

## **11.2 AMENDMENTS TO WOLLONDILLY DEVELOPMENT CONTROL PLAN 2016 (WDCP) VOLUME 3 SUBDIVISION OF LAND PART 3 CONTROLS FOR SPECIFIC LOCATIONS - 3.4 TAHMOOR WEST**

**File Number:** 10619-2#260

**Proposal:** Amendment to Wollondilly Development Control Plan Volume 3, Part 3, Controls for Specific Locations - 3.4 Tahmoor West.

**Address:** All land within the Tahmoor West precinct

**Lot & DP:** Lot 39 DP 1215451

### **EXECUTIVE SUMMARY**

The purpose of this report is to seek Council's support to publicly exhibit proposed amendments to the Wollondilly Development Control Plan, 2016, Volume 3 Subdivision of Land Part 3.4 – Controls for Specific Locations (Tahmoor West).

The amendments propose an updated structure plan and revised wording to ensure consistency with the current Planning Proposal known as the West Tahmoor Minimum Lot Size Amendment No. 2 and development that has already occurred in the West Tahmoor precinct.

The West Tahmoor Minimum Lot Size Amendment No. 2 Planning Proposal was publicly exhibited from 22 May 2020 to 19 June 2020.

A further report on the outcomes of the public exhibition of the proposed amendments to the Development Control Plan will be provided to Council detailing the final controls for adoption.

### **RECOMMENDATION**

1. That Council supports the public exhibition of the amendments to the Wollondilly Development Control Plan 2016 Volume 3 Part 3 Controls for Specific Locations (3.4) Tahmoor West; and
2. That Council notifies the proponent, landowners and submitters of Council's decision.

### **Background**

The Tahmoor West precinct was originally rezoned as part of the Picton Tahmoor Thirlmere (PTT) planning proposal in 2013 and parts of the site have been developed since this time.

The West Tahmoor Minimum Lot Size Amendment No. 2 (West Tahmoor) Planning Proposal is part of a series of planning proposals located within this precinct.

#### ***The West Tahmoor Minimum Lot Size Amendment No. 2 Planning Proposal***

The West Tahmoor Minimum Lot Size Amendment No. 2 Planning Proposal was submitted to Council on 26 August, 2016 and was supported in an amended form by Council on Monday 20 February 2017. The Planning Proposal was further supported by Council on Tuesday 18 April 2017 when a report was considered to include an additional small triangle of land of approximately 300m<sup>2</sup>. A copy of the reports and minutes of Council are provided in Attachment 1.

A Gateway Determination to proceed with the Draft Planning Proposal was issued by the NSW Department of Planning and Environment (now known as Department of Planning, Industry and Environment) on 7 July 2017. Several Gateway extensions have since been issued with the most recent including an amendment to public agency consultation requirements. The current timeframe for completion of the Planning Proposal is 31 December 2020.

The Planning Proposal details changes to the Wollondilly Local Environment Plan 2011 (WLEP 2011) to rezone part of the site, being approximately 1.3 hectares of residential land for environmental conservation purposes and to reduce the minimum lot size of the remaining 1.2 hectares of residential land from 4000 square metres to 700 square metres to allow for smaller lot subdivision to create the potential for approximately 12 new lots. The changes also include amending the Natural Resources Water (NRW) map to remove the 50 metre buffer and to retain the 30 metre buffer only.

A copy of the most current planning proposal is provided in Attachment 2.

***Wollondilly Development Control Plan 2016 Volume 3 Part 3 Controls for Specific Locations***

Volume 3 of the Wollondilly Development Control Plan 2016 contains site specific development controls for the West Tahmoor precinct. These are located in Part 3.4 Controls for Specific Locations (Tahmoor West). These controls apply to the West Tahmoor Planning Proposal site.

These controls also contain a Structure Plan that identifies Asset Protection Zone (APZ) widths and locations, vegetation buffers and road layout. The APZ widths and buffers are not consistent with the proposed changes detailed in the West Tahmoor Planning Proposal and so the structure plan needs to be updated to include these revised widths and buffers. A copy of the current Development Controls and Structure Plan applying to West Tahmoor is provided in Attachment 3.

***Development Application***

A development application for the subdivision of the site has been submitted to Council to be considered concurrently with the Planning Proposal under 3.39 of the Environmental Planning and Assessment Act 1979. The proposed changes to the Structure Plan within Part 3.4 of Volume 3 of the DCP are consistent with the proposed plan of subdivision that has been submitted with this Development Application. A copy of this Proposed Plan of Subdivision is provided in Attachment 4.

***Site Context***

The Tahmoor West Precinct is located on the western periphery of the Tahmoor residential area and is bound by Thirlmere Way to the South, Myrtle Creek to the North and Major Roberts Road and Crown Land to the West. The location of the Tahmoor West Precinct is shown in Figure 1 below in green outline.

The West Tahmoor Minimum Lot Size Amendment No. 2 Planning Proposal site is located within the Tahmoor West Precinct and relates to Lot 39 DP 1215451 which is located on the Northern boundary of the precinct as shown in Figure 1 with blue shading.

The Tahmoor West Site specific controls were introduced following the rezoning of the overall West Tahmoor Precinct as part of the Picton Tahmoor Thirlmere (PTT) planning proposal in 2013.

Although a large proportion of the Tahmoor West precinct has now been developed and the road the layout for this section finalised sites on the eastern, western and northern boundary are in various stages of planning. This can be seen in the aerial imagery in Figure 1. To ensure the original intent of the Tahmoor West site specific controls are not lost, only minimal changes to the controls and layout plan are proposed. These changes are summarised below.



**FIGURE 1: Location of Tahmoor West Precinct and West Tahmoor Minimum Lot Size Planning Proposal Site Location**

### **Proposed Amendments to the Wollondilly Development Control Plan 2016**

The proposed amendments relate to the site specific controls for the Tahmoor West precinct. These are contained in Volume 3 Subdivision of Land of the Wollondilly Development Control Plan 2016. The specific controls to be amended are within Part 3.4 Tahmoor West.

The proposed amendments are in response to the following matters identified during the West Tahmoor Minimum Lot Size Amendment No. 2 planning proposal process:

- The proposed removal of the 50m buffer of the LEP Natural Resources Water Map;
- The introduction of an E2 Environmental Protection Zone;
- Planning for Bushfire requirements including APZ widths and fire trail requirements.

The summary and explanation for each of the controls to be varied are provided in Table 1 below:

**Table 1 – Summary and explanation of proposed changes**

Section to be Changed	Current Control(s)	Proposed change	Proposed Control(s)	Justification for Change
<b>Structure Plan</b>				
Structure Plan Notation	Riparian Corridor (Cat 1 – 40m + 10M Vegetation Buffer) To be incorporated within private property, corridor to be owned by one or two private allotments, vegetation to be rehabilitated, subject to an approved vegetation management plan registered in private titles.	Change wording to delete “or two” to one private allotment only.  Change to 30m buffer in line with the proposed removal of the 50m buffer on the NRW map and retention of the 30m buffer.	30m wide Riparian Corridor/Vegetation Buffer to be incorporated within private property. Corridor to be owned by one private allotment, vegetation to be rehabilitated, subject to an approved vegetation management plan registered in private title.	This is in line with the APZ and fire trail to be within one allotment and will provide for better management of the E2 zoned land. This change is also in line with the proposed plan of subdivision that has been submitted with the concurrent development application.
Structure Plan Notation	APZ (15-25m) to be incorporated within private property.	Change to APZ width of 15m along western boundary of the West Tahmoor No. 2 Planning Proposal boundary and 30m from vegetation in the northern part of the lots.	15m Wide APZ along western boundary of West Tahmoor Planning Proposal No. 2 Planning Proposal site to be incorporated within private property and within one private allotment.	Change to APZ width to match bushfire report requirements.
Structure Plan Notation additional text	N/A	Include additional notation	6m wide fire trail to be incorporated within private property to be located outside of E2 zoned land.	Notation to include new requirement for fire trail 6m in width and requirements for fire trail to be located outside of E2 zoned land to allow fire-fighting appliances to gain access along the hazard interface between future dwellings and the hazard.
Structure Plan Notation additional text	N/A	Include additional notation	Change to APZ width of 15m along western boundary of the West Tahmoor No. 2 Planning Proposal boundary and 30m from vegetation in the northern part of the lots.	15m width is consistent with the bushfire assessment report submitted in respect of the West Tahmoor Minimum Lot Size Amendment No. 2 Planning Proposal.
Structure Plan Notation additional text	N/A	Include additional notation	Notations to show measurements and locations for 6m wide fire trail, 15m APZ to the western boundary, 30m	Included to make the location of APZ and fire trails width and locations clearer.



Section to be Changed	Current Control(s)	Proposed change	Proposed Control(s)	Justification for Change
			wide vegetation buffer and 30m wide APZ to the vegetation to the north.	
Change to Structure Plan Map underlay	Original map was produced by Cardno.	Create new map showing current aerial of existing development with overlay notations	New plan showing existing aerial imagery	The original plan is subject to copyright and is outdated due to new development and changes to road layout.
<b>Objectives</b>				
Include new Objective 6	N/A	Include additional objective to reference bushfire protection	To ensure adequate bushfire protection measures are achieved.	New controls and notations relate to an increased emphasis on bushfire protection and so should be acknowledged.
<b>Controls</b>				
Amend Control	Control 1. All land within 50 metres of the top of bank of Myrtle Creek shall be protected by the establishment of a covenant on the land which provides the following:	Change reference from 50m to 30m	Control 1. All land within 30 metres of the top of bank of Myrtle Creek shall be protected by the establishment of a covenant on the land which provides the following:	Change is required to ensure consistency with proposed removal of NRW 50m buffer and retention of 30m buffer.
Amend Control	Control 1 (i) Restrict development to only vegetation management for environmental outcomes	Change wording to acknowledge role of LEP and NRAR in permissibility.	Control (i) Prohibiting of development as defined by the Environmental Planning and Assessment Act on this land unless approved by Council and the Natural Resource Regulator.	Change is based on advice from Environmental Outcomes Team
Amend Control	Control 1 (ii) prohibit the fencing of this land	Change wording to ensure E2 land is appropriately fenced.	Control 1 (ii) Require the installation of three strand steel cable fencing on the interface of the fire trail with the E2 lands	Change is based on advice from Environmental Outcomes Team
Amend condition	Control 1 (iii) require the land to be managed in accordance with a vegetation management plan approved by Council or the NSW Office of Environment and Heritage.	Change wording to acknowledge submission of Vegetation Management Plan	Control 1 (iii) require the land to be managed in accordance with Vegetation Management Plan approved by Council dated December 2018.	Change is based on advice from Environmental Outcomes Team

Section to be Changed	Current Control(s)	Proposed change	Proposed Control(s)	Justification for Change
Add new control		Add additional control	Control 1 (iv) Compliance with any General Terms of Approval issued by the Natural Resource Regulator	Change is based on advice from Environmental Outcomes Team
Add new control	N/A	Required to ensure all E2 zoned land will be managed	Control 2. The E2 zoned land will be retained in one private allotment and a restriction will be placed on the lot to this effect.	Written condition will help to clarify the intention of the notation on the layout plan.
Add new control	N/A		Control 3. Any land shown as being within an APZ area located north of Major Roberts Ave must provide the following:  i. In addition to monitoring detailed in the VMP, any subdivision application must include details of a program that would monitor the presence and movement of wildlife through the "Riparian Corridor"  ii. Appropriate dog proof fencing must be installed on the interface between the building envelope and the fire trail.  iii. Removal or pruning of native vegetation must not exceed the level required to comply with the requirements of Planning for Bushfire Protection Guidelines 2018.  iv. Tree species within the APZ that are listed in Schedule 2 of State Environmental Planning Policy (SEPP) (Koala Habitat Protection) 2019 are not permitted to be removed unless approved by a Determination applying to the site or under the State Environmental Planning Policy (Vegetation in Non-	Change is based on advice from Environmental Outcomes Team

Section to be Changed	Current Control(s)	Proposed change	Proposed Control(s)	Justification for Change
			Rural Areas) 2017. v. The distance between any tree species listed in Schedule 2 of the SEPP (Koala Habitat Protection) 2019 and the nearest external wall of a habitable structure must not be less than 3 metres unless otherwise approved by a Determination applying to the site or directive by Council.	
Add new control	Control 3. The subdivision shall provide larger allotments along Thirlmere Way and the western edge of the precinct.	Change to include new road name	Control 5. The subdivision shall provide larger allotments along the western edge of the precinct on land bordering Thirlmere Way and Major Roberts Ave.	Inclusion of Major Roberts Road and minor revision of text will help to further clarify portion of the site that the control applies to.
Amend Control numbers suit new control sequencing			As shown in Attachment 1.	

These controls are considered appropriate in response to the changes proposed and it is proposed that the community and other stakeholders are invited to provide feedback on these controls.

The draft site specific controls for Tahmoor West in the Volume 3 Subdivision of Land are provided in Attachment 5.

## CONSULTATION

### Internal Consultation

The proposed amendments to the Wollondilly DCP 2016 have been provided to internal staff for review and feedback and suggestions have been incorporated into the final draft provisions.

Issue Raised	Assessment Comment
Item 3 refers to land fronting Thirlmere Way, but there is none.	Control 3 is proposed to be revised to include the new Major Roberts Ave and minor revision of the text will help to further clarify portion of the site that the control applies to.
The Bus Stop is not part of the Development Application submitted concurrently for the West Tahmoor Minimum Lot Size Amendment No. 2 Planning Proposal site.	The DCP amendment refers to the whole of the Tahmoor West precinct. The timing of the delivery of the bus stop will need to be negotiated with the developer at the development application stage.

Minimum Lot Size	The minimum lot size map is proposed to be amended as part of the West Tahmoor Minimum Lot Size Amendment No. 2 Planning Proposal. The Site Specific controls apply to the whole of the Tahmoor West precinct.
Additional Controls required for areas identified as being within APZ	Controls have been included in the draft.
Changes to wording to Controls 1 (i), (ii), (iii) to addresses changes to state legislation and the provision of a Vegetation Management Plan.	Controls have been amended.

## CONCLUSION

The report seeks Council's approval to publicly exhibit proposed amendments to the Wollondilly Development Control Plan, 2016 Volume 3 Subdivision of Land Part 3.4 – Controls for Specific Locations Tahmoor West. These amendments apply to the portion of the Tahmoor West precinct that relates to the West Tahmoor Minimum Lot Size for Subdivision Amendment No. 2 Planning Proposal site. These proposed amendments have been prepared to reflect the provisions of the planning proposal and the submitted proposed plan of subdivision submitted with the concurrent development application for the site.

## Options for Moving Forward

The proposed amendments to the Wollondilly Development Control Plan has been prepared in accordance with the Environmental Planning and Assessment Regulation 2000.

Council's options are:







1. Support the amendments to the Wollondilly Development Control Plan 2016 in the form as described in the Description of Proposal section of this report.
2. Support the amendments to the Wollondilly Development Control Plan 2016 in another form.
3. Resolve not to support the amendments to the Wollondilly Development Control Plan 2016.

Option 1 is the recommendation of this report.

## Financial Implications

Funding for this project to date has been partially offset through the adopted planning proposal fees and charges. This matter has no financial impact on Council's adopted budget or forward estimates.

## ATTACHMENTS

1. Attachment 1 Merged Agenda Reports and Minutes 
2. Attachment 2 Planning Proposal (Exhibited Version) 
3. Attachment 3 Current Tahmoor West DCP Controls 
4. Attachment 4 Plan of Proposed Subdivision for Development Application 
5. Attachment 5 Proposed Amended Draft Controls 
6. Attachment 6 New Structure Plan 



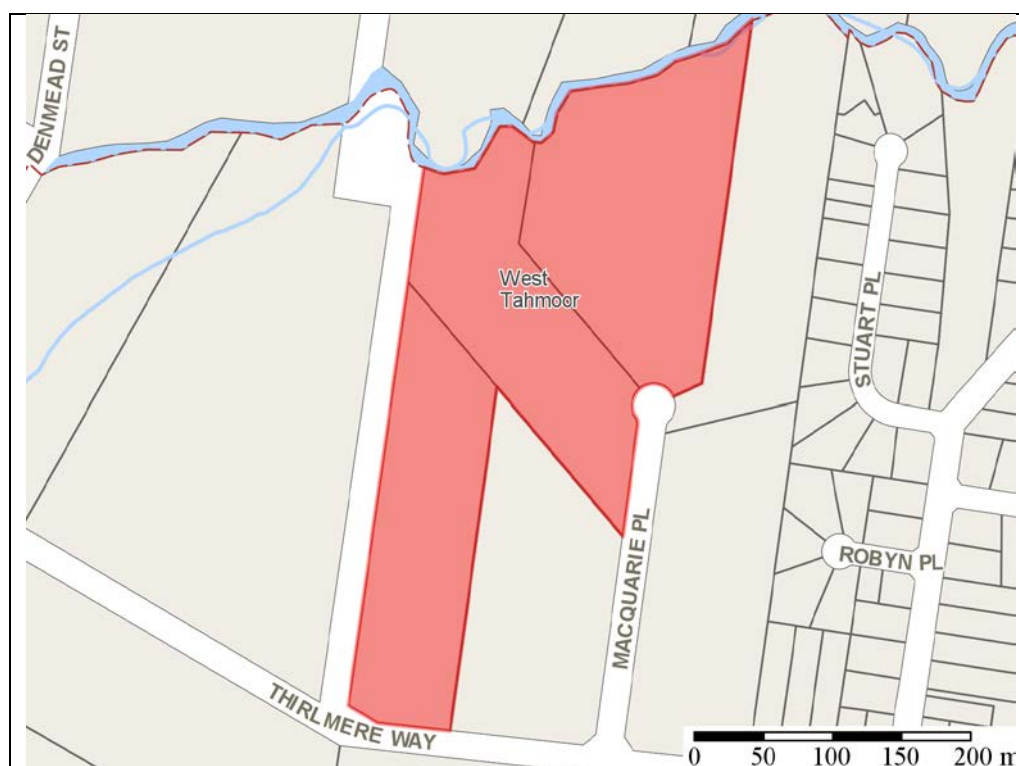
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**PE1 – Draft Planning Proposal – West Tahmoor Minimum Lot Size Amendment No.2**

**PLANNING AND ECONOMY**

**PE1**      **Draft Planning Proposal – West Tahmoor Minimum Lot Size Amendment No. 2**  
265508      TRIM 8154-2

**Applicant:**      **Precise Planning**  
**Owner:**      **Mr J E Baxter & Mrs M H Baxter and Abax Contracting Pty Limited**



**LOCATION MAP** ↑  
**N**

Stage	Completed
Preliminary notification	28 September to 12 October 2016
Gateway Determination	Not completed
Consultation with Public Agencies	Not completed
Specialist Studies	Not completed
Public exhibition/community consultation	Not completed
Referred to Minister for Publication	Not completed

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**PE1 – Draft Planning Proposal – West Tahmoor Minimum Lot Size Amendment No.2**

**EXECUTIVE SUMMARY**

- A Draft Planning Proposal has been received for Lots 2, 3, & 4 DP 243776 at 125 Thirlmere Way Tahmoor and 21 & 25 Macquarie Place Tahmoor.
- The draft proposal seeks the following changes to the Wollondilly Local Environmental Plan, 2011:
  - To amend the Lot Size Map from a minimum lot size category of 4000m<sup>2</sup> and 2000m<sup>2</sup> (related to the Northern and Western portions of the site) to 450m<sup>2</sup> across the whole site.
  - To amend the Land Zoning of a small northern portion of the site from R2 Low Density Residential to E2 Environmental Conservation.
- The application has been subject to initial notification and there were four (4) submissions in response. Three (3) were in objection, zero (0) were in support and one (1) was neutral.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements 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:
  1. Council supports the preparation of a planning proposal in an amended form that would rezone a portion of the land from a residential zone to an environmental protection zone and also amend the minimum lot size for subdivision.
  2. The portion of land proposed to be zoned E2 Environmental Conservation be expanded to include at least all “sensitive land” identified on the Natural Resources – Water Map.
  3. Council not support reducing the minimum lot size for subdivision along the western boundary.

