of design and built form controls, including (but not limited to):

- Building envelopes
- Building setbacks based on the environmental features of the site
- Site landscaping
- Public domain treatments
- Bushfire asset protection zones
- Treatment of the urban / environmental protection interface
- Urban sensitive water design

The range of provisions included in the Site Specific DCP would be informed by specialist studies undertaken to support the proposal. A draft Site Specific DCP would be reported to Council when it is prepared.

Alternatively, Council may choose to apply the controls contained within Wollondilly Development Control Plan 2010, Volume 3 – Residential and Tourist Uses.

### **RELEVANT CONSIDERATIONS**

#### **Wollondilly Growth Management Strategy (GMS)**

Council's GMS has recently been adopted by Council. Planning Proposals are required to be assessed against the GMS to determine whether they should or should not proceed.

The GMS sets directions for accommodating growth in the Shire for the next 25 years. The GMS contains Key Policy Directions which form the overarching growth strategy for Wollondilly.

The subject site is not identified as a potential residential growth area on the Growth Management Strategy (GMS) Structure Plan for Picton. Notwithstanding this, a preliminary assessment of the proposal against the GMS key policy directions indicates it is general consistent with the strategy's aims by siting large lot residential development on the periphery of the Picton urban area.

The following table sets out the relevant Key Policy Directions within the GMS along with comments relating to the draft proposal:

Key Policy Direction	Comment
<b>General Policies</b>	
<i>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.</i>	The proposal, as noted throughout this table, satisfies this Key Policy Direction.
<i>P2 All land use proposals need to be compatible with the concept and vision of "Rural Living" (defined in Chapter 2 of the GMS)</i>	The draft proposal is generally consistent with the concept and vision of 'Rural Living' as it provides for appropriately scaled large lot residential development in close proximity to the Picton urban area.
<i>P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.</i>	No submissions were received during the preliminary community consultation period. Further opportunities for public input into the rezoning process will be afforded during a future public exhibition of the planning proposal and supporting studies.
<i>P4 The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.</i>	There have been no such representations regarding this draft proposal and therefore this Key Policy Direction has been satisfied.
<i>P5 Council is committed to the principle of appropriate growth for each of our towns and villages. Each of our settlements has differing characteristics and differing capacities to accommodate different levels and types of growth (due to locational attributes, infrastructure limitations, geophysical constraints, market forces etc.).</i>	The draft proposal represents a logical rezoning of the subject site for large lot residential and environmental management purposes in keeping with adjoining rural residential subdivisions. Within the constraints of the site the proposal is considered appropriate as it will facilitate an appropriate use of the site for a variety of housing in close proximity to the Picton town centre. Conservation and enhancement of natural environment can be achieved through an appropriate range of lots sizes in keeping with the constraints of the land. Existing infrastructure is to be utilised and embellished where necessary.

Key Policy Direction	Comment
<b>Housing Policies</b>	
<i>P6 Council will plan for adequate housing to accommodate the Shire's natural growth forecast.</i>	The draft proposal contributes toward Council's dwelling target for Picton Tahmoor Thirlmere area as outlined in the GMS.
<i>P8 Council will support the delivery of a mix of housing types to assist housing diversity and affordability so that Wollondilly can better accommodate the housing needs of its different community members and household types.</i>	The proposal indicates that there is an intention to provide a mix of housing types and lot sizes on the site, as determined appropriate by further studies. A site specific DCP can control the mix of lots sizes.
<i>P9 Dwelling densities, where possible and environmentally acceptable, should be higher in proximity to centres and lower on the edges of towns (on the "rural fringe").</i>	Dwelling densities will be controlled by implementing a range of lot sizes across the proposal site from smaller lots (R5 Large Lot Residential) at the eastern end to larger lots (E3 Environmental Management) at the western/northern end.  This would provide a transition in lot sizes, with larger lots being sited on the steeper portions and visually prominent areas of site, with smaller lots being located closer to the urban fridge of Picton.
<i>P10 Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.</i>	The site is located within in one kilometre of the Picton town centre and is adjacent to existing and DA approved rural residential subdivisions.
<b>Macarthur South Policies</b>	
<i>Key Policy Directions P11, P12, P13 and P14 are not applicable to this Planning Proposal. The subject land is not with the Macarthur South area</i>	Not applicable.
<b>Employment Policies</b>	
<i>P15 Council will plan for new employment lands and other employment generating initiatives in order to deliver positive local and regional employment outcomes</i>	The proposal will create short-term employment opportunities through the construction jobs associated with the civil and building works, and will provide stimulus to the local economy by boosting population.
<i>P16 Council will plan for different types of employment lands to be in different locations in recognition of the need to create employment opportunities in different sectors of the economy in appropriate areas.</i>	The site is not zoned to facilitate further employment opportunities. The loss of employment as a result of displacement of the agricultural use is considered to be minor as the site is currently used for beef cattle grazing. Modest opportunities exist for home business and tradesman residency.