**REPORT**

**1.1 DESCRIPTION OF THE PROPOSAL**

The Draft Planning Proposal (PP), known as West Tahmoor Minimum Lot Size Amendment No.2 Tahmoor, promotes an amendment to the minimum lot size map of approximately 3.5 ha of low density residential land to allow for a smaller allotment size of 450m<sup>2</sup>. A copy of the amended Lot Size Map as submitted by the proponent is provided in Attachment 1.

**PE1 – Draft Planning Proposal – West Tahmoor Minimum Lot Size Amendment No.2**

The draft planning proposal can be separated into two components; the land along the northern boundary referred to as “Land Adjoining Myrtle Creek” and “Land along the Western Boundary”.

Land Adjoining Myrtle Creek (riparian corridor)

This component of the proposal is to rezone a portion of the land to the north of the site adjacent to Myrtle Creek from R2 Low Density Residential to E2 Environmental Conservation zone and to reduce the minimum lot size for subdivision from 4000m<sup>2</sup> to 450m<sup>2</sup>.

The land proposed for the E2 Environmental Conservation zone will encompass nearly but not all “sensitive land” currently identified on the Natural Resources - Biodiversity Map (NRB) and the Natural Resources - Water Map (NRW) which form part of the Wollondilly LEP 2011. A copy of the proposed amendment to land zoning map submitted by the proponent is provided in Attachment 2.

The current minimum lot size of 4000m<sup>2</sup> of this portion of the site would potentially allow for the future development of around 5 lots. Under the proposed amendments the estimated lot yield for this area (outside of the proposed E2 zone) is 26 lots.

Land along Western Boundary (rural/urban interface)

The second component is to reduce the minimum lot size for subdivision for land located along most of the western boundary of the site from 2000m<sup>2</sup> to 450m<sup>2</sup>. This request is based on the intention that any clearing of vegetation in this area will be offset.

The current minimum lot size for subdivision for this portion of the site would potentially allow the area to be subdivision into approximately 7 lots, while the estimated yield under the proposed amendments will be 31 lots.

If supported in the form submitted by the proponent, the proposal as a whole has the potential to enable approximately 57 additional new lots at this location.

**1.2 SITE DESCRIPTION**

The PP is located within three principle allotments that are in the ownership of two land holders.

The site forms part of the West Tahmoor Precinct and was part of the Picton Thirlmere Tahmoor New Urban Lands (PTT) Urban Lands gazetted on 31 January 2014 (LEP Amendment No. 3).

**PE1 – Draft Planning Proposal – West Tahmoor Minimum Lot Size Amendment No.2**

The land to which the Planning Proposal relates, consists of three (3) lots known as, Lot 2 DP 243776, Lot 3 DP 243776 and Lot 4 DP 243776 which comprise a total area of 6.82 ha.

Moderate to dense vegetation is situated in many parts of the site, most notably along the western boundary of Lot 2, the northern boundary of Lots 3 and 4, and the western and south western boundary of Lot 4.

The land slopes gently down towards the north before progressing to a steeper decline towards the northern boundary adjoining Myrtle Creek.

The site is zoned R2 Low Density Residential and contains three distinct minimum lot size areas under WLEP 2011. These include an area to the north of the site which has a minimum lot size of 4000m<sup>2</sup>, a portion along the western boundary which has a minimum lot size of 2000m<sup>2</sup> with the remainder of the site having a minimum lot size of 450m<sup>2</sup>.

**Surrounding Lands**

The land is located on the periphery of the Tahmoor residential precinct and is bound to the west by an unformed road.

To the immediate west of the unformed road is zoned RE1 Public Recreation and is currently used as an equestrian facility which is operated by the Tahmoor Pony Club. This recreational land provides a buffer between the urban borders of Tahmoor and Thirlmere.

Land to the south is also zoned RE1 Public Recreation and consists of recreational land which is used for sporting fields and netball courts. This land provides a southern buffer between the Tahmoor residential and the rural land.

Lots to the immediate east of the site consist of R2 Low Density Residential zoned land and include an existing retirement village.

A corridor of land on the other side of Myrtle Creek, to the north of the site, is zoned E2 Environmental Conservation and is in private ownership. This land comprises remnants of Shale Sandstone Transition Forest and creates a northern buffer between the residential areas of Tahmoor and Thirlmere.

**1.3 PLANNING PROPOSAL BACKGROUND – PTT URBAN LANDS**

The land in this draft proposal was recently rezoned for residential development in January 2014 under LEP Amendment No. 3. The site was located within the West Tahmoor precinct which was one of six (6) precincts within the PTT amendment.



**PE1 – Draft Planning Proposal – West Tahmoor Minimum Lot Size Amendment No.2**

The amendment, as it related to the West Tahmoor precinct, involved:

- Rezoning the land from its previous rural zone to R2 Low Density Residential across the whole site
- Changing the lot size across the majority of the site to 450m<sup>2</sup> and applying a larger minimum lot size to constrained areas near Myrtle Creek of 4000m<sup>2</sup> and along the western boundary of 2000m<sup>2</sup>
- Applying a maximum building height for development
- Protecting sensitive land in terms of biodiversity and water resources by identifying land within the site on the Natural Resources – Biodiversity Map and Natural Resources – Water Map.

Larger minimum lot sizes were applied to areas within the PTT precincts containing riparian land, land of biodiversity value and land on the rural-urban interface. For the West Tahmoor site larger lots (4000m<sup>2</sup>) were required along the northern edge of the site adjoining Myrtle Creek and along the western boundary to provide a “transition between urban and rural lands” (2000m<sup>2</sup>). In part, the larger lot sizes on this site are also necessary to ensure that Asset Protection Zones to provide adequate bush fire protection can be accommodated within the site.

This draft proposal is the second draft planning proposal which has been submitted to Council to effectively reconsider aspects of the original PTT amendments.

The previous draft proposal was submitted in July 2014 and subsequently withdrawn by the proponent in May 2015 as the proposed amendments were considered unlikely to be supported by Council.

The table below provides an overview of the current provisions which apply to the site and those which have been proposed since the Amendment No. 3:

	Site	Land Use Zone	Minimum Lot Size (sqm)	Comment
<b>Current LEP Provisions</b>	Land Adjoining Myrtle Creek (riparian corridor)	R2 Low Density Residential	4,000	
	Land along western boundary (rural/urban interface)	R2 Low Density Residential	2,000	

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**PE1 – Draft Planning Proposal – West Tahmoor Minimum Lot Size Amendment No.2**

<b>West Tahmoor Lot Size Amendment (earlier withdrawn planning proposal)</b>	Land Adjoining Myrtle Creek (riparian corridor)	R2 Low Density Residential	700	Report prepared for the Ordinary Meeting of Council on 18 May 2015 which recommended Council not support the proposal. The draft planning proposal was subsequently withdrawn by the proponent.
	Land along western boundary (rural/urban interface)	R2 Low Density Residential	700	
<b>West Tahmoor Minimum Lot Size Amendment No.2 (current draft planning proposal)</b>	Land Adjoining Myrtle Creek (riparian corridor)	E2 Environmental Protection	450	The draft proposal seeks to dedicate land to be zoned E2 Environmental Protection to Council for a nature reserve.
	Land along western boundary (rural/urban interface)	R2 Low Density Residential	450	The proposal seeks the basis for a smaller minimum lot size on the basis of clearing vegetation in this area with an offsetting arrangement.

## **2. CONSULTATION**

### **2.1 FORMAL CONSULTATION WITH COUNCIL STAFF THAT PROVIDE SPECIALIST COMMENT**

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

**PE1 – Draft Planning Proposal – West Tahmoor Minimum Lot Size  
Amendment No.2**

**Infrastructure and Planning**

Council's Infrastructure and Planning team have advised that the area of 'sensitive land' identified on the Natural Resources – Water Map (NRW) which forms part of the Wollondilly LEP 2011 was increased to from 30m to 50m under LEP Amendment No. 3 to ensure better protection of the creek.

The proposed E2 Environmental Conservation zone does not appear to encompass the full extent of the mapped NRW layer overlay and so the E2 area should be increased to include a greater extent of land currently identified on the Natural Resources – Water Map and Natural Resources Biodiversity Map in the LEP.

It was also highlighted that there have been some difficulties with maintaining the land designated as protected via the LEP mapping overlays and so it is thought that the proposed environmental zoning, in addition to the overlay, will better protect the creek. Providing that, all development (including water quality facilities as far as possible) is excluded within this zone.

**Environmental Services**

Councils' Environmental Services Team have advised that they are not supportive of the proposal as the current LEP provisions are viewed as being inadequate to protect the vegetation at this location.

The Local Environment Study (LES) report prepared by Biosis (in support of the PTT Planning Proposal in 2014) identified the western and northern parts of the site (those largely proposed to have minimum lots of 450m<sup>2</sup>) as comprising of Critically Endangered Ecological Community Shale/Sandstone Transition Forest and that the site adjacent to Myrtle Creek and the south western part of the site had the highest potential for occurrence of threatened species and was considered the more resilient areas of bushland.

Priority Mapping endorsed by Council in December 2015 identified land on the Western border as having the second highest category in terms of priority for protection and the proposed 450m<sup>2</sup> allotments will not allow for the location and design of development which would avoid any adverse environmental impact on the Natural Resource Biodiversity (NRB) Layer, (which covers this part of the site), in accordance with Section 7.2(4) of the Local Environmental Plan.

In addition to this the proposed area zoned for E2 Environmental Conservation does not include significant portions of the site currently covered by the Natural Resources Biodiversity Layer and it has not been demonstrated that the E2 zone would adequately offset biodiversity losses associated with the revised proposal.

**PE1 – Draft Planning Proposal – West Tahmoor Minimum Lot Size Amendment No.2**

Acquisition of the proposed E2 zoned land by Council is not warranted from an environmental perspective given the strong unlikelihood of a riparian corridor being established adjacent to Myrtle Creek as a result of private land to the east and Crown Land to the west.

Environmental Services are supportive of the alternative approach recommended in this report, as the establishment of the extended E2 zone to incorporate all of the Natural Resources Water (NRW) layer is viewed as a stronger form of protection.

**Land & Property Panel (LPP)**

The draft planning proposal indicates an intention to dedicate the land proposed to be rezoned to E2 Environmental Conservation adjoining Myrtle Creek to Council for use as a nature reserve.

This dedication of the proposed E2 zoned land was considered by Council's Land and Property Panel (LPP) at its meeting held 9 November 2016. At this meeting the LPP concluded that there is no merit in the dedication of this land to Council and recommended that the proposed E2 zoned land to remain in private ownership for the following reasons:

- Acquiring this asset when not strategically required would be contrary to best practice asset management
- There is concern with accessing the site, ongoing maintenance, flood and bushfire issues
- The proposed funding is insufficient/low
- There is concern with the potential legal implications of taking on the ownership of the creek bed/watercourse.

**2.2 CONSULTATION WITH PUBLIC AGENCIES**

If the Planning Proposal is supported by Council and forwarded to the Greater Sydney Commission, any subsequent Gateway Determination will outline the consultation requirements with government agencies.

No agencies have been consulted at this preliminary stage.

**2.3 COMMUNITY CONSULTATION**

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



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**PE1 – Draft Planning Proposal – West Tahmoor Minimum Lot Size Amendment No.2**

A total of **4** submissions were received and of these submissions; **3** objected, **0** supported and **1** submission was neutral.

Of those objecting, one submission was from the Wollondilly Pony Club and the other two were from land owners from Tahmoor and Thirlmere.

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

Issue Raised	Assessment Comment
<b>Land dedication</b> The transfer of land to Council will need to be considered by the Property Panel	The proposal to dedicate land to Council was considered by the Land & Property Panel (LPP) at its meeting on 9 November 2016. Where it was recommended that any land proposed to be zoned E2 Environmental Conservation remain in private ownership.
<b>Environmental impact</b> <ul style="list-style-type: none"> <li>▪ Buffer Zone should be widened (enlarged),</li> <li>▪ The nature strip should be enlarged to protect our wildlife. Bower birds have lived there for 20 years,</li> <li>▪ Native orchids grow there as part of the Cumberland Plain</li> </ul>	<p>Previous studies prepared to support amendment No.3 to the WLEP 2011 have shown that the site typically supports a high level of fauna habitat features that are important in the maintenance of native fauna diversity and life cycles.</p> <p>Extension of the buffer zone has also been highlighted during internal consultation with Council staff.</p> <p>This report recommends increasing the area proposed to be rezoned for environmental protection purposes so that it aligns with the area identified for water protection on the Natural Resources – Water Map which forms part of the WLEP 2011.</p>
<b>Traffic &amp; parking</b> <ul style="list-style-type: none"> <li>▪ Thirlmere Way will not cope with additional traffic. It is already next to impossible to connect with Milne Street in the morning.</li> </ul>	<p>This comment appears to relate to the future development of the whole site. Traffic impacts would have been considered as part of the original planning proposal to rezone the land for future development. The addition of approximately 57 new lots is not viewed as being significant enough to require a new study. The planning proposal was referred to Council's Infrastructure and Planning unit who did not identify the need for a traffic study to be undertaken.</p>

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	The site is located within a designated Urban Release Area and so developer contributions towards the upgrade of State and Council infrastructure, including roads will be required at the development application stage.
<b>Conflict with rural living</b> <ul style="list-style-type: none"> <li>▪ Not Rural Living</li> <li>▪ Not compatible with rural living</li> </ul>	The site is already zoned for residential purposes and has been identified for growth in Council's GMS.
<b>Open space and recreation</b> <ul style="list-style-type: none"> <li>▪ No Land set aside for park or open space for children to play,</li> <li>▪ No open space is planned for kids to exercise.</li> <li>▪ All subdivisions should have open space</li> <li>▪ Maybe a community garden should be established</li> </ul>	The site is located adjacent to public recreational space. Developer contributions towards Council owned infrastructure which include sports fields and parks will be required at the development application stage.
<b>Block sizes</b> <ul style="list-style-type: none"> <li>▪ The block size of 450 should be much larger,</li> <li>▪ Lot sizes shouldn't be reduced in size</li> </ul>	<p>The proposed minimum lot size of 450m<sup>2</sup> is consistent with that of adjoining properties to the east of the site.</p> <p>This report discusses this issue in detail.</p>
<b>Height of buildings</b> <ul style="list-style-type: none"> <li>▪ They will build double story which takes away more</li> </ul>	The draft proposal does not seek to amend the maximum building height that applies to the site and there is not considered to be any planning grounds to restrict the height of part of this proposal.
<b>Flooding and runoff</b> <ul style="list-style-type: none"> <li>▪ Concerns with runoff water that this development will cause. Myrtle Creek already takes vast amounts of water as shown by the June rains.</li> <li>▪ Further evidence of this is the flooding on the corner of Renmead and Leonard Street Thirlmere. Neighbour also has flooding out</li> </ul>	If the proposal proceeds a flood and stormwater management assessment will be required at the development application stage to establish that future subdivision of the site will not negatively impact on Myrtle Creek or surrounding properties.

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<p>the front and sure this was caused by runoff from the Gumtree Estate at the top of Renmead Street.</p> <ul style="list-style-type: none"> <li>▪ Houses east of the proposal also suffered flooding</li> <li>▪ Reducing the lot size to 450sqm will add even more flooding pressure to Myrtle Creek</li> </ul>	
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Planning & Economy

**2.4 PREPARATION OF A PLANNING PROPOSAL**

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

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

Council's options are:

1. Resolve to support the application in its original form and prepare a Planning Proposal accordingly. Matters can be more fully investigated and resolved with future specialist studies as determined by the Gateway process.
2. Resolve that a Planning Proposal be prepared in a form different to the application (and as described in Section 2.13 of this report). Matters can be more fully investigated and resolved with future specialist studies as determined by the Gateway process.
3. Resolve not to support a Planning Proposal for this site. The applicant can choose to apply for a Pre-Gateway Review as a result of this option.

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

Option **2** is the recommendation of this report.

**PE1 – Draft Planning Proposal – West Tahmoor Minimum Lot Size Amendment No.2**

**2.5 GATEWAY DETERMINATION**

When a Planning Proposal has been endorsed by Council, it is then forwarded to the Minister for Planning and Environment for a Gateway Determination. The Gateway process is a checkpoint for Planning Proposals before significant resources are committed to carrying out specialist studies and before extensive consultation with public agencies.

As part of the Gateway process, the Greater Sydney Commissioner 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 re-submitted 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 and Commonwealth Agencies
- whether a public hearing by the Planning 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 Greater Sydney Commission or delegated to Council.

**2.6 METROPOLITAN PLAN FOR SYDNEY 2036**

An initial assessment indicates that the proposal appears to be in line with the policy objectives of A Plan for Growing Sydney as it seeks to allow for additional housing adjacent to an established residential area, has access to existing services and is in close proximity to existing community infrastructure.

The proposal to introduce an environment protection zone to the portion of the site that adjoins Myrtle Creek is also considered to be consistent with Strategic Direction G – Protecting Sydney’s Natural Environment, in regard to, objective G4 – To improve the Health of Waterways, Coasts and Estuaries. However the future loss of vegetation to the western portion of the site is considered to be inconsistent with this direction.

**2.7 DRAFT SOUTH WEST DISTRICT PLAN**

The priorities listed in the Draft South West District Plan that are relevant considerations for this proposal are as follows:

***Sustainability Priority 2: Maintain and improve water quality and waterway health***



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The proposed land use zone 'E2 Environmental Conservation' will provide a higher protection of land adjoining Myrtle Creek than the current residential land use zone. However, it is considered that the proposed boundary should be extended to align with sensitive land identified on the Natural Resources – Water Map (NRW) which forms part of the WLEP 2011.

The associated clause 7.3 *Water protection* in the WLEP 2011 aims to maintain the hydrological functions of riparian land and waterway. The proposal in its current form is considered to be only partially consistent with this priority.

***Sustainability Priority 3: Avoid and minimise impacts on biodiversity***

The proposed land use zone 'E2 Environmental Conservation' will provide a higher protection of land adjoining Myrtle Creek than the current residential land use zone. However not all land identified on the Natural Resources - Biodiversity Map (NRB) which forms part of the Wollondilly LEP 2011 has been identified for this zone.

The associated clause 7.2 Biodiversity protection aims to maintain terrestrial and aquatic biodiversity. The proposal in its current form does not include all land protected by the NRB and so the proposal is only partially consistent with this priority.

**2.8 SECTION 117 MINISTERIAL DIRECTIONS**

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

- 2.1 Environmental Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 4.2 Mine Subsidence and Unstable Land
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection

If the draft proposal is supported and a Gateway Determination to proceed is issued further consideration of the relevant Ministerial Directions listed above will be required.

**PE1 – Draft Planning Proposal – West Tahmoor Minimum Lot Size Amendment No.2****2.9 STATE ENVIRONMENTAL PLANNING POLICIES**

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

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

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

**2.10 WOLLONDILLY GROWTH MANAGEMENT STRATEGY**

A summary of how the PP applies to the Wollondilly Growth Management Strategy (GMS) is provided in the table below:

Key Policy Direction	Comment
<b>General Policies</b>	
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 is considered to be inconsistent with key policy directions P2, P9 and P21.
P2 All land use proposals need to be compatible with the concept and vision of "Rural Living" (defined in Chapter 2 of the GMS).	The current lot size is considered to be more consistent with the rural living requirements of the GMS as the larger lot sizes to the north and the west of the site would create a more suitable buffer to the rural and recreational lands.
P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.	Four (4) submissions were received during the exhibition of the proposal and have been given due consideration within this report.
P4 The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.	There have been no such representations regarding this proposal and therefore this key policy direction has been satisfied.

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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 relates to land within an existing residential precinct, however, the larger lot sizes on the western and northern boundary of the site were established to address the environmental and physical features of the site. Therefore the proposed reduction of the lot sizes to 450sqm is considered to be contrary to this policy. However the introduction of an E2 zone to the north of the site may help to address this inconsistency.
<b>Housing Policies</b>	
P6 Council will plan for adequate housing to accommodate the Shire's natural growth forecast.	The proposed amendment to the minimum lot size maps on the site will contribute to the achievement of dwelling targets for the Shire which are contained in the GMS
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 draft proposal would result in approximately 57 additional smaller and easier to maintain lots in close proximity to the business centre.
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").	<p>The current lot sizes of 4000m<sup>2</sup> and 2000m<sup>2</sup> ensure a larger lot size on the perimeter of the township and so a proposal to decrease these lot sizes on the periphery of the town is inconsistent with this policy.</p> <p>The proposal to introduce an environmental protection zone on identified environmentally sensitive land is seen as being consistent with this proposal.</p>
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 within an existing low density residential zone and is consistent in this regard.

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<b>Macarthur South Policies</b>	
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.	Not applicable to this planning proposal
<b>Employment Policies</b>	
P15 Council will plan for new employment lands and other employment generating initiatives in order to deliver positive local and regional employment outcomes.	Not applicable to this planning proposal
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.	Not applicable to this planning proposal
<b>Integrating Growth and Infrastructure</b>	
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.	If the Planning Proposal is supported, the relevant agencies responsible for the provision of services and infrastructure (e.g. sewerage infrastructure) will be formally consulted to ensure that the service provision is adequate.
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	The planning proposal relates to residential land within the existing village boundaries of the township of Tahmoor and is subsequently considered to be consistent with this policy direction.

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new housing in and around our existing population centres.	
P19 Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.	The planning proposal is within an existing precinct and complies with this policy.
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 planning proposal relates to land within the West Tahmoor PTT precinct and is consistent with this policy.
<b>Rural and Resource Lands</b>	
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>The vegetation communities to the north of the site form part of a locally significant vegetation corridor of Myrtle Creek which has been identified on the Natural Resources - Biodiversity Map which forms part of the WLEP 2011.</p> <p>It is considered that the current 4000m<sup>2</sup> minimum lot size is more suitable for retaining and protecting this area and minimising degradation of this environmentally sensitive area. However, the application of an E2 zone to this areas may also act to protect this vegetation however further assessment will be required if the proposal proceeds to establish the extent of this protection.</p> <p>The proposal also seeks to remove significant vegetation that has been nominated within the Biodiversity Layer in the WLEP 2011 on the Western side of the site by way of an offsetting arrangement.</p>
P22 Council does not support incremental growth involving increased dwelling entitlements and/or rural lands	The lot size amendment is located on lands currently zoned R2 Low Density Residential and the requirements of this policy are achieved.

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fragmentation in dispersed rural areas. Council is however committed to maintaining where possible practicable, existing dwelling and subdivision entitlements in rural areas.	
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**2.11 SUMMARY OF ASSESSMENT**

**Flora, Fauna and Riparian Land**

The Local Environment Study undertaken by Cardno for the PTT rezoning stated that:

“Riparian corridor of Myrtle Creek should be maintained as a 50m corridor, protected future development by being included on the Natural Resources – Biodiversity Map. This corridor can be allocated within the future. Subdivision of the corridor should be limited to one to two lots to minimise fragmentation of the corridor. Vegetation along the corridor should be retained and managed.”

In addition to this, the previous flora and fauna study undertaken for the PTT rezoning indicated the presence of potential Koala feed trees within the corridor and referenced previous records of this species being in the locality of the site.

Council’s Environmental Services team is of the opinion that the current larger minimum allotment size, the application of the Biodiversity Protection clause in the WLEP 2011 (Clause 7.2) and the planning controls contained in the Wollondilly Development Control Plan are sufficient protection measures for the biodiversity present at the site.

The proponent argues that the proposal to apply an E2 Environmental Conservation zone to the riparian corridor (situated to the north of the site) should act to achieve the same outcomes for this location. However the proposal also seeks to use this zone as a trade-off for the future loss of the vegetation to the west of the site (also identified on the NRB map but viewed as being less important. However the actual benefit in relation to this loss needs to be calculated.



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The proponent also highlights that the current minimum lot size does not sufficiently protect the riparian corridor as dual occupancies are currently permissible under the Wollondilly Development Control Plan (DCP) 2016 within in an R2 zone on land larger than 800m<sup>2</sup> (for attached) 975m<sup>2</sup> (detached). This is not the case though as the planning controls for dual occupancy development in the Wollondilly Development Control Plan 2016 prohibits dual occupancy development on lots that are larger than 1400m<sup>2</sup> on land zoned R2 Low Density Residential.

Council's Infrastructure Planning team are supportive of the E2 Environmental Conservation zone as a means of providing more protection to Myrtle Creek and better achieving water quality outcomes, providing that the zone is extended to encompass the whole area at this location identified on the Natural Resources – Water Map which forms part of the Wollondilly LEP 2011 and currently apply to the site.

Council's Land & Property Panel do not support ownership and management of this land being transferred to Council due to the future financial and legal liability this land may present. Therefore, the future management of this area would need to rely on private management and conservation by way of either a Voluntary Planning Agreement or a Vegetation Management Plan.

This may be hard to manage if the land is divided among multiple owners. Conversely, it could also be argued that, if parcelled into a single ownership, there would be a disproportionate financial burden on the land owner. However by keeping within one to two owners there is a higher likelihood that the land could be bio-banked in the future, which would then generate an income to manage the land.

The Western Residential Border of Tahmoor

The site is located on the western residential border of Tahmoor with a recreational zone providing a buffer between rural land to the south and the residential border of Thirlmere to the west. The GMS advocates for lower densities on the edge of towns and villages in the location known as the rural fringe.

The site has been rezoned to a low density residential zone and is close proximity to the town centre and Tahmoor railway station. The site is also supported by a sealed walkway running along Thirlmere Way which directly links to the town centre and is a good location for smaller lot sizes.

The site is buffered by a recreation zone to the south and west and as such there appears and is on the rural interface of the residential and rural land in Tahmoor. The character of the land along this border is heavily vegetated and presents a rural outlook to the future houses to be located adjacent and is worth retaining for its conservation, buffering and aesthetic value.

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The current minimum lot size of 2000m<sup>2</sup> at this location has been identified in Volume 3 of the Wollondilly Development Control Plan 2016 (DCP) 3.4 Tahmoor West as being large lot residential to provide a transition between urban and rural lands.

**Recreation, Safety and Land Use Conflict**

The site also has good access to recreational space as it is adjacent to sporting fields, a children's accessible playground and a skate park. The location of smaller lot housing in this area would enhance the use of this valuable community infrastructure and would provide better natural surveillance to an area that currently appears isolated.

Parking and noise from these spaces during sporting events and their impact on the future residents' amenity and enjoyment of their homes is a consideration.

The potential for conflict in land use between the Wollondilly Pony Club and housing along the western border is another consideration. Smaller lots in this vicinity that are cleared of vegetation could potentially exacerbate noise and the amount of dust moving across to houses during events. Larger lots along this boundary can reduce the intensity of this interface by reducing the number of houses and vehicle movements and enables a greater setback and separation between uses. Both of these issues have potential to lead to significant conflict between home owners and sporting and recreational clubs.

**CONCLUSION**

In terms of the orderly development of the land and the protection of biodiversity and the waterway, Council is presented with three options. Council could not support the proposal and thereby retain the existing provisions within the Wollondilly LEP 2011; support the proposal in the form as submitted by the proponent or support the proposal in an amended form.

This report recommends supporting the planning proposal in an amended form in order to achieve greater protection of the riparian corridor along Myrtle Creek by rezoning an appropriate buffer to E2 Environmental Conservation zone. This buffer would include at least all 'sensitive land' associated with the riparian corridor which is currently protected by Clause 7.3 Water Protection and mapped on the Natural Resources – Water Map within Wollondilly LEP 2011. An E2 Environmental Conservation Zone for this land would also mirror and be consistent with the approach taken with vegetated riparian land on the northern side of Myrtle Creek.

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Given the intention to rezone the land for environmental protection purposes it is also considered appropriate to restrict the minimum lot size for subdivision so that the land can be retained, preferably in single ownership, or alternatively in two (2) lots. Site specific controls for this site in Volume 3 of the Wollondilly Development Control Plan already indicate this intention within the Structure Plan but controlling this aspect of future development through the LEP will provide more certainty over this outcome. It is suggested that increasing the minimum lot size from 4000m<sup>2</sup> to 5000m<sup>2</sup> could achieve this outcome but this should ultimately be determined after the extent of the E2 Environmental Conservation zone has been confirmed.

In light of these provisions it is considered appropriate to reduce the minimum lot size for subdivision from 4000m<sup>2</sup> to 450m<sup>2</sup> for those areas adjoining the E2 zone with the exception of the area adjoining the western boundary with Lot 380 in DP 751270. The 2000m<sup>2</sup> lot size which runs along the length of the western boundary should be extended to meet the line of the proposed E2 boundary. A minimum lot size of 450m<sup>2</sup> is not considered to be appropriate for land proposed to be zoned E2 Environmental Conservation.

Even though a minimum lot size of 450m<sup>2</sup> is considered to have merit these lots may still need to be larger in order to ensure adequate bushfire protection can be provided within the property boundary and this includes any required Asset Protection Zones (APZ). No APZ's should rely on or be located on land zoned for environmental protection. Larger lots may also be required to minimise removal of and/or impacts on vegetation both on the site and adjoining sites. This will be considered at the development application stage.

The draft proposal also seeks to reduce the minimum lot size along the western boundary from 2000m<sup>2</sup> to 450m<sup>2</sup> and indicates that the intention is to remove the vegetation in this area through an offsetting arrangement at the development application stage.

While portions of the western boundary are constrained by vegetation the main reason for large lots along this boundary was to provide a transition between urban and rural lands. Offsetting tree removal in the manner proposed, which is to achieve smaller lots, will not address this transition and is not considered to justify a change to the minimum lot size for subdivision. It is also noted that the current lot size, i.e. 2000m<sup>2</sup>, in this location is consistent with the approach taken for the southern end of Silverdale.

**PE1 – Draft Planning Proposal – West Tahmoor Minimum Lot Size Amendment No.2**

**2.12 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP 2011)**

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

**2.13.1 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP, 2011)**

The proposed amendments to WLEP 2011 are described below:

- Amend the Land Zoning Map to rezone a portion of the subject site from Zone R2 Low Density Residential to Zone E2 Environmental Conservation.
- Amend the Lot Size Map to reduce the minimum lot size from 4000m<sup>2</sup> to 450m<sup>2</sup> for land zoned R2 Low Density Residential in the northern portion of the site, except land adjoining the western boundary.
- Amend the Lot Size Map from a minimum lot size category of 4000m<sup>2</sup> to 2000m<sup>2</sup> for land zoned R2 Low Density Residential along the western boundary.

An appropriate lot size for land proposed to be zoned E2 Environmental Conservation cannot be determined at present until the extent of the E2 zone has been confirmed. The intention will be to increase the minimum lot size, if necessary, to prevent the environmentally protected land from being subdivided into more than two (2) lots.

**2.13.2 WOLLONDILLY DEVELOPMENT CONTROL PLAN, 2011 (WDGP, 2011)**

There are currently controls for this site in the DCP. These will need to be reviewed if the draft proposal is supported and may need to be amended. If amendments are necessary, these will be reported to Council prior to public exhibition.

**2.14 FINANCIAL IMPLICATIONS**

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

**PE1 – Draft Planning Proposal – West Tahmoor Minimum Lot Size Amendment No.2**

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

**ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET**

1. Amended Lot Size Map (submitted by Precise Planning)
2. Proposed Amendment to Land Zoning Map (submitted by Precise Planning)
3. Map of proposed alternative LEP amendments

**RECOMMENDATION**

1. That Council support the preparation of a Planning Proposal, in an amended form, for Lots 3 & 4 in DP 243776 (21 & 25 Macquarie Place Tahmoor) to amend Wollondilly Local Environmental Plan 2011 as follows:
  - Amend the Land Zoning Map as it applies to the northern portion of the site to rezone land adjoining Myrtle Creek from R2 Low Density Residential to E2 Environmental Conservation.
  - Amend the Lot Size Map for land;
    - zoned R2 Low Density Residential in the northern portion of the site, but not adjoining the western boundary to a minimum lot size of 450m<sup>2</sup>.
    - for land zoned R2 Low Density Residential along the western boundary to 2000m<sup>2</sup>.
2. That the Lot Size Map be amended so that land proposed to be zoned E2 Environmental Conservation cannot be subdivided into more than two (2) lots. The minimum lot size will be determined in consultation with the proponent after a Gateway Determination has been issued.
3. That the portion of land proposed to be zoned E2 Environmental Conservation be expanded to include at least all 'sensitive land' identified on the Natural Resources – Water Map.
4. That Council does not support reducing the minimum lot size of 2000m<sup>2</sup> for land at Lot 2 DP 243776, located along the western boundary (with Lot 380 in DP 751270) as proposed in the draft Planning Proposal submitted by Precise Planning.

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

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**PE1 – Draft Planning Proposal – West Tahmoor Minimum Lot Size Amendment No.2**

5. That the amended Planning Proposal be forwarded to the Greater Sydney Commission for a Gateway Determination.
6. That Council request the Greater Sydney Commission to grant Council delegation to make the amendments to Wollondilly Local Environmental Plan, 2011 in accordance with Section 59 to the Environmental Planning and Assessment Act, 1979.
7. That the applicant and submitters be notified of Council's Resolution.



Minutes of the Ordinary Meeting of Wollondilly Shire Council held in the Council Chamber, 62-64 Menangle Street, Picton, on Monday 20 February 2017, commencing at 6.30pm

Planning and Economy

PLANNING AND ECONOMY

PE1 Draft Planning Proposal – West Tahmoor Minimum Lot Size Amendment  
No. 2  
265508 TRIM 8154-2

3/2017 Resolved on the Motion of Crs Banasik and Khan:

1. That Council support the preparation of a Planning Proposal, in an amended form, for Lots 3 & 4 in DP 243776 (21 & 25 Macquarie Place Tahmoor) to amend Wollondilly Local Environmental Plan 2011 as follows:
  - Amend the Land Zoning Map as it applies to the northern portion of the site to rezone land adjoining Myrtle Creek from R2 Low Density Residential to E2 Environmental Conservation.
  - Amend the Lot Size Map for land;
    - zoned R2 Low Density Residential in the northern portion of the site, but not adjoining the western boundary to a minimum lot size of 700m<sup>2</sup>.
    - for land zoned R2 Low Density Residential along the western boundary to 2000m<sup>2</sup>.
2. That the Lot Size Map be amended so that land proposed to be zoned E2 Environmental Conservation cannot be subdivided into more than two (2) lots. The minimum lot size will be determined in consultation with the proponent after a Gateway Determination has been issued.
3. That the portion of land proposed to be zoned E2 Environmental Conservation be expanded to include at least all 'sensitive land' identified on the Natural Resources – Water Map.
4. That Council does not support reducing the minimum lot size of 2000m<sup>2</sup> for land at Lot 2 DP 243776, located along the western boundary (with Lot 380 in DP 751270) as proposed in the draft Planning Proposal submitted by Precise Planning. *Any future Development Application for subdivision of the land must incorporate vegetative screening along the western boundary of Lot 2 or any proposed local road to reduce impacts upon the adjoining recreational facility.*

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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 20 February 2017, commencing at 6.30pm

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5. **That the amended Planning Proposal be forwarded to the Greater Sydney Commission for a Gateway Determination.**
6. **That Council request the Greater Sydney Commission to grant Council delegation to make the amendments to Wollondilly Local Environmental Plan, 2011 in accordance with Section 59 to the Environmental Planning and Assessment Act, 1979.**
7. **That the applicant and submitters be notified of Council's Resolution.**

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

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

Report of Planning and Economy to the Ordinary Meeting of Council held on Tuesday 18 April 2017

**PE6 – Inclusion of Lot 2 DP 243776 into Draft Planning proposal – West Tahmoor Minimum Lot Size Amendment No. 2**

PE6

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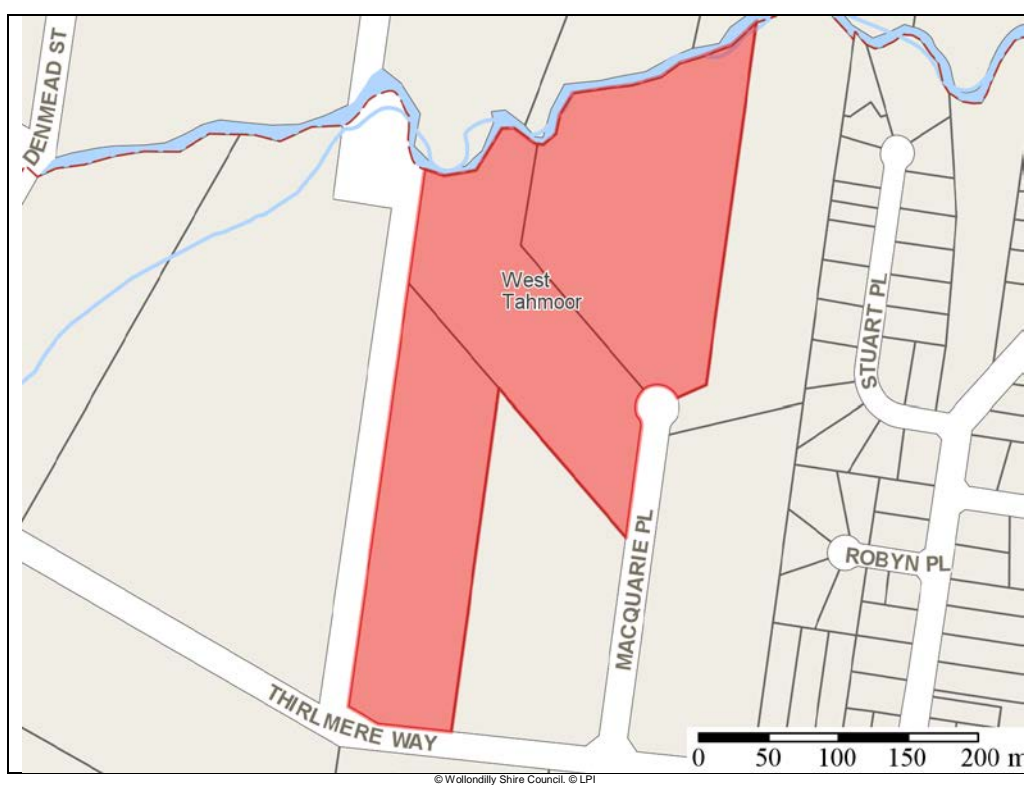
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**Applicant:**

**Precise Planning**

**Owner:**

**Mr J E Baxter & Mrs M H Baxter and Abax Contracting Pty Limited**



LOCATION MAP N

Stage	Completed
Preliminary notification	28 September to 12 October 2016
Gateway Determination	Not completed
Consultation with Public Agencies	Not completed
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- Council is currently assessing a draft planning proposal to amend the Wollondilly Local Environment Plan 2011 for **Lots 2, 3, & 4 DP 243776** at **125 Thirlmere Way Tahmoor** and **21 & 25 Macquarie Place Tahmoor**.
- At the Ordinary Meeting held 20 February 2017, Council resolved to support an amendment to Wollondilly Local Environment Plan 2011 for **Lots 3 & 4 DP 243776**.
- The purpose of this report is to seek Council's support to include a small portion of **Lot 2** in the amendment to give effect to the change in minimum lot size.
- It is recommended that:
  - The West Tahmoor Minimum Lot Size Amendment No. 2 Planning Proposal be amended to include part of Lot 2 DP243776 (125 Thirlmere Way Tahmoor). The Lot Size Map be amended for this parcel of land from 4000m<sup>2</sup> to 2000m<sup>2</sup>.
  - This land be included into the Planning Proposal and forwarded for a Gateway Determination and request delegation to make the amendments to Wollondilly Local Environmental Plan, 2011 in accordance with Section 59 to the Environmental Planning and Assessment Act, 1979.
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**REPORT**

**BACKGROUND**

At its meeting held on 20 February 2017, Council determined to support the West Tahmoor Minimum Lot Size Amendment No. 2 in a revised format.