Key Policy Direction	Comment
<b>Integrating Growth and Infrastructure</b>	
<i><b>P17</b> Council will not support residential and employment lands growth unless increased infrastructure and servicing demands can be clearly demonstrated as being able to be delivered in a timely manner without imposing unsustainable burdens on Council or the Shire's existing and future community.</i>	It is considered that the addition of new residential allotments in the locality is not likely to adversely burden Council. Developer contributions payable at the development application stage will fund the necessary local infrastructure required to support any future development. Likely state and regional infrastructure demands will be assessed by relevant agencies post Gateway Determination.
<i><b>P18</b> 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.</i>	The draft proposal site is located approximately 1.5 km by road from Picton town centre. The use of on-site sewage management systems for future dwellings will not impact upon the servicing capacity of the Picton Tahmoor Thirlmere Sewage Treatment Plant. .
<i><b>P19</b> Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.</i>	The draft proposal does not contribute toward dispersed population growth; it proposes urban growth on the periphery of the Picton urban area.
<i><b>P20</b> The focus for population growth will be in two key growth centres, being the Picton/Thirlmere/Tahmoor Area (PTT) area and the Bargo Area. Appropriate smaller growth opportunities are identified for other towns.</i>	The subject site is not identified as a potential residential growth area on the Growth Management Strategy (GMS) Structure Plan for Picton. It is considered that the site is suited for large lot residential and environmental management uses, providing a transition between the existing Picton urban area and rural lands to the north and west of the proposal site.
<b>Rural and Resource Lands</b>	
<i><b>P21</b> Council acknowledges and seeks to protect the special economic, environmental and cultural values of the Shire's lands which comprise waterways, drinking water catchments, biodiversity, mineral resources, agricultural lands, aboriginal heritage and European rural landscapes.</i>	It is not envisaged that proposal will adversely impact on the environmental features of the site. The site has been extensively cleared on native vegetation. Future development of the site will afford the opportunity for revegetation, particularly on the steeper visual prominent western portion of the proposal site and the riparian lands adjoining Stonequarry Creek.
<i><b>P22</b> Council does not support incremental growth involving increased dwelling entitlements and/or rural lands fragmentation in dispersed rural areas. Council is however committed to maintaining where possible practicable, existing dwelling and subdivision entitlements in rural areas.</i>	The proposal supports the principle of locating rural residential development on the periphery of towns, rather than in dispersed rural areas.

### **Lot Sizes**

Should the planning proposal be supported by Council and receive a favourable 'Gateway' determination, a range of specialist studies will be undertaken to determine appropriate lot sizes for the proposal site. It is envisaged that a range of lot sizes can be achieved ranging from smaller lots at the eastern end to larger lots at the western/northern end. This would provide a transition in lot sizes, with larger lots being sited on the steeper portions and visually prominent areas of site.

### **Proposed restoration of the "Abbotsford" Group**

The planning proposal provides for the restoration of the "Abbotsford" Group, which is located on the subject site. This is an archaeological site of state significance identified as item A7 in the Heritage Schedule of Wollondilly LEP 2011. The proposed restoration of "Abbotsford" will assist to enhance and maintain these important pieces of European heritage and the history of Wollondilly Shire.

### **Dedication of Land to Council**

It is proposed that the 4.42 hectare portion of the subject site (marked 'Part A' on the attached map) will be dedicated to Council. In principle the dedication of the land to Council will embellish Council's intention to build sportsfield on the adjoining Council owned land located in Fairleys Road Picton. However, this aspect of the proposal will need to be given further consideration depending on the details of the proposed dedication.

### **FINANCIAL IMPLICATIONS**

As noted previously in this report, the draft Planning Proposal is deemed to be *Council's* Planning Proposal once endorsed by Council and forwarded to the Minister. Despite the Planning Proposal becoming Council's at that point, the costs of any required studies are to be borne by the applicant.

As the Planning Proposal proceeds further investigations into contributions towards infrastructure provision through planning agreements and section 94 contributions will need to occur.

### **CONCLUSION**

Council has received a draft Planning Proposal to rezone part of the property known as 'Abbotsford' at 1 Abbotsford Road, Picton (Part 1 Lot 1 DP1086066) for large lot residential, recreational and environmental management purposes.

An assessment of the proposal against the key policy directions of Council's Growth Management Strategy indicates that the proposal is generally consistent with the strategy's aims by siting large lot residential development on the periphery of the Picton urban area.

It is therefore recommended that the Planning Proposal be forwarded to the Minister for Planning & Infrastructure for a Gateway Determination.

**ATTACHMENTS**

1. Aerial view of "Abbotsford" site

<b>RECOMMENDATION</b>
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1. That Council support the draft Planning Proposal for support the draft Planning Proposal for the rezoning of part of the 'Abbotsford' site, 1 Abbotsford Road, Picton (Part 1 Lot 1 DP1086066).
2. That the draft Planning Proposal be forwarded to the Minister for Planning & Infrastructure for a Gateway Determination.

ATTACHMENT 1 - 6497 - 12 DECEMBER 2011



Planning & Economy

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Minutes of the Ordinary Meeting of Wollondilly Shire Council held in the Council Chamber, 62-64 Menangle Street, Picton, on Monday 12 December 2011, commencing at 6.34pm

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Wollondilly Shire and Its Planning and Economy

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PE7                    **Draft Planning Proposal – ‘Abbotsford’ Planning Proposal**                    TRIM 6497  
249JSEL

301/2011            **Resolved on the motion of Crs M Banasik and Mitchell:**

1.    **That Council support the draft Planning Proposal for the rezoning of part of the ‘Abbotsford’ site, 1 Abbotsford Road, Picton (Part 1 Lot 1 DP1086066).**
2.    **That the draft Planning Proposal be forwarded to the Minister for Planning & Infrastructure for a Gateway Determination.**
3.    ***That there be a road study completed for the area.***

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

Vote:    Crs M Banasik, Khan, B Banasik, Landow, Hannan and Mitchell