Council resolved (in part) as follows:

1. *That Council support the preparation of a Planning Proposal, in an amended form, for Lots 3 & 4 in DP 243776 (21 & 25 Macquarie Place Tahmoor) to amend Wollondilly Local Environmental Plan 2011 as follows:*
  - *Amend the Land Zoning Map as it applies to the northern portion of the site to rezone land adjoining Myrtle Creek from R2 Low Density Residential to E2 Environmental Conservation. Amend the Lot Size Map for land;*
    - *zoned R2 Low Density Residential in the northern portion of the site, but not adjoining the western boundary to a minimum lot size of 700m<sup>2</sup>.*
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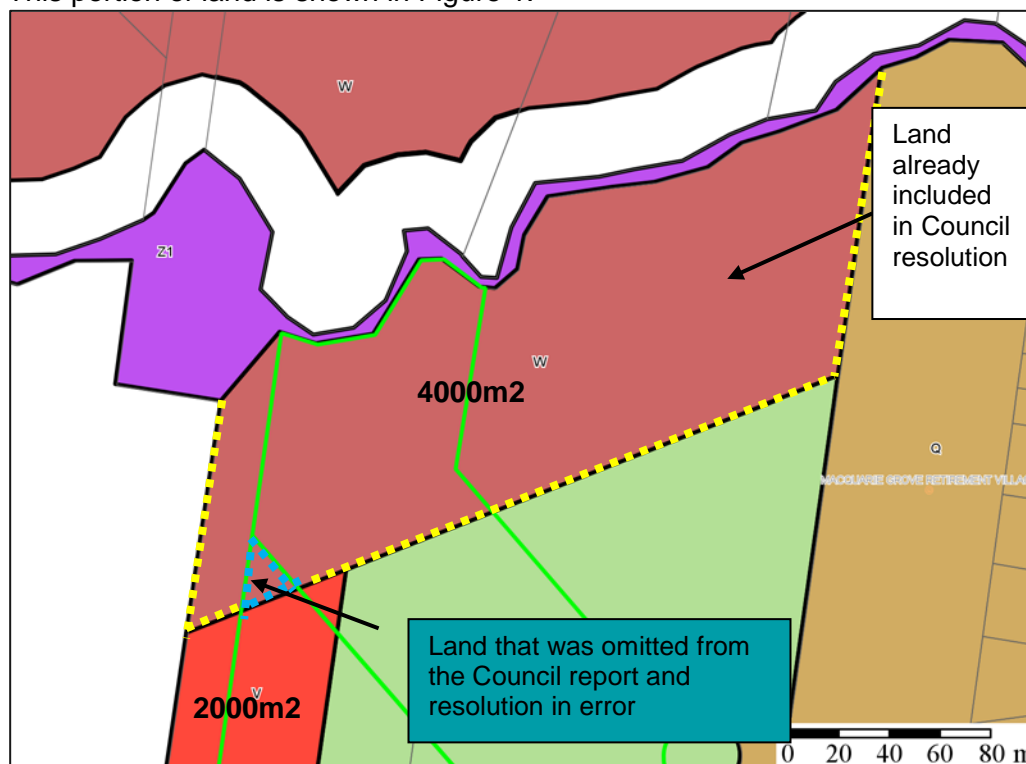
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The above resolution effectively made no change to Lot 2 in DP 243776. The minimum lot size for the majority of Lot 2 will remain at 2000m<sup>2</sup>. However a small portion of land within Lot 2 of approximately 300m<sup>2</sup> is identified under the WLEP 2011 as requiring a minimum lot size of 4000m<sup>2</sup> for subdivision.

This portion of land is surrounded on two sides by land that Council has resolved to amend the minimum lot size map from 4000m<sup>2</sup> to 2000m<sup>2</sup> or land already identified as on the lot size map as 2000m<sup>2</sup>.

This will result in a poor planning outcome once the land is developed. Therefore it is recommended that Council resolves to include this land into the planning proposal as described in Section 1.3.

This portion of land is shown in Figure 1.



**Figure 1 Location of land that was omitted in error also showing existing Minimum Lot Sizes**

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**CONSULTATION**

The omission of Lot 2 DP 243776 from the report recommendation to Council on this proposal in February was an oversight and the proposed inclusion of this land is to ensure Council has robust planning proposal before it is forwarded to the Greater Sydney Commission to request a Gateway Determination. This should ensure delays are avoided later in the Gateway Process.

The report to Council in February detailed consultation undertaken to date with Council staff, public agencies and the community. A copy of the report is provided at Attachment 1. Issues raised regarding the proposed minimum lot size in the original proposal have been addressed in the revised approach.

**1.1 PREPARATION OF A PLANNING PROPOSAL**

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

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

Council's options are:

1. Resolve to support a change to the minimum lot size of a small portion of Lot 2 DP 243776 (125 Thirlmere Way Tahmoor) from 4000m<sup>2</sup> to 2000m<sup>2</sup> within the Planning Proposal.
2. Resolve to proceed with the planning proposal in the form supported at Council Meeting held on 20 February 2017 in which case, no provision for Lot 2 DP 243776 (125 Thirlmere Way Tahmoor) would be included within the planning proposal.

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

**1.2 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP 2011)**

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

**1.3 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP, 2011)**

The proposed amendments to WLEP 2011 are described below:



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For Lot 2 DP243776 (125 Thirlmere Way Tahmoor):

- Amend the Lot Size Map for land zoned R2 Low Density Residential with a current minimum Lot Size of 4000m<sup>2</sup> to 2000m<sup>2</sup>.

**FINANCIAL IMPLICATIONS**

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

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

**ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET**

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**PE6 – Inclusion of Lot 2 DP 243776 into Draft Planning proposal – West  
Tahmoor Minimum Lot Size Amendment No. 2**

**RECOMMENDATION**

1. That the West Tahmoor Minimum Lot Size Amendment No. 2 Planning Proposal be amended to include part of Lot 2 DP243776 (125 Thirlmere Way Tahmoor). The Lot Size Map be amended for this parcel of land from 4000m<sup>2</sup> to 2000m<sup>2</sup>.
2. That this land be included into the Planning Proposal and forwarded for a Gateway Determination and request delegation to make the amendments to Wollondilly Local Environmental Plan, 2011 in accordance with Section 59 to the Environmental Planning and Assessment Act, 1979.
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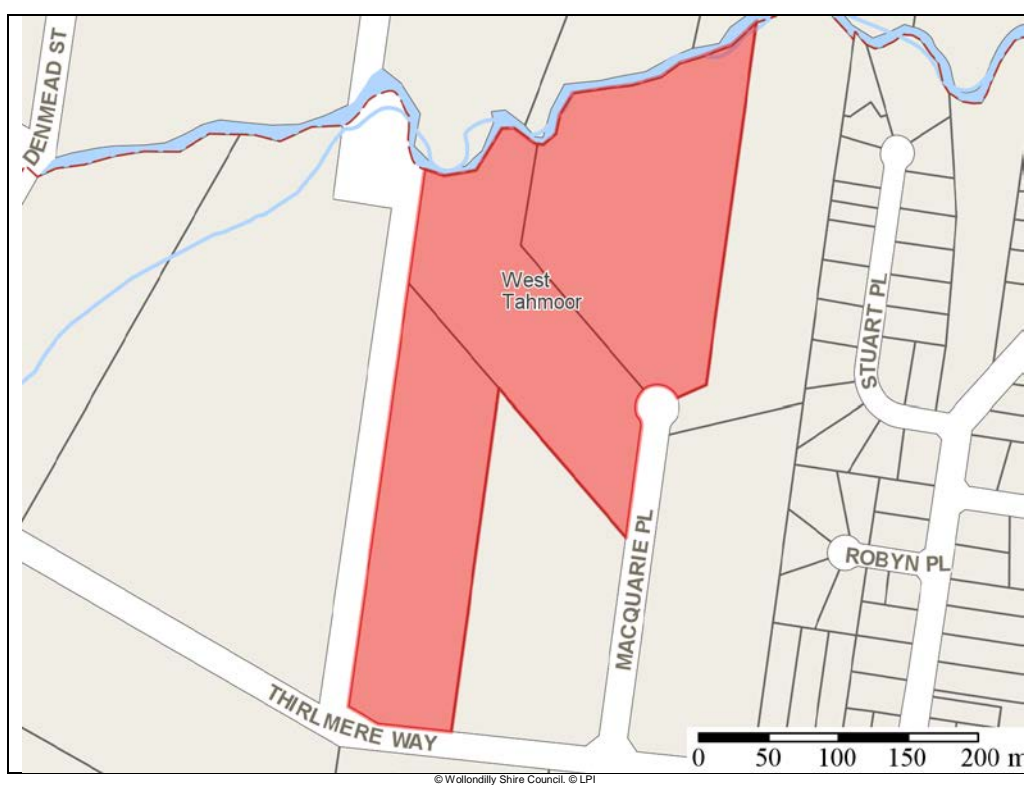
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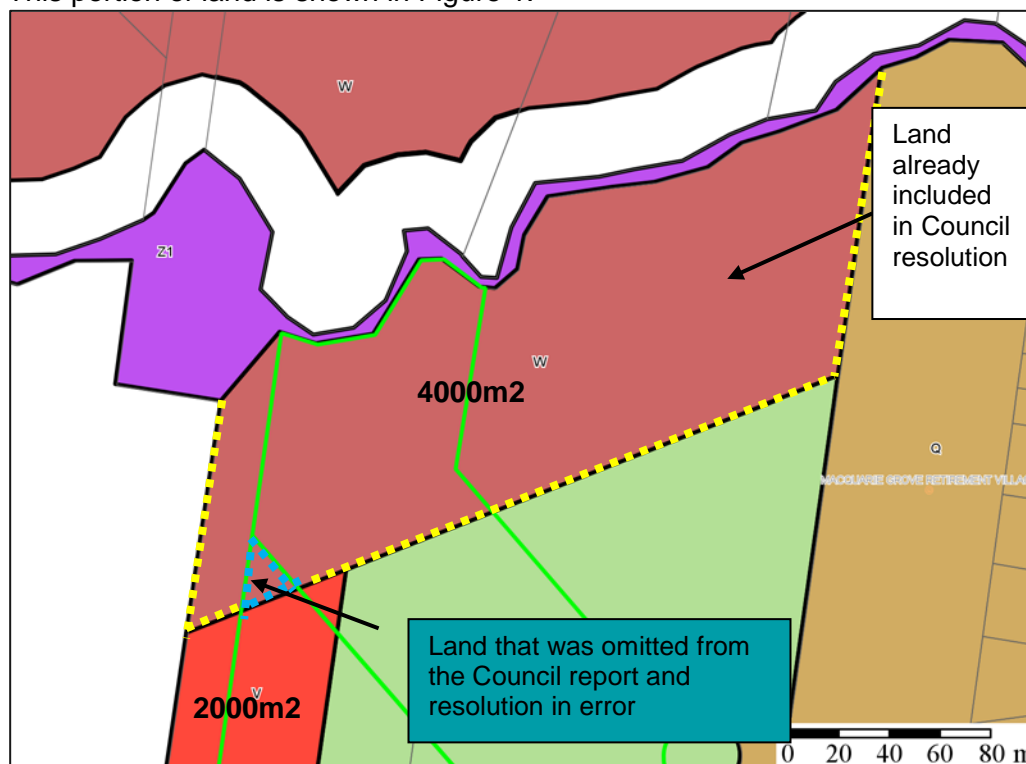
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# Planning Proposal

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To Amend Wollondilly Local Environmental Plan 2011

## West Tahmoor Minimum Lot Size Amendment No. 2

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For the amendment of lot size, land zoning and the natural resources water layer in the Wollondilly Local Environment Plan 2011 for land located at West Tahmoor.

**May, 2020**

# Document Register

Version	Date	Details	Prepared By	File Location
1	05.05.2017	Prepared to seek Gateway Determination	NA	CM 8154-2#91
2	05.06.2017	Updated at the request of the Department of Planning and Environment	NA	CM 8154-2#100
3	06.11.2018	Updated to request a Gateway Alteration (not sent)	PL	CM 8154-2#116
4	04.12.2019	Updated to send to Tahmoor Coal prior to public exhibition	NA	CM 8154-2#290
5	06.02.2020	Updated to seek approval of the Department of Planning, Infrastructure and Environment to publically exhibit in accordance with Gateway Determination	NA	CM 8154-2#299
6	06.05.2020	Updated for Public Exhibition and to amend Gateway Determination detail in line with amended Gateway	NA	DM 8154-2 #344
<b>Current Version</b>		6		

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# Introduction

## **Planning Proposal**

A Planning Proposal is a legal process for changing the zoning of land and changing other land-use planning controls in a Council's Local Environment Plan. The enabling legislation is in the NSW Environmental Planning and Assessment Act 1979 (Part 3 Planning Instruments, Division 3.4 Environment Planning Instruments – LEP). The planning proposal process includes consultation with the community, Council staff and the NSW State Government. To find out more about the planning proposal process follow the link below to the Wollondilly Shire Council web site:

<https://www.wollondilly.nsw.gov.au/assets/Documents/Planning-and-Development/Guidelines-Controls/Fact-Sheets/Fact-Sheet-Planning-Proposals-The-process-for-changing-the-WLEP.pdf>

## **Site Description**

This planning proposal relates to land located at Lot 39 DP 1215451. The original planning proposal submitted to Council included a different lot makeup with the following lots consolidated and reconfigured as part of a nearby subdivision: Part Lot 4 DP 243776, Part Lot 37 DP 1215452 and Part Lot 38 DP 1215452, these additional lots have not been removed from the planning proposal.

The land is located on the periphery of the Tahmoor residential precinct and is bound to the south by Major Roberts Avenue and new low density residential development. To the west it is bound by an unformed portion of Major Roberts Ave with Crown land zoned RE1 Public Recreation on the other side of the unformed road. This RE1 land is currently used as an equestrian facility.

Land located further south and opposite Thirlmere Way is also zoned RE1 Public Recreation and consists of recreational land which is used for sporting fields and netball courts. This land provides a southern buffer between the Tahmoor residential area and rural land.

Lots to the immediate east of the site consist of R2 Low Density Residential zoned land and include an existing retirement village.

A corridor of land on the other side of Myrtle Creek, to the north of the site, is zoned E2 Environmental Conservation and is in private ownership. This land comprises remnants of Shale Sandstone Transition Forest and creates a northern buffer between the residential areas of Tahmoor and Thirlmere.

A moderate amount of critically endangered shale sandstone transition forest is located along the northern boundary of the site adjacent to Myrtle Creek

The land slopes gently towards the north before progressing to a steeper decline towards the northern boundary which adjoins Myrtle Creek.

The site is currently zoned R2 Low Density Residential with a minimum lot size of 4000m<sup>2</sup> under WLEP 2011. A map showing the current minimum lot sizes of the site is provided in Figure 1.

A development application for the subdivision of land was approved on adjacent land to the south of the site which contains a 450 square metre minimum lot size and new dwellings have been constructed.

## **Background to Proposal**

This proposal is part of a series of previous and subsequent planning proposals located within the West Tahmoor precinct. This precinct was originally rezoned as part of the Picton Tahmoor Thirlmere (PTT) planning proposal in 2013 to encourage residential construction in favourable areas where a transition between urban and rural lands could be maintained, among other objectives.

As a result of this rezoning, there have been three (3) planning proposals located in the West Tahmoor precinct. These proposals are named and outlined in the table below:

- West Tahmoor Minimum Lot Size Amendment submitted in July 2014
- West Tahmoor Minimum Lot Size Amendment No.2 submitted in August 2016
- West Tahmoor Minimum Lot Size Amendment No.3 submitted in March 2018

Proposal	Status	Proposed Land Use Zone	Minimum Lot Size	Comments
Current LEP Provisions	Gazetted	R2 Low Density Residential	2,000m <sup>2</sup> , 4,000m <sup>2</sup> and 450m <sup>2</sup>	The current provisions that apply to the site were introduced as amendment No. 3 in January 2014 as part of the Picton Tahmoor Thirlmere New Urban Precincts (PTT) Planning Proposal.
West Tahmoor Minimum Lot Size Amendment	Refused	R2 Low Density Residential	700m <sup>2</sup>	The report prepared for the Ordinary Council Meeting on 18 May 2015 recommended Council not support the proposal. The draft planning proposal was subsequently withdrawn by the proponent.
West Tahmoor Minimum Lot Size Amendment No.2 as submitted	Amended	R2 Low Density Residential E2 Environmental Conservation	450m <sup>2</sup> and 4,000m <sup>2</sup>	At Council's Ordinary Meeting on 20 February 2017 it was resolved to remove the western property (now 2 Major Roberts Avenue) from the planning proposal and to increase the proposed minimum lot size.
West Tahmoor Minimum Lot Size Amendment No.2 as amended	Current	R2 Low Density Residential E2 Environmental Conservation	700m <sup>2</sup> and 4,000m <sup>2</sup>	<i>Council is now assessing the proposal in its amended form and held agency consultation in December 2017.</i>  <i>Further amendments to the proposal, including new changes to the WLEP 2011, occur following this consultation. These changes necessitate the obtaining of an altered gateway determination.</i>  <i>This amended proposal is the subject of this report.</i>
West Tahmoor Minimum Lot Size Amendment No.3	Refused	R2 Low Density Residential	450m <sup>2</sup>	This proposal was refused by Council at the 15 October 2018 Ordinary Council Meeting and is now subject to a rezoning review

### **West Tahmoor Minimum Lot Size No.2 Planning Proposal**

The planning proposal details changes to the Wollondilly Local Environment Plan 2011 (WLEP 2011) to rezone approximately 1.3 hectares of residential land for environmental conservation purposes and to reduce the minimum lot size of an additional 1.2 hectares of land to allow for smaller lot subdivision. If supported the planning proposal has potential to generate approximately 12 lots.

The current proposed amendments to WLEP 2011 include:

- Amend the Land Use Zoning Map for land in the northern most part of the site adjacent to Myrtle Creek from R2 Low Density Residential to E2 Environmental Protection zoning.
- Amend the minimum lot size map to apply two new minimum lot sizes for subdivision as follows:
  - Land within the R2 zone on the western boundary change from 4000m<sup>2</sup> to 2000m<sup>2</sup>
  - Remaining portion of land within the R2 zone change from 4000m<sup>2</sup> to 700m<sup>2</sup>
- Amend the Natural Resources Water (NRW) map to remove the 50 metre buffer and retain the 30 metre buffer only.

This change is in response to updated rules on riparian corridor widths outlined in the former Department of Primary Industries Office of Water, Guidelines for riparian corridors on waterfront land. A habitat corridor will also be supported within the mapped NRW area through appropriate DCP controls. The removal of the 50m buffer will also allow the site to support a moderate increase in density whilst still protecting Myrtle Creek and providing sufficient space for the required Asset Protection Zones (APZ).

The Planning Proposal was originally submitted to Council on 26 August, 2016. At the time of submission it proposed to amend the Wollondilly LEP 2011 as follows:

- Amend the minimum lot size in the western part of the site from 2000 square metres to 450 square metres;
- Amend the minimum lot size in the northern part of the site from 4000 square metres to 450 square metres;
- Include an E2 Environmental Conservation Zone along the northern part of the site which adjoins the natural watercourse.

The following justification was provided by the proponent:

- The area of the subject property over which smaller allotment sizes is proposed is not on the rural-urban interface, as it will be adjoined by land zoned RE1 Public Recreation and proposed zone E2 Environmental Conservation.
- The E2 Environmental Conservation zone will exclude land identified as having biodiversity value from development.
- The reduction in minimum lot areas will facilitate development consistent with the objectives of the R2 Low Density Residential zone.

Council resolved at its meeting held on Monday 20 February 2017, to support a Planning Proposal on Lots 3- 4 DP 243776 located in West Tahmoor in an amended form to what the applicant had requested. Council determined to support the Planning Proposal in the following manner:

*1. That Council support the preparation of a Planning Proposal, in an amended form, for Lots 3 & 4 in DP 243776 (21 & 25 Macquarie Place Tahmoor) to amend Wollondilly Local Environmental Plan 2011 as follows:*

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  - *zoned R2 Low Density Residential in the northern portion of the site, but not adjoining the western boundary to a minimum lot size of 700m<sup>2</sup>.*
  - *for land zoned R2 Low Density Residential along the western boundary to 2000m<sup>2</sup>.*

*2. That the Lot Size Map be amended so that land proposed to be zoned E2 Environmental Conservation cannot be subdivided into more than two (2) lots. The minimum lot size will be determined in consultation with the proponent after a Gateway Determination has been issued.*

*3. That the portion of land proposed to be zoned E2 Environmental Conservation be expanded to include at least all 'sensitive land' identified on the Natural Resources – Water Map.*

*4. That Council does not support reducing the minimum lot size of 2000m<sup>2</sup> for land at Lot 2 DP 243776, located along the western boundary (with Lot 380 in DP 751270) as proposed in the draft Planning Proposal submitted by Precise Planning. Any future Development Application for subdivision of the land must incorporate vegetative screening along the western boundary of Lot 2 or any proposed local road to reduce impacts upon the adjoining recreational facility.*

5. That the amended Planning Proposal be forwarded to the Greater Sydney Commission for a Gateway Determination.
6. That Council request the Greater Sydney Commission to grant Council delegation to make the amendments to Wollondilly Local Environmental Plan, 2011 in accordance with Section 59 to the Environmental Planning and Assessment Act, 1979.
7. That the applicant and submitters be notified of Council's Resolution.

Due to an oversight, the Planning Proposal was further put to Council at its Ordinary Meeting held on Tuesday 18 April 2017 to include a small triangle of land of approximately 300m<sup>2</sup> that related to an adjoining lot not included in the original resolution. At this meeting Council resolved to include part Lot 2 DP 243776 into the proposal and sought to reduce the minimum lot size of this land to 2000m<sup>2</sup>. This was detailed as follows:

1. That the West Tahmoor Minimum Lot Size Amendment No. 2 Planning Proposal be amended to include part of Lot 2 DP243776 (125 Thirlmere Way Tahmoor). The Lot Size Map be amended for this parcel of land from 4000m<sup>2</sup> to 2000m<sup>2</sup>.
2. That this land be included into the Planning Proposal and forwarded for a Gateway Determination and request delegation to make the amendments to Wollondilly Local Environmental Plan, 2011 in accordance with Section 59 to the Environmental Planning and Assessment Act, 1979.
3. That the applicant and submitters be notified of Council's Resolution.

A copy of the Council reports and associated minutes are provided in Appendix E.

### **Gateway Determination**

A Gateway determination for the Draft Planning Proposal to proceed was issued by the NSW Department of Planning and Environment (now known as Department of Planning, Industry and Environment) on 7 July 2017. This Gateway has been amended twice with the first amendment for the purpose of extending the completion time and the second alteration to extend the completion time and to include additional consultation requirements. These documents are attached at Appendix C.

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.

**Table 1 – Gateway Conditions**

<b>Gateway Condition</b>	<b>Comment</b>
<p>1. Prior to community consultation, Council is to:</p> <p>(a) undertake relevant specialist studies, and amend the planning proposal (if required) to reflect the findings of those studies;</p> <p>(b) amend the planning proposal to demonstrate consistency, or address any inconsistency with section 117 Directions:</p> <p>(a) 2.1 Environment Protection Zones; and</p> <p>(b) 2.3 Heritage Conservation;</p> <p>Approval from the Secretary may be required for any inconsistencies with the section 117 Directions;</p> <p>(c) provide an updated copy of the planning proposal to the Department for endorsement.</p>	<p>The studies have been prepared and the planning proposal has been amended to reflect these findings as follows:</p> <p><b>Removal of 50m Buffer from NRW Map</b></p> <p>The proposal has been amended to include the removal of the 50m buffer from the Natural Resources Water (NRW) Map. This is supported by the studies and justification is provided further in this document. Assessment of the removal of the 50m buffer has been found to be justifiably inconsistent Ministerial Direction 2.1 Environment Protection Zones and so approval from the Secretary is required. A full assessment of this is provided later in this document.</p> <p><b>Boundary of the E2 Environmental Conservation Zone</b></p> <p>The boundary of the E2 zone has been identified as a result of the findings of the Flora and Fauna Assessment. This boundary is proposed to match the boundary of the existing 30m buffer in the NRW map.</p>

	<p><b>Asset Protection</b></p> <p>The proponent has submitted a proposed lot layout in response to the requirements of the bushfire assessment report and based on advice from the NSW Rural Bushfire Service. This can either be imposed through an increase in the minimum lot size for this lot or through site specific development controls.</p> <p>Endorsement to proceed to public exhibition was provided by the Department of Planning Industry and Environment on 5 May 2020. A copy of this letter is provided Appendix M.</p>
<p>2. Consultation Community consultation is required under sections 56(2)(c) of the <i>Environmental Planning and Assessment Act 1979 (the Act)</i> as follows:</p> <p>(a) the planning proposal must be made publicly available for a minimum of 28 days; and</p> <p>(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of <i>A Guide to Preparing Local Environmental Plans</i> (Department of Planning and Environment 2016).</p>	<p>The planning proposal will be placed on public exhibition for community consultation for a period of 28 days and will be in accordance with “<i>A guide to preparing local environmental plans</i>” NSW Department of Planning and Environment 2018 and in accordance with the Wollondilly Community Participation Plan 2019.</p>
<p>3. Consultation is required with the following public authorities under section 56(2)(d) of the Act, and to ensure consistency with relevant s117 Directions:</p> <p>(a) NSW Resources and Energy;</p> <p>(b) Subsidence Advisory NSW;</p> <p>(c) Hawkesbury - Nepean Catchment Management Authority;</p> <p>(d) NSW Rural Fire Service; and</p> <p>(e) Sydney Water.</p> <p><b>Amended on 5 May 2020 to:</b></p> <p>3. Consultation is required with the following public authorities under section 3.34(2)(d) of the Act, and to ensure consistency with relevant section 9.1 Directions:</p> <p>(a) NSW Division of Resources and Geoscience;</p> <p>(b) Subsidence Advisory NSW;</p> <p>(c) NSW Water;</p> <p>(d) NSW Rural Fire Service;</p> <p>(e) Sydney Water; and</p> <p>(f) Environment, Energy and Science – Department of Planning, Industry and Environment.”</p>	<p>Preliminary consultation has been undertaken with each of the listed agencies and comments received were incorporated into the specialist study briefs.</p> <p>Further consultation will be undertaken with the listed agencies during public exhibition.</p>
<p>4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).</p>	<p>Noted. The need for a public hearing has not been identified at this stage.</p>
<p>5. The timeframe for completing the amending Local Environmental Plan is to be 12 months from the week following the date of the Gateway determination.</p>	<p>Noted, a Gateway extension was granted on 7 July 2017 with a new timeframe for completion being set for to 31</p>



**Amended on 5 May 2020 to:**  
5. The timeframe for completing the LEP is to be 31 December 2020

July 2019. This was further extended on 5 May 2020 to 31 December 2020.

### Specialist Studies

The Gateway Determination included advice (if appropriate list gateway studies)

Public exhibition is to be undertaken in accordance with the Gateway Determination and relevant documents will be made publicly available for 28 Days.

## Part 1 – Objectives or Intended Outcomes

The objective of this Planning Proposal is to amend Wollondilly Local Environmental Plan 2011 so that the site can accommodate a minor increase in allotments in areas suitable for residential development and to provide further protection to sensitive land adjoining the watercourse.

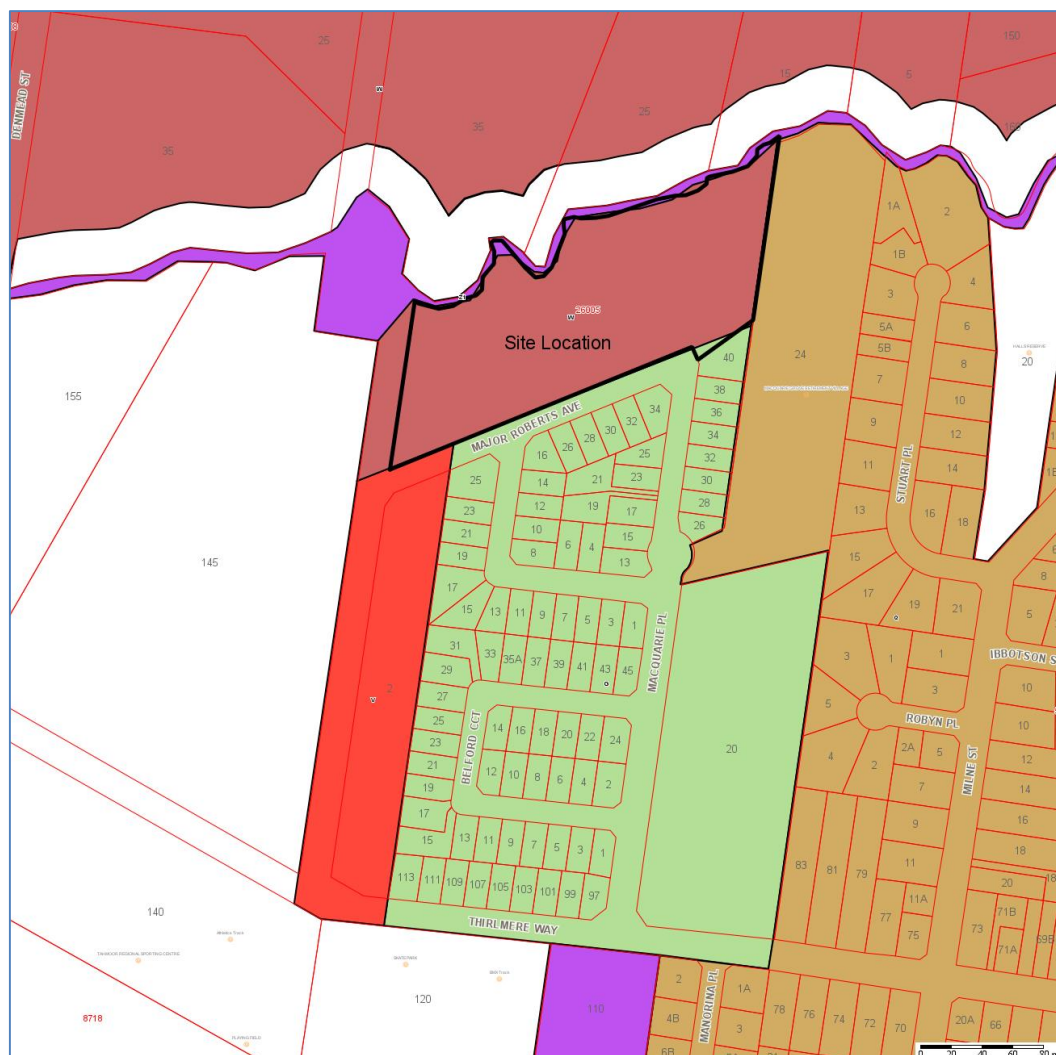


Figure 1 Current Minimum Lot Sizes



# Part 2 – Explanation of Provisions

The intended outcome will be achieved by:

1. Amending the **Land Zoning Map** for part of the site from R2 Low Density Residential to E2 Environmental Conservation. These changes are shown in the proposed zoning map shown in Part 4 **Map 2**;
2. Amending the **Lot Size Map** for part of the site from 4000m<sup>2</sup> to 2000m<sup>2</sup> on the western boundary and from 4000m<sup>2</sup> to 700m<sup>2</sup> for the remainder of the R2 zoned land. This is shown in the proposed minimum lot size in Part 4 **Map 3**; and
3. Amending the **Natural Resources – Water Map** to reduce it from 50 metres to 30 metres from Myrtle Creek. These changes are shown in the proposed zoning map shown in Part 4 **Map 4**.

## Part 3 – Justification

### Section A – Need for the planning proposal

#### A 3.1 Is the planning proposal a result of any strategic study or report?

The proposal is not a result of any strategic study or report. The planning proposal is largely consistent with Council's Growth Management Strategy 2011 (GMS) and the land is identified in the Tahmoor Structure Map within the GMS 2011 for residential rezoning. This is shown in Figure 2.

The site forms part of the West Tahmoor Precinct and was part of the Picton Thirlmere Tahmoor New Urban Lands (PTT) Planning Proposal which was gazetted on 31 January 2014 (LEP Amendment No. 3). As a result of this

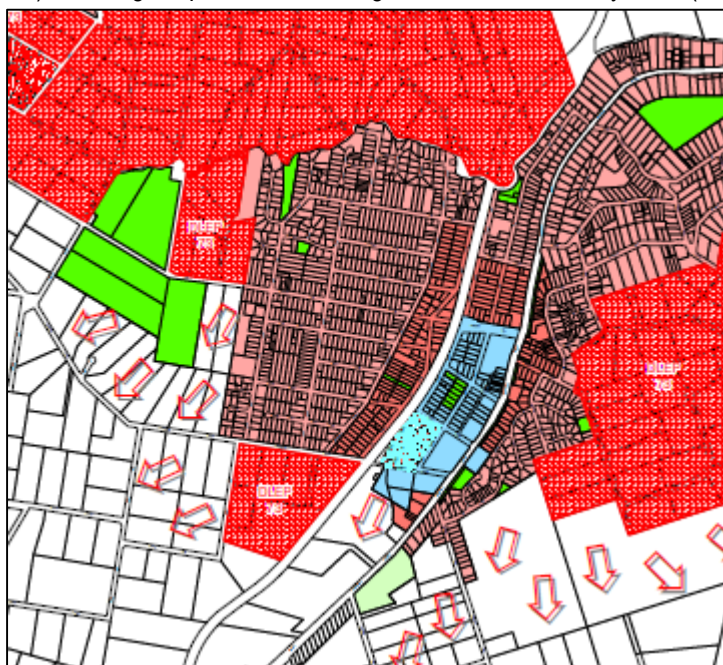


Figure 2 Excerpt Structure Plan Tahmoor and Thirlmere GMS 2011

amendment the site was rezoned from a rural use to low density residential (R2) and the existing minimum lot sizes were applied.

In August 2016 Precise Planning submitted the West Tahmoor Minimum Lot Size Amendment 2 Planning Proposal to Council for consideration. The original proposal sought to rezone part of the site for environmental conservation and to apply a new minimum lot size to 450m<sup>2</sup>.

As a result of feedback received during the preliminary consultation Council saw some merit in the proposal and to support it in amended form. This included an increase to the boundary of the proposed environmental conservation zone and a larger lot size from than that which was originally proposed.

The proposal also seeks to amend the natural resources water map to remove the 50m buffer

and retain the a 30m buffer only. This is in response to updated rules to corridor widths and to ensure future allotments are able to achieve recommended APZ's whilst still supporting the establishment of future dwelling houses. The new boundary to the NRW map will match the environmental conservation zone boundary.

**A 3.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The application of an environmental protection zone will limit development types and will provide a greater protection to sensitive land adjoining the watercourse. This additional protection cannot be achieved without amending the land zone map.

Additionally, the site cannot achieve a moderate increase in density cannot be achieved without changing the minimum lot size for subdivision map by way of a planning proposal.

Further to this, the future allotments will not be able to support housing without amending the NRW map to remove the current 50m buffer as there will not be sufficient space to achieve the required APZ's and a dwelling house.

Therefore, to achieve the intended outcomes it is considered that amending the Wollondilly LEP 2011 is the best means of achieving all of these objectives.

## **Section B – Relationship to strategic planning framework**

**B 3.3 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

The following regional and sub-regional strategies are relevant to this proposal:

- A Metropolis of Three Cities (Greater Sydney Region Plan)
- Western City District Plan

***Greater Sydney Region Plan (2018)***

The Greater Sydney Commission (GSC) released the Greater Sydney Region Plan: A Metropolis of Three Cities in March 2018, which outlines how Greater Sydney will manage growth and guide infrastructure delivery. The Region Plan refers to three cities within the Sydney region, namely:

- Eastern Harbour City
- Central River City
- Western Parkland City

Wollondilly Shire is located within the Western Parkland City.

***Western City District Plan (2018)***

The Greater Sydney Commission also released the Western City District Plan in March 2018, which gives effect to the objectives and strategies of the Greater Sydney Region Plan. The Planning Proposal is consistent with the planning priorities and directions of both plans as detailed below:

- Infrastructure and Collaboration Priorities: The planning proposal will result in a minor increase in lots and dwellings in an area where infrastructure provision is adequate and where mechanisms to levy for state and local contributions are already in place, therefore, the proposal is viewed as being consistent with these priorities.
- Liveability Priorities: The proposal will support a diversity in housing choice in proximity to an existing urban area with access to social infrastructure and public transport in keeping with the liveability priorities.
- Sustainability Priorities: The proposed application of an E2 Environmental Conservation zone in conjunction with the retention of a 30m NRW layer on sensitive land adjoining a watercourse, will help to further protect native wildlife species and native vegetation communities in this location. This is consistent with the Sustainability priorities particularly *Planning Priority W12 Protecting and improving the health and enjoyment of the District's waterways* and *Planning Priority W14 Protecting and enhancing bushland and biodiversity*.

The site is within the Metropolitan Rural Area and therefore Planning Priority W17 (Better managing rural areas) is relevant. This priority seeks to protect Sydney's rural areas for their contribution to agriculture, resource provision and the natural environment. The Western District Plan also identifies the role of rural areas to sustain the local rural towns and villages.

Urban development within rural areas is identified as acceptable within investigation areas outlined in the District Plan and the subject site is not identified as an investigation area in the plan. However, this is not deemed to be applicable as the site is part of an existing residential growth precinct that was rezoned as part of the PTT planning proposal and so any impact on the MRA is considered to be minimal in nature.

As required under the District Plan, the Planning Proposal has considered the surrounding landscape and rural activities

### **B 3.4 Is the planning proposal consistent with a council's local strategy or other local strategic plan?**

The three key local strategies are:

- Create Wollondilly Community Strategic Plan 2033
- Wollondilly Growth Management Strategy 2011
- Wollondilly Local Environment plan 2011

#### ***Wollondilly Community Strategic Plan 2033***

The Wollondilly Community Strategic Plan 2033 (WCSP), which was adopted by Council in June, 2017, is the Council's highest level long term plan and sets out the long term strategic planning aspirations of the community for Wollondilly up to the year 2033.

It is based on retaining the peri-urban setting for Wollondilly Shire and is focused around five themes:

#### **Sustainable and balanced growth**

The location of the proposal in proximity to the existing town centre of Tahmoor on land already zoned for residential purposes is consistent with Council's position on growth.

#### **Management and provision of infrastructure**

The proposal site is already serviced with existing infrastructure and mechanisms are already in place to levy for state and local infrastructure in this location.

#### **Caring for the environment**

The application of an environmental protection zone will assist in protecting the biodiversity value of the land and would also ensure that the site would not be subject to future uses which compromise the water quality of the nearby watercourse.

#### **Looking after the community**

The proposal is unlikely to have an adverse impact on the community. The site is within an existing residential area and is in proximity to community infrastructure and public transport.

#### **Efficient and effective Council**

The proposal is unlikely to effect the effectiveness or efficiency of Council.

#### ***Growth Management Strategy 2011 (GMS)***

The Growth Management Strategy (GMS) was adopted by Council on 21 February 2011. It contains Key Policy Directions and Assessment Guidelines for the evaluation of planning proposals and Council decisions on growth.

Notwithstanding this, all Planning Proposals within Wollondilly must be assessed against the key policy directions within the GMS. Appendix B sets out the GMS Key Policy Directions and Assessment Criteria as they relate to this proposal.

### Wollondilly Local Environmental Plan 2011 (WLEP)

Under the Wollondilly Environmental Plan (2011) the E2 Environmental Conservation zone is a closed zone and development is limited to the following permissible uses:

Environmental facilities; Environmental protection works; Information and education facilities; Oyster aquaculture; Roads; Water supply systems

All other development in this zone is considered to be prohibited.

Therefore, the application of this zone will achieve a greater level of protection to sensitive land that cannot be achieved with an R2 Low Density Residential zone.

The proposed amendments to the minimum lot size in the remaining R2 Low Density Residential zoned areas will not impact on future dwelling entitlements for these lots as there are no provisions in the WLEP 2011 to restrict dwelling houses in the R2 zone.

Additionally the proposed future layout shows the environment land being incorporated into the one allotment with a small portion of residential land to support asset protection land and a future dwelling. This will help to ensure the ongoing management of the environmentally sensitive land in private ownership whilst still providing for the opportunity to construct a dwelling on the R2 portion of the land. An excerpt from this plan is provided in Figure 3.

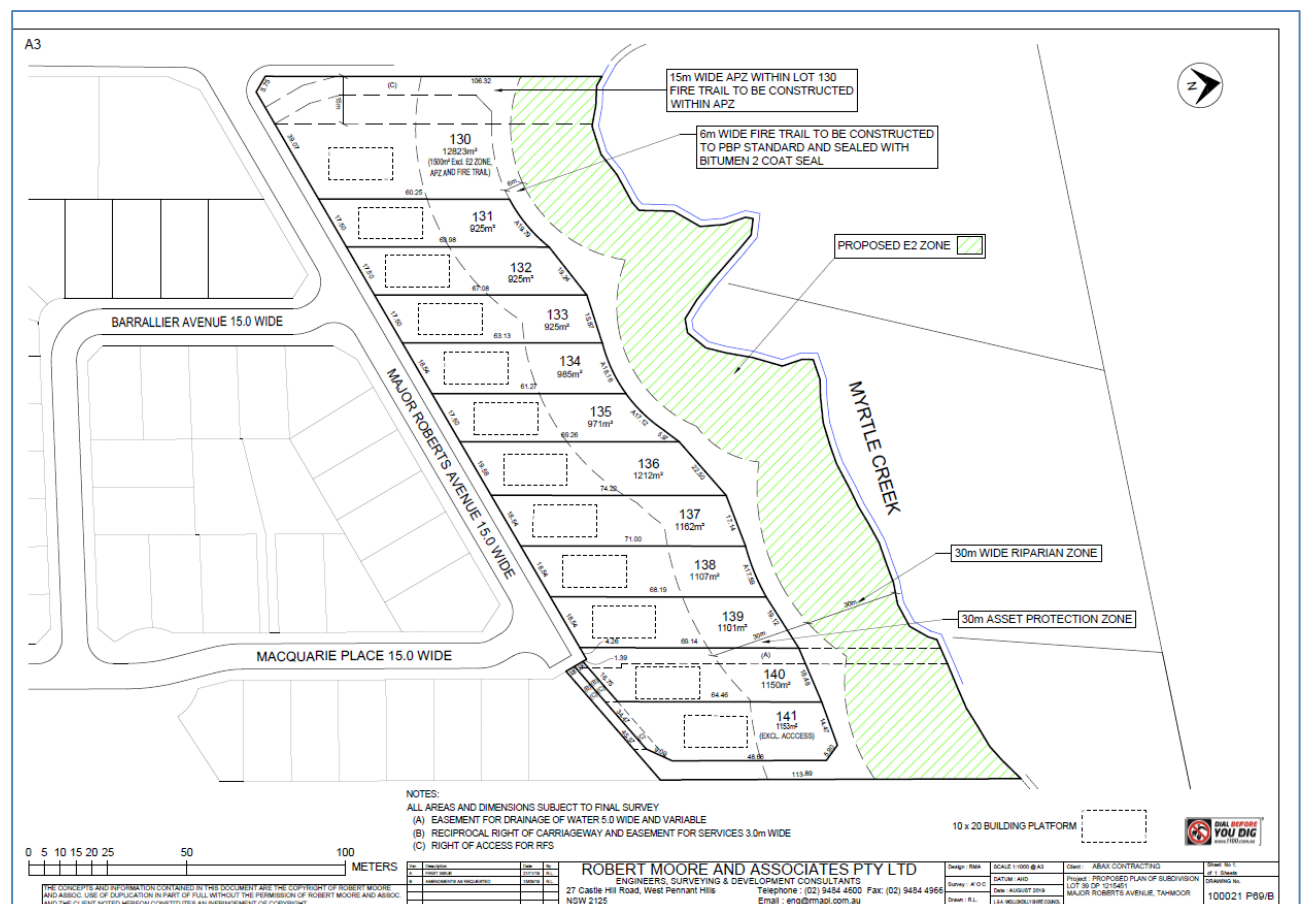


Figure 3 Excerpt of proposed subdivision layout

### B 3.5 Is the planning proposal consistent with applicable state environmental planning policies?

#### SEPP No. 44 - Koala Habitat Protection

A flora and fauna report was conducted by the proponent concluded that the vegetation within the study area forms a narrow east-west corridor of remnant vegetation that is useful habitat for more mobile fauna species such as birds and

bats and that the vegetation to the west was mapped with a low habitat functionality class. Therefore, there is a low expectation that the site will be able to support koala populations into the future (p. 26). The report has been reviewed by Council's environment section who are satisfied with the findings of the report.

### **SEPP No. 55 - Remediation of Land**

Clause 6 of the SEPP is relevant to the proposal as follows:

“(1) In preparing an environmental planning instrument, a planning authority is not to include in a particular zone (within the meaning of the instrument) any land specified in sub clause (4) if the inclusion of the land in that zone would permit a change of use of the land, unless:

- (a) the planning authority has considered whether the land is contaminated, and
- (b) if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and
- (c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose.

In order to satisfy itself as to paragraph (c), the planning authority may need to include certain provisions in the environmental planning instrument.

(2) Before including land of a class identified in sub clause (4) in a particular zone, the planning authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.

The site is already zoned for residential use and the proposal does not propose to introduce any new residential zones. Additionally, the site has already been the subject of investigation as part of the PTT planning proposal which concluded that “no contaminating substances were likely to be present on the subject land and no further detailed investigations were required nor remediation required prior to rezoning of the land” (Part 2 - Final Planning Proposal – PTT New Urban Lands 6508#1067).

Therefore it can be concluded that the requirements of SEPP 55 at the strategic planning stage have been satisfied.

### **REP No.20 - Hawkesbury–Nepean River (No 2 - 1997)**

#### **(3) Water Quality**

The rear boundary of the site adjoins Myrtle Creek which feeds into the Nepean River. Warragamba River. It is proposed to apply an environmentally sensitive land zoning to land within 30m of the watercourse Landscape so that the water quality goals of the plan can be achieved.

#### **(6) Flora and Fauna**

The application of environmentally sensitive zoning across the site would provide a suitable mechanism to protect the existing vegetation on the site.

### **B 3.6 Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?**

#### **Ministerial Direction 1.3 Mining, Petroleum Production and Extractive Industries**

In accordance with the direction Geoscience NSW has been consulted in regard to the proposal with the following advice being provided on 22 August 2017:

The subject site is underlain by Mining Lease (ML) 1376 and Coal Authorisation (AUTH) 410, held by Tahmoor Coal Pty Ltd. GSNSW records indicate that coal extraction (for the Bulli seam) has taken place beneath the subject area. Since the subject site falls within the Bargo Mine Subsidence District, Subsidence Advisory NSW (formerly the Mine Subsidence Board) will need to be consulted regarding any proposed development within the subject area.

Following the Gateway approval, Council consulted with Subsidence Advisory (SA) NSW in regard to the planning proposal. In their response dated 17 August 2017 SA NSW provided general support for the future staged development of the land following the completion of mining. They also recommended that Tahmoor Coal be consulted in regard to future mining plans in the area.



Advice has since been received from Tahmoor Coal (SIMEC Mining) dated 3 February 2020 noting no objection to the proposal and recommending that the development be designed to the Subsidence Advisory NSW Guideline 6. This is further summarised in Ministerial Direction 4.2.

Given that no objections have been raised by any of the relevant agencies the proposal is viewed as being consistent with Direction 1.3.

### **Ministerial Direction 2.1 Environment Protection Zones**

The planning proposal seeks to remove the 50m buffer under the Natural Resources Water map within the Wollondilly Local Environment Plan 2011, therefore the proposal is inconsistent with direction 2.1 which states that:

*(5) A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 "Rural Lands"*

However, the direction does allow inconsistency providing the following can be:

(a) justified by a strategy which:

- (i) gives consideration to the objectives of this direction,
- (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
- (iii) is approved by the Director-General of the Department of Planning, or

(b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or

(c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or

(d) is of minor significance.

The objective of direction 2.1 which is to protect and conserve environmentally sensitive areas. Both a 50m and 30m NRW buffer currently apply to the site on the land bordering Myrtle Creek. The proposal seeks to remove the 50m buffer and retain the 30m buffer. The removal of the 50m buffer can be justified as follows:

The recommendation for a 50 metre wide buffer originated from analysis carried out as part of the preparation of a report by Biosis in 2010 associated with the Picton Thirlmere Tahmoor Action Group (Planning Proposal). This was comprised of a 40 metre riparian buffer plus a 10 metre vegetated buffer as a result of its classification as a Category 1 Environmental Corridor based on a Study of waterways across the Wollongong Local Government Area produced by the then Department of Infrastructure, Planning and Natural Resources (DIPNR) in 2004.

The Report produced by Ecoplaning in May 2018 for this planning proposal contains a broad generic description over the habitat value of the Myrtle Creek corridor for air-borne species (birds and bats), and koalas. It states in relation to this matter that the "vegetation that runs along Myrtle Creek within the Study Area is part of an east-west corridor of remnant vegetation in an otherwise heavily fragmented landscape".

Council's Natural Resource Water Layer is based on Guidelines for Riparian Corridors on Water Front land produced by the (now) Department of Lands and Water prepared in 2011 (subsequent to the Biosis Report produced in 2010). This Guideline contains riparian corridor widths riparian based on the order of a stream in accordance with the Strahler Classification Scheme.

A 30 metre buffer from the top bank is considered to be consistent with the Guidelines for Riparian Corridors on Waterfront Land and so a 50m buffer is considered to be over and above what is required to protect the sensitive land adjacent to Myrtle Creek.



In addition to this, the proposal is viewed as being consistent with the objective of 2.1 as it seeks to introduce an environmental conservation zone over land currently zoned for residential purposes and so will provide an additional level of protection to this sensitive land that the NRW layer currently provides.

This E2 zone is also consistent with the land zone of the land on the other side of Myrtle Creek.

To confirm consistency consultation will be undertaken with consultation with the Environment, Energy and Science (EES) Group during public exhibition.

### **Ministerial Direction 2.3 Heritage Conservation**

#### *European Heritage*

Advice from the Heritage Division, OEH dated 18 August 2017 identifies that there “are no local or state listed heritage items located on or near the subject site” and so it is unnecessary to undertake a heritage impact assessment.

#### *Aboriginal Heritage*

It is considered that Aboriginal Cultural Heritage has been adequately addressed for the purposes of the subject planning proposal through the original PTT planning proposal. Additionally a current Aboriginal Heritage Impact Permit (AHIP) issued by the Office of Environment and Heritage applies to the site. This permit was issued for the West Tahmoor precinct in regard to residential subdivision, demolition of existing structures and construction of new roads. The permit was issued on 21 June 2016 for 5 years and will expire in June 2021. This AHIP includes the site to which the West Tahmoor 2 planning proposal applies and so it is considered that the impact on Aboriginal heritage at the site has been thoroughly investigated and considered, therefore the proposal is viewed as being consistent with this direction.

### **Ministerial Direction 4.2 Mine Subsidence and Unstable land**

The proposal site is within the Bargo Mine Subsidence district and so advice has been sought from Subsidence Advisory NSW who notes that the land is within Tahmoor Coal’s active underground mine operations area and there is potential for the land, and any subsequent development, to be impacted by subsidence in the future.

SA NSW supports the staged development of the site and requires that Tahmoor Coal be consulted in regard to this staging any future mining plans in the area. This advice will be sought from Tahmoor Coal prior to public exhibition and so consistency with Direction 4.2 will be guided by the advice received from Tahmoor Coal.

### **Ministerial Direction 4.4 Planning for Bushfire Protection**

This direction applies when a relevant planning authority prepares a Planning Proposal that will affect or is in proximity to bushfire prone land. A majority of the site is bushfire prone land and therefore consideration needs to be given to the direction.

E2 Environmental Conservation zoning on part of the site will restrict development within proximity to the watercourse and will impact on the application of an APZ. The proponent has provided a proposed lot layout to address this issue by incorporating all land zoned as E2 within a part residential zoned allotment, shown as Lot 130. This will allow an APZ of to be situated outside the environmental conservation portion and provides sufficient room to the rear to allow for the future construction of a 6m wide fire trail along the back of the lots in the future subdivision. A copy of this plan is provided in Figure 3.

This measure is supported in the Bushfire Assessment submitted by the proponent for this proposal.

## **Section C – Environmental, social and economic impact**

### **C 3.7 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The critically endangered ecological community located on the site will be provided with additional protections with the introduction of an E2 Environmental Conservation zone. The retention of the 30m buffer on the Natural Resources Water map and adherence to the Department of Primary Industries – Officer of Water’s Guidelines for riparian corridors on waterfront land will also provide further protection.

### **C 3.8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

It is likely that any future development arising from the planning proposal may potentially have an effect on:

### **Stormwater Management**

A Stormwater Management Strategy and Plan has been submitted by the proponent. This plan shows a number of measures to achieve appropriate stormwater management including inter-allotment drainage, rain gardens, water tanks for each lot and new stormwater pipes. This strategy has been reviewed by Council's engineers as being satisfactorily.

### **Risk of Bushfire**

The NSW RFS were consulted following the issue of Gateway determination. In their response dated 31 July 2017 the following recommendations were provided:

- Future subdivision located with the R2 Low Density zone where abounding the proposed E2 zone should provide a clear separation between the bushland/urban interface.
- Maintenance of APZ's are not supported within E2 Environmental Conservation zoned land.
- Preliminary Assessment of the slope to the north indicates an APZ of 50 metres. for the area adjoining Myrtle Creek
- Issues identified with original report titled Assessment of ecological impacts for Planning Proposal at Thirlmere Way West Tahmoor.
- A Bushfire Assessment Report be prepared in accordance with Planning for Bushfire Protection 2006.

A Bushfire Assessment Report and a proposed lot layout has since been provided by the applicant with the following measures to comply with Planning for Bushfire Protection being recommended:

- Provision of compliant APZs between future building envelopes and bushfire hazards. A 30 m APZ is required from the proposed E2 zone (riparian corridor) to the north, and a 15 m APZ is required to the western boundary.
- Management of vegetation and fuels within the designated APZs to achieve the standard of an Inner Protection Area (IPA) as described by PBP.
- Provision of a perimeter fire trail within the APZ to allow fire-fighting appliances to gain access along the hazard interface between future dwellings and the hazard. The trail is to link back to Major Roberts Avenue at the western and eastern ends of the subject land. The design and construction of the perimeter fire trail is to comply with PBP Section 4.1.3(3) ensuring the trail is under single ownership and sealed.

The applicant has provided a lot layout showing compliance with the recommendations of this report including building envelopes, proposed APZ buffer distances and a proposed fire trail of 6m wide.

### **Habitat corridor and impact on native vegetation**

The removal of the 50m buffer will impact on the local fauna habitat corridors and the loss of native vegetation.

A Flora and Fauna Report has been provided by the proponent.

The report identifies that:

- Intact Shale Sandstone Transition Forest (SSTF) remains on the northern banks of Myrtle Creek and patches of disturbed SSTF are located in the cleared areas within the study area.
- The majority of the intact SSTF in the study area is proposed to be retained on land proposed to be zoned E2 Environmental Conservation however some vegetation will need to be removed.
- seven (7) ecosystem credits corresponding to the native vegetation within the study area (Narrow leaved Ironbark
- Broad leaved Ironbark Grey Gum open forest of the edges of the Cumberland Plain, Sydney Basin Bioregion [PCT 1395]) should be purchased and retired prior to impacting upon the SSTF within the study area.
- The SSTF vegetation community within the study area was identified as potential foraging habitat for several threatened bird and bats species.
- Proposed impacts to foraging habitat for threatened bird and bat species was also assessed in accordance with the Significant Impact Criteria (DoE 2013), where relevant, and in accordance with s5A of the EP & A Act. These assessments determined that the planning proposal is not likely to have a significant effect on the threatened bird and bat species identified as potentially utilising the study area.

This report has been reviewed by Council's environment section as being satisfactory. The removal of the 50m buffer has also been reviewed by and after consideration of a number of factors the loss of any habitat corridor or vegetation can be justified as follows:

*The retention of a 30 metre wide habitat corridor is sufficient given that there is a total width of 60 metres (including the NRW on the northern side of Myrtle Creek based on available research. The only fauna species identified as potentially occurring on the site potentially obstructed in crossing the water way is the Eastern Grey Kangaroo. In this event, the 30 metre buffer in the form of the Inner Protection Area would provide additional retained natural areas for the movement of this species.*

### **C 3.9 Has the planning proposal adequately addressed any social and economic effects?**

#### **Land Use Conflict**

The site is bordered by recreational zoned land to the west that is currently used by the group; Riding for the Disabled.

The 2000m<sup>2</sup> minimum lot size along the western boundary will be retained to ensure that land use conflict is minimised between this recreational use and the proposed residential use.

## **Section D – State and Commonwealth interests**

### **D3.10 Is there adequate public infrastructure for the planning proposal?**

The site is within an existing residential area that has recently been developed for subdivision. The site is also within proximity to the Tahmoor sportsground and skate park, the Tahmoor town centre and the Tahmoor train station.

The site is mapped as on the LEP 2011 urban release area map and so the future subdivision of the site will attract a state infrastructure contribution levy as well as a local contribution levy.

Therefore it is considered that there is adequate existing public infrastructure for the proposal.

### **D 3.11 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

The following agencies have been consulted in accordance with the Gateway Determination prior to public exhibition as follows:

<b>Agency Response</b>	<b>Comment</b>
<b>Former Department of Planning and Environment Division of Resources &amp; Geoscience, Geological Survey of NSW</b> (22 August 2017) <ul style="list-style-type: none"> <li>▪ The subject site is underlain by Mining Lease (ML) 1376 and Coal Authorisation (AUTH) 410, held by Tahmoor Coal Pty Ltd.</li> <li>▪ GSNSW records indicate that coal extraction (for the Bulli seam) has taken place beneath the subject area.</li> <li>▪ Since the subject site falls within the Bargo Mine Subsidence District, Subsidence Advisory NSW (formerly the Mine Subsidence Board) will need to be consulted regarding any proposed development within the subject area.</li> </ul>	Noted, consultation with NSW Subsidence Advisory and SIMEC Mining - Tahmoor Coking Coal Operations (Tahmoor Coal) has been undertaken.
<b>Mine Subsidence NSW</b> (17 August 2017) <ul style="list-style-type: none"> <li>▪ The land is within Tahmoor Coal's active underground mining operations and there is potential for the land, and any subsequent development to be impacted by subsidence in the future.</li> <li>▪ SANSW supports the staged development of the land following the completion of mining.</li> <li>▪ Recommends consulting with Tahmoor Coal.</li> </ul>	Consultation with SIMEC Mining - Tahmoor Coking Coal Operations (Tahmoor Coal) has been undertaken prior to community consultation.

<b>NSW Rural Fire Service</b> (9 August 2017) <ul style="list-style-type: none"> <li>▪ Recommendations to consider in the Planning Proposal.</li> <li>▪ Future development on the site must comply with Planning for Bush Fire Protection 2006.</li> <li>▪ A Bushfire Assessment Report to be prepared in accordance with Planning for Bushfire Protection 2006 is required.</li> </ul>	A bushfire Assessment and proposed lot layout plan has been provided by the proponent that complies with the RFS concerns raised.
<b>Office of Environment and Heritage - Heritage</b> (18 August 2017) <ul style="list-style-type: none"> <li>▪ There are no local or state listed heritage items located on or near the subject site”.</li> <li>▪ A heritage impact assessment is not required.</li> <li>▪ Recommends that further consideration be given to Aboriginal archaeological and natural heritage</li> </ul>	Noted. Aboriginal heritage has been considered within this proposal under Ministerial Directions.
<b>Office of Environment and Heritage</b> (4 September 2017) <ul style="list-style-type: none"> <li>▪ To determine consistency with Direction 4.3 a flood study should be undertaken that should comprise and assessment of: <ul style="list-style-type: none"> <li>- flood risk</li> <li>- flood behaviour</li> <li>- appropriate management strategies.</li> <li>- impacts of earthworks and filling</li> <li>- an emergency response plan if required.</li> <li>- consideration of flood free access</li> </ul> </li> </ul>	A stormwater and flooding study has been submitted by the proponent and has been reviewed by Council's engineers as being satisfactory.
<b>Sydney Water</b> (27 February 2018) <b>Water servicing</b> The site is within the Buxton- Green Hills- Nepean – Oakdale – Picton – Thirlmere Water Supply zone. The subdivision lots can be serviced. <b>Wastewater servicing</b> The development is within the Picton Sewerage Scheme. The existing wastewater main has capacity to service the proposed 13 lots (note: proposed subdivision shows 12 lots)	Noted.
<b>Local Land Services</b> (11 August 2017) <ul style="list-style-type: none"> <li>▪ The current zoning of the area is R2- (low density Residential) which is excluded from the operation of the Native Vegetation Act 2003.</li> <li>▪ In regards to the Land being rezoned to E2 (Environmental Conservation); on the 25th August 2017 the Native Vegetation Act 2003 will be repealed and replaced by the Biodiversity Conservation Act 2016 and the Local Land Services Act 2013.</li> <li>▪ Local Land services will still be providing advice and authorisation for clearing of vegetation on RU (rural) zoned land, however it is understood that determinations in any other zoning will be the responsibility of local council</li> </ul>	Noted.
<b>SIMEC Mining - Tahmoor Coking Coal Operations</b> (3 February 2020) <ul style="list-style-type: none"> <li>▪ The Property is located within the Bargo Mine Subsidence District and within the extent of our Mining Leases and above past mine workings.</li> </ul>	Noted.

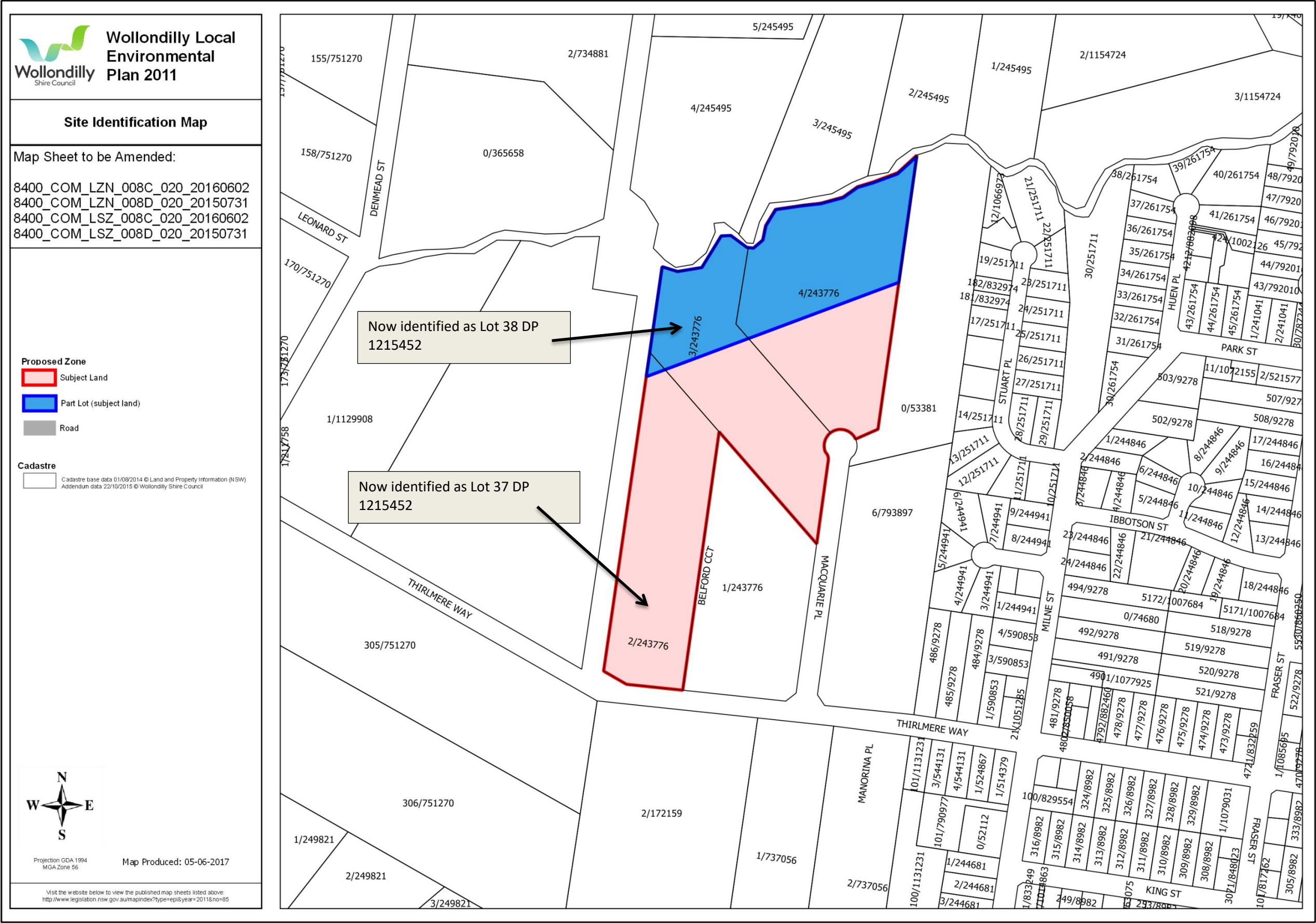
<ul style="list-style-type: none"> <li>▪ The Property is situated within Tahmoor Coal's long term mine planning domains.</li> <li>▪ Given the nature of the proposed land use amendment, we do not object to approval of the proposed amendment.</li> <li>▪ We recommend that any approval be conditioned so that any proposed development be designed according to the following guideline: Subsidence advisory NSW - Surface Development Guideline 6 – Active mining areas – Minimal predicted subsidence impact (Guideline 6).</li> </ul>	
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## Part 4 – Mapping

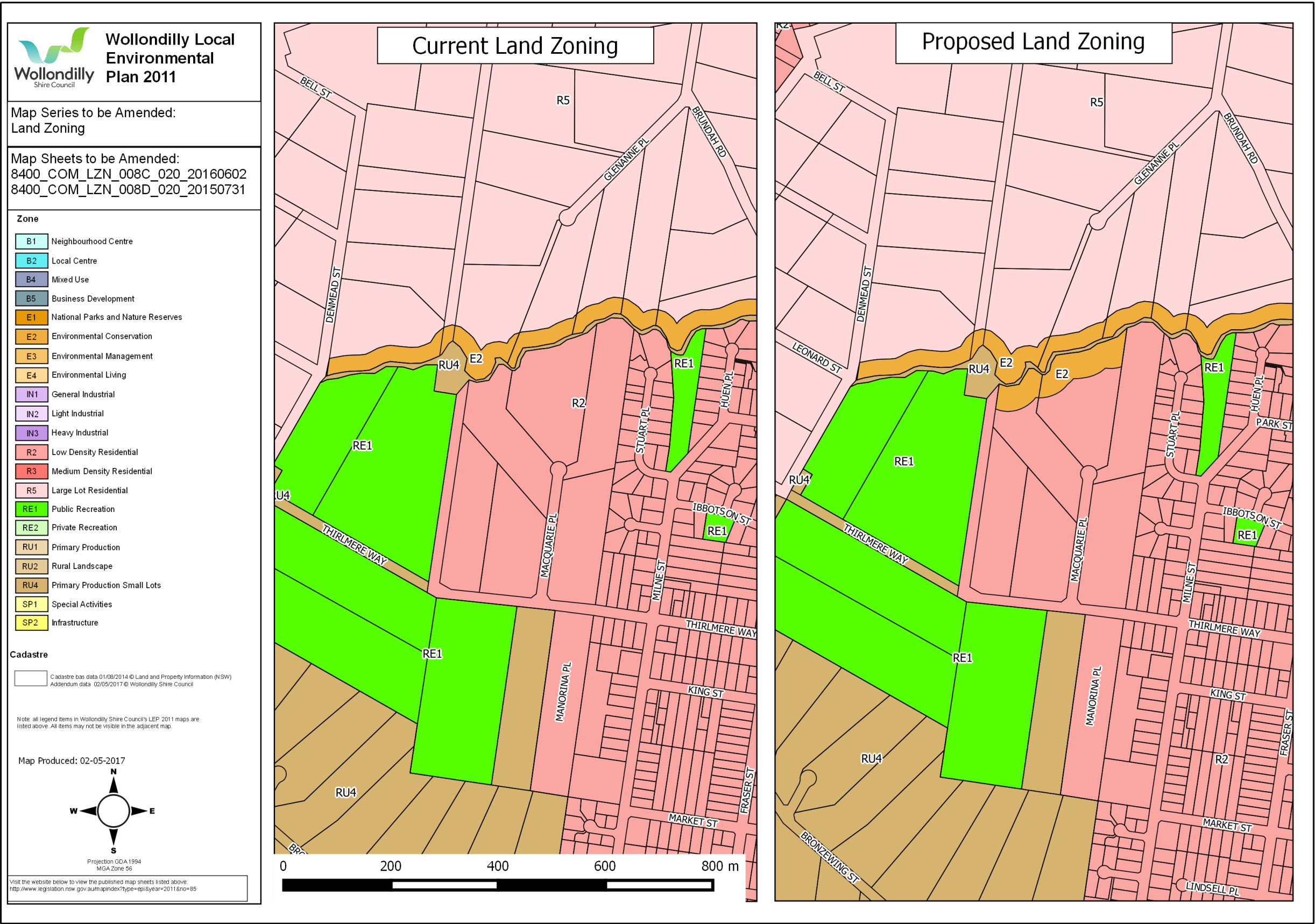
- Map 1 Site Identification (SIM)
- Map 2 New Land Zoning (LZN)
- Map 3 New Lot Size (LSZ)
- Map 4 New Natural Resources Water Map (NRW)



Map 1 – Site Identification (SIM)



# Map 2 – New Land Zoning (LZN)



Current Land Zoning

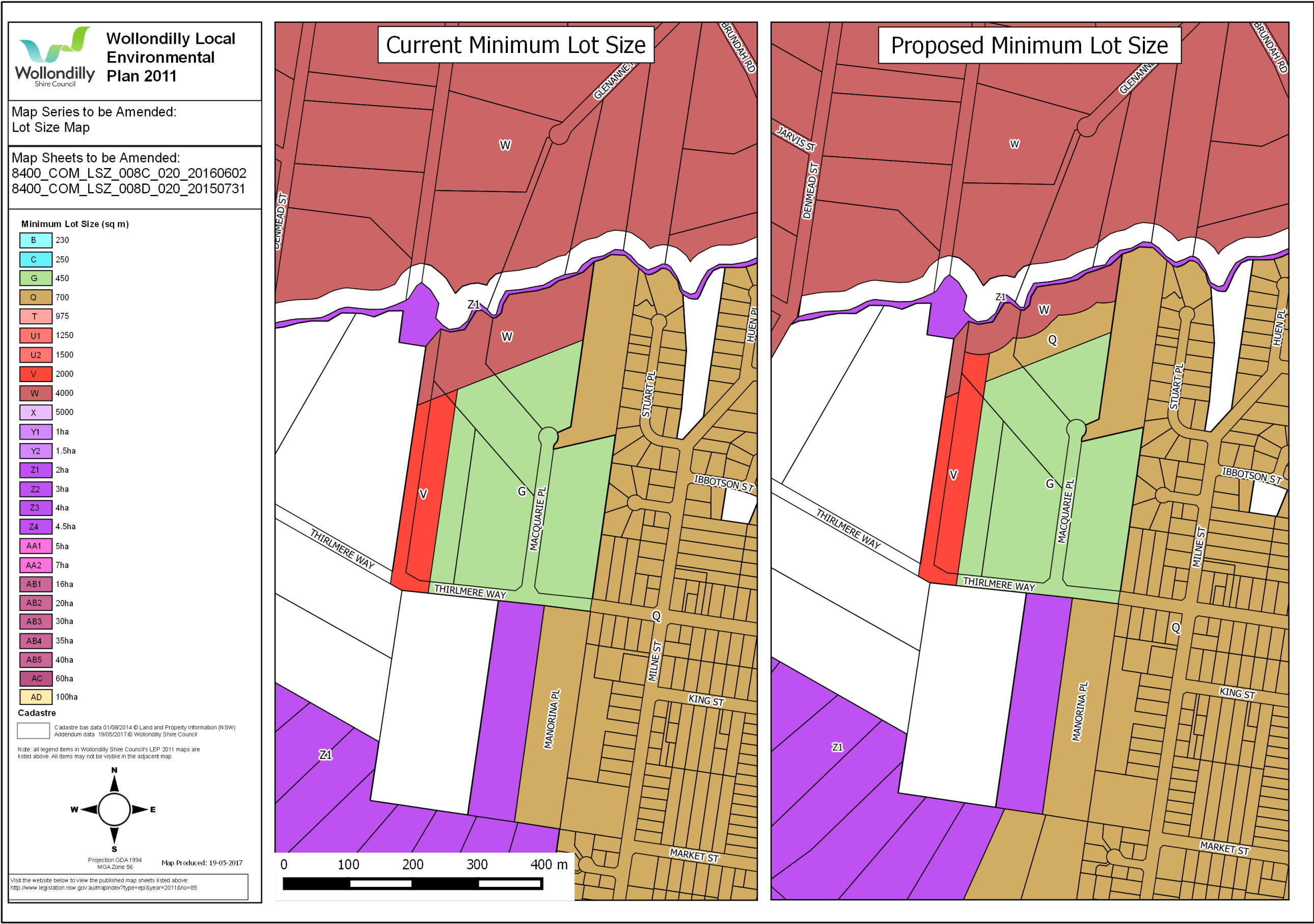


Proposed Land Zoning

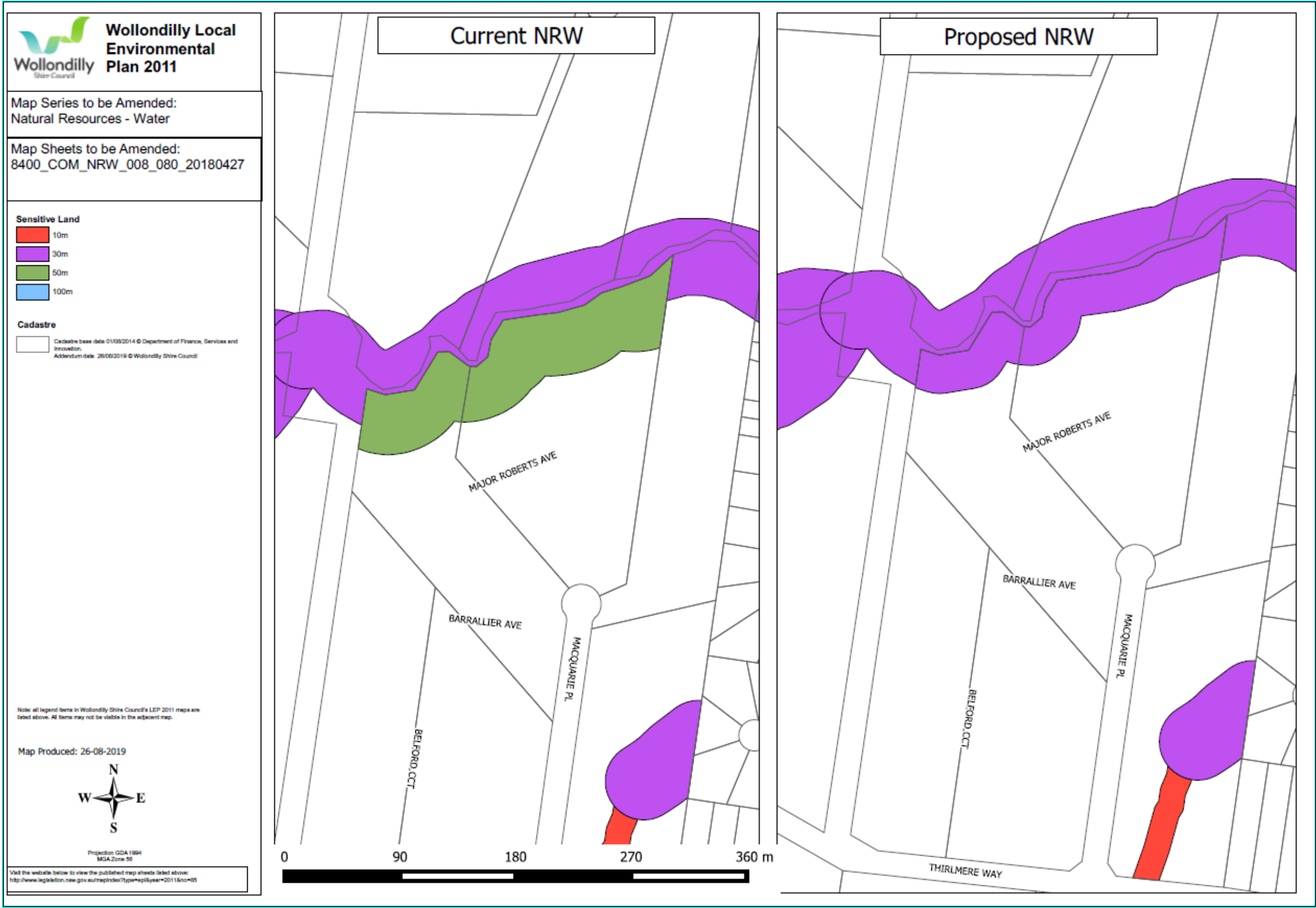




Map 3 – New Lot Size (LSZ)



# Map 4 – New Natural Resources Water Map (NRW)



# Part 5 – Community Consultation

Council undertook preliminary notification of the Planning Proposal for a period of two (2) weeks from 28 September 2016 to 12 October 2016.

Four (4) submissions were received during the preliminary notification. The concerns raised in submissions during the preliminary notification and Council's response are provided below:

Issue Raised	Assessment Comment
Land dedication	The proposal to dedicate land to Council was considered by Council's Land & Property Panel (LPP) on 9 November 2016. It was recommended that any land proposed to be zoned E2 Environmental Conservation remain in private ownership.
Environmental impact	Previous studies prepared to support amendment No.3 to the WLEP 2011 have shown that the site typically supports a high level of fauna habitat features that are important in the maintenance of native fauna diversity and life cycles. Extension of the buffer zone has also been highlighted during internal consultation with Council staff. This report recommends increasing the area proposed to be rezoned for environmental protection purposes so that it aligns with the area identified for water protection on the Natural Resources – Water Map which forms part of the WLEP 2011.
Traffic & parking	The site is located within a designated Urban Release Area and so developer contributions towards the upgrade of state and Council infrastructure, including roads will be required at the development application stage. This comment appears to relate to the future development of the whole site. Traffic impacts would have been considered as part of the original planning proposal to rezone the land for future development. The addition of approximately 12 new lots is not viewed as being significant enough to require a new study.
Conflict with rural living	The site is already zoned for residential purposes and has been identified for growth in Council's GMS.
Open space and recreation	The site is located adjacent to public recreational space. Developer contributions towards Council owned infrastructure which include sports fields and parks will be required at the development application stage.
Block sizes	This proposal seeks a slightly larger lot size of 700sqm from that which was canvassed to the community in the northern portion of the site and has removed any changes to land located to the west with the exception of a reduction of the minimum lot size from 4000sqm to 2000m2 for 300m2 of land relating to Lot 37 to maintain consistency
Height of buildings	The draft proposal does not seek to amend the maximum building height that applies to the site and there is not considered to be any planning grounds to restrict the height of part of this proposal.
Flooding and runoff	If the proposal proceeds, a stormwater management assessment will be required at the development application stage to establish that future subdivision of the site will not negatively impact on Myrtle Creek or surrounding properties.



## Part 6 – Project Timeline

A primary goal of the plan making process is to reduce the overall time taken to produce LEPs. The table below sets out the anticipated project timeline for consideration of the West Tahmoor Minimum Lot Size Amendment 2 Planning Proposal.

<i>Project detail</i>	<b>Timeframe</b>	<b>Timeline</b>
Commencement and completion dates for public exhibition period – after amending planning proposal if required, preparation of maps and special DCP provisions	2 month period	June 2020
Timeframe for consideration of submissions	1 month	August 2020
Timeframe for the consideration of a proposal post exhibition including amendments and maps and report to Council	3 months	November 2020
Date of submission to the Department to finalise the Draft LEP amendment	N/A	N/A
Anticipated date RPA will make the plan if delegated (including 6 week period for finalisation)	2 months	February 2021
Anticipated date RPA will forward to the Department for notification	1 month	April 2021



# Appendices

## **A. Assessment against Ministerial Directions**

Table indicating compliance with applicable 9.1 (2) Ministerial Directions issued under the Environmental Planning and Assessment Act (EP&A Act) 1979.

## **B. Assessment against Wollondilly GMS**

Table indicating compliance with relevant Key Policy Directions within Wollondilly Growth Management Strategy (GMS) 2011

## **C. Gateway Determination and Gateway Alterations**

Council Reference: DM 8154-2#327

## **D. Council Report and Minutes**

Extract of Minutes and Agenda's of the Report to Wollondilly Shire and its Planning and Economy to the Ordinary Meeting of Council held on Monday 20 February 2017 DM 8154-2 #53 DM 8154 – 2 #60 and held on Tuesday 18 April 2017 DM 8154 #73 and DM 8154 #80

## **E. Flora and Fauna Report**

Submitted by Ecoplaning 18/12/2018 DM 8154-2 #230

## **F. Vegetation Management Plan**

Submitted by Ecoplaning 18/12/2018 DM 8154-2 #229

## **G. Stormwater Management Plan**

Submitted by Robert Moore and Associated 14/01/2019 DM 8154-2 #262

## **H. 45 Major Roberts Avenue, Tahmoor Stormwater Management Strategy**

Submitted by Diversi 14/02/2019 DM 8154-2#263

## **I. Aboriginal Heritage Impact Permit**

AHIP number: C0001902 (AHIMS Permit ID: 3979) Submitted by Office of Environment & Heritage Dated 21/06/2016 DM 8154-2#265

## **J. Aboriginal Heritage Impact Permit Variation**

AHIP number: C0001902 (AHIMS Permit ID: 3979) Submitted by Office of Environment & Heritage dated 06/09/2016 DM 8154-2#266

## **Appendix K Bushfire Assessment**

Submitted by David Peterson Dated 04/11/2019 (ref: 18057) DM 8154-2#286

## **L. Plan of Proposed Subdivision**

Submitted by Robert Moore and Associates PTY LTD Dated 15/08/2019 DM 8154-2#287

## **M. Letter from Department of Planning, Industry and Environment**

Confirmation to proceed to public exhibition Dated 5 May 2020 DM #328

# Appendix A

## Assessment against Section 9.1 (2) Directions

The table below assesses the planning proposal against Section 9.1(2) Ministerial Directions issued under the Environmental Planning and Assessment Act (EP&A Act) 1979 previously section 117(2).

Ministerial Direction	Applicable to LEP	Consistency of LEP with Direction	Assessment
<b>1. Employment and Resources</b>			
1.1 Business and Industrial Zones	No	N/A	N/A
1.2 Rural Zones	No	N/A	The site is within a residential zone.
1.3 Mining, Petroleum Production and Extractive Industries	Yes	Likely	Consultation has been undertaken with NSW Resources and Energy, Subsidence Advisory NSW and SIMEC Mining (Tahmoor Coking Coal Operations) and no objections to the proposal have been raised (see D3.11). Therefore the proposal is viewed as being consistent with the Direction.
1.4 Oyster Aquaculture	No	N/A	Direction does not apply.
1.5 Rural Lands	No	N/A	Not applicable in the Shire of Wollondilly.
<b>2. Environment and Heritage</b>			
2.1 Environmental Protection Zones	Yes	Likely	<p>This direction prescribes that a planning proposal within land identified for environmental protection purposes must not reduce an environmental protection standard.</p> <p>The site is mapped as being within the Wollondilly LEP 2011 Natural Resources Biodiversity (NRB) and Natural Resources Water (NRW) maps and under the WLEP 2011 the amendment of the NRW map to remove the 50m buffer is viewed as being inconsistent with this direction.</p> <p>It can be argued this inconsistency is justified as the Flora and Fauna study prepared in support of the planning proposal gives consideration to the objectives of this direction and has found that the proposal will still meet the objectives of the direction particularly through the introduction of a new E2 Environmental Conservation Zone.</p> <p>To confirm consistency, consultation will be carried out with the Environment, Energy and Science (EES) Group during public exhibition.</p>
2.2 Coastal Management	No	N/A	Direction does not apply.
2.3 Heritage Conservation	Yes	Likely	The proposal is viewed as being consistent with this direction as no European Heritage is mapped on the site and the site is part of a current Aboriginal Heritage Impact Permit (AHIP).

Ministerial Direction	Applicable to LEP	Consistency of LEP with Direction	Assessment
2.4 Recreation Vehicle Area	No	No	Direction does not apply.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	No	N/A	Direction does not apply.
<b>3. Housing, Infrastructure and Urban Development</b>			
3.1 Residential Zones	Yes	Likely	The proposal is consistent with this direction as it to encourage a variety and choice of housing types in an area where existing infrastructure and services are available and provides a buffer between sensitive land and residential land through the introduction of the E2 zone.
3.2 Caravan Parks and Manufactured Home Estates	No	No	Direction does not apply.
3.3 Home Occupations	Yes	Yes	The R2 Low Density Residential permits "Home occupations" without consent.
3.4 Integrating Land Use and Transport	Yes	Yes	The planning proposal seeks to increase the density of land within a residential zone by allowing a smaller minimum lot size, on land located within walking distance to public transport.
3.5 Development Near Regulated Airports and Defence Airfields	No	N/A	Direction does not apply.
3.6 Shooting Ranges	No	N/A	Direction does not apply.
3.7 Reduction in non-hosted short term rental accommodation period	No	N/A	Direction does not apply.
<b>4. Hazard and Risk</b>			
4.1 Acid Sulphate Soils	No	N/A	Not applicable
4.2 Mine Subsidence and Unstable Land	Yes	Likely	The site is located within a mine subsidence district. Consultation with Subsidence Advisory NSW and under SA NSW advice, SIMEC Mining Tahmoor Coking Coal Operations. No objections have been raised by either organisation as described in D3.11 and so the proposal is viewed as being consistent with this Direction.
4.3 Flood Prone Land	No	Likely	A stormwater and flooding report has been submitted with a plan to manage these impacts. This has been reviewed as being satisfactory by Council's engineers and so the proposal is viewed as being consistent with this direction.
4.4 Planning for Bushfire Protection	Yes	Likely	Lots within the site have been identified as wholly and partially bushfire prone. A bushfire assessment report has been prepared by the proponent and advice has been sought from the RFS. A proposed future lot layout has been provided by the proponent that shows the proposal to be consistent with this report/advice and so the proposal is viewed as being consistent with this direction.

Ministerial Direction	Applicable to LEP	Consistency of LEP with Direction	Assessment
<b>5. Regional Planning</b>			
5.1 Implementation of Regional Strategies	No	N/A	Direction does not apply.
5.2 Sydney Drinking Water Catchments	No	N/A	The site is not located within the Sydney Drinking Water Catchment.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	N/A	Not applicable in the Shire of Wollondilly.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A	Not applicable in the Shire of Wollondilly.
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	No	N/A	Revoked.
5.6 Sydney to Canberra Corridor	No	N/A	Revoked.
5.7 Central Coast	No	N/A	Revoked.
5.8 Second Sydney Airport: Badgerys Creek	No	N/A	Revoked.
5.9 North West Rail Link Corridor Strategy	No	N/A	Not applicable in the Shire of Wollondilly.
5.10 Implementation of Regional Plans	Yes	Yes	The proposal is viewed as being consistent with the Western City District Plan. Detailed Assessment is provided in Section B.
5.11 Development of Aboriginal Land Council land	No	N/A	Direction does not apply to Wollondilly Shire.
<b>6. Local Plan Making</b>			
6.1 Approval and Referral Requirements	Yes	Yes	The proposal is consistent with this direction because it does not alter the provisions relating to approval and referral requirements.
6.2 Reserving Land for Public Purposes	No	N/A	Direction does not apply.
6.3 Site Specific Provisions	No	N/A	Direction does not apply.
<b>7. Metropolitan Planning</b>			
7.1 Implementation of A Plan for Growing Sydney	Yes	Yes	Consistent – Seeks to increase housing in a location which is consistent with the locational commentary of the Plan.
7.2 Implementation of Greater Macarthur Land Release Investigation	No	N/A	The site is not within the Greater Macarthur Investigation Area.

Ministerial Direction	Applicable to LEP	Consistency of LEP with Direction	Assessment
7.3 Parramatta Road Corridor Urban Transformation Strategy	No	N/A	Direction does not apply.
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	No	N/A	Direction does not apply.
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	No	N/A	Direction does not apply.
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	No	N/A	The site is not within the Wilton Priority Growth Area.
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	No	N/A	Direction does not apply.
7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	No	N/A	Direction does not apply.
7.9 Implementation of Bayside West Precincts 2036Plan	No	N/A	Direction does not apply.
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	No	N/A	Direction does not apply.

# Appendix B

## Assessment against Wollondilly GMS

Wollondilly Growth Management Strategy (GMS) was adopted by Council in February 2011 and sets directions for accommodating growth in the Shire for the next 25 years. All planning proposals which are submitted to/initiated by Council are required to be assessed against the Key Policy Directions within the GMS to determine whether they should or should not proceed.

The following table sets out the planning proposal's compliance with relevant Key Policy Directions within the GMS:

Key Policy Direction	Comment
<b>General Policies</b>	
<b>P1</b> 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 is considered to be consistent with key policy directions.
<b>P2</b> All land use proposals need to be compatible with the concept and vision of 'Rural Living' (defined in Chapter 2 of the GMS).	The retention of the larger lot sizes on the western boundary and the larger lot size on the land adjoining Myrtle Creek will provide a suitable buffer to recreation and sensitive lands and is viewed as being consistent with this direction.
<b>P3</b> All Council decisions on land use proposals shall consider the outcomes of community engagement.	Four (4) submissions were received during the exhibition of the proposal and has been given due consideration within this report.
<b>P4</b> The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.	There have been no such representations regarding this proposal and therefore this key policy direction has been satisfied.
<b>P5</b> 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 relates to land within an existing residential precinct, however, the larger lot sizes on the western and northern boundary of the site were established to address the environmental and physical features of the site. The proposed reduction of the lot sizes to 700sq in parts of the site with the introduction of an E2 zone to the north of the site is viewed as being consistent with this direction.
<b>Housing Policies</b>	
<b>P6</b> Council will plan for adequate housing to accommodate the Shire's natural growth forecast.	The proposed amendment to the minimum lot size maps on the site will contribute to the achievement of dwelling targets for the Shire which are contained in the GMS
<b>P8</b> 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 draft proposal will result in approximately 12 additional lots in close proximity to the business centre.
<b>P9</b> 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 current lot sizes of 4000 square metres is not consistent with adjoining densities and in this location which is not on the 'rural fringe' and is relatively close to the Tahmoor town centre.

Key Policy Direction	Comment
<b>P10</b> 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 within an existing low density residential zone and is consistent in this regard.
<b>Macarthur South Policies</b>	
<b>P11</b> Council does not support major urban release within the Macarthur South area at this stage.	Key Policy Direction 11 is not applicable to this planning proposal as the site is not located within the Macarthur South region.
<b>P12</b> Council considers that in order to achieve sound long-term orderly planning for the eventual development of Macarthur South an overall master plan is required.	Key Policy Direction 12 is applicable to this planning proposal as the site is not located within the Macarthur South region.
<b>P13</b> Council will not support further significant new housing releases in Macarthur South beyond those which have already been approved. Small scale residential development in and adjacent to the existing towns and villages within Macarthur South will be considered on its merits.	Key Policy Direction 13 is not applicable to this planning proposal as the site is not located within the Macarthur South region.
<b>P14</b> Council will consider proposals for employment land developments in Macarthur South provided they: <ul style="list-style-type: none"> <li>▪ Are environmentally acceptable;</li> <li>▪ Can provide significant local and/or subregional employment benefits;</li> <li>▪ Do not potentially compromise the future orderly master planning of the Macarthur South area;</li> <li>▪ Provide for the timely delivery of necessary infrastructure;</li> <li>▪ Are especially suited to the particular attributes of the Macarthur South area AND can be demonstrated as being unsuitable or unable to be located in alternative locations closer to established urban areas;</li> <li>▪ Do not depend on the approval of any substantial new housing development proposal in order to proceed (Employment land proposals which necessitate some limited ancillary or incidental housing may be considered on their merits).</li> </ul>	Key Policy Direction P14 is not applicable to this proposal as the site is not located within the Macarthur South region.
<b>Employment Policies</b>	
<b>P15</b> 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, in its current form does not propose any employment lands.
<b>P16</b> 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 Planning Proposal, in its current form does not propose any employment lands.



Key Policy Direction	Comment
<b>Integrating Growth and Infrastructure</b>	
<p><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.</p>	<p>If the Planning Proposal is supported, the relevant agencies responsible for the provision of services and infrastructure (e.g. sewerage infrastructure) will be formally consulted to ensure that the service provision is adequate.</p>
<p><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.</p>	<p>The Planning Proposal relates to residential land within the existing village boundaries of the township of Tahmoor and is therefore considered to be consistent with this policy direction.</p>
<p><b>P19</b> Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.</p>	<p>The Planning Proposal is within an existing residential precinct and complies with this policy.</p>
<p><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.</p>	<p>The Planning Proposal relates to land within the West Tahmoor PTT precinct and is consistent with this policy.</p>
<b>Rural and Resource Lands</b>	
<p><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.</p>	<p>The vegetation communities to the north of the site form part of a locally significant vegetation corridor of Myrtle Creek which has been identified on the Natural Resources - Biodiversity Map which forms part of the WLEP 2011.</p> <p>The application of an E2 zone to this area may also act to protect this vegetation with appropriate controls for future land owners.</p>
<p><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.</p>	<p>The lot size amendment is located on lands currently zoned R2 Low Density Residential and the requirements of this policy are achieved.</p>

# Appendix C

## Gateway Determination

*Council Reference: DM 8154-2 #327*

# Appendix D

## Council's Report and Minutes

*Extract from Agenda's containing the Report to Wollondilly Shire and its Planning and Economy to the Ordinary Meeting of Council held on Monday 20 February 2017 DM 8154-2 #53 DM 8154 –2 #60 and held on Tuesday 18 April 2017 DM 8154 #73 and DM 8154 #80*

## Appendix E

### Flora and Fauna Report

*Submitted by Ecoplaning 18/12/2018 CM 8154-2 #230*

## Appendix F

### Vegetation Management Plan

*Submitted by Ecoplaning 18/12/2018 CM 8154-2 #229*

## Appendix G

### Stormwater Management Plan

*Submitted by Robert Moore and Associated 14/01/2019 CM 8154-2 #262*

## Appendix H

### 45 Major Roberts Avenue, Tahmoor Stormwater Management Strategy

*Submitted by Diversi 14/02/2019 CM 8154-2#263*

## Appendix I

### Aboriginal Heritage Impact Permit

*AHIP number: C0001902 (AHIMS Permit ID: 3979) Submitted by Office of Environment & Heritage Dated 21/06/2016 CM 8154-2#265*

## Appendix J

### Aboriginal Heritage Impact Permit Variation

*AHIP number: C0001902 (AHIMS Permit ID: 3979) Submitted by Office of Environment & Heritage dated 06/09/2016 CM 8154-2#266*

# Appendix K

## Bushfire Assessment

*Submitted by David Peterson Dated 04/11/2019 (ref: 18057) CM 8154-2#286*

# Appendix L

## Plan of Proposed Subdivision

*Submitted by Robert Moore and Associates PTY LTD Dated 15/08/2019 CM 8154-2#287*

# Appendix M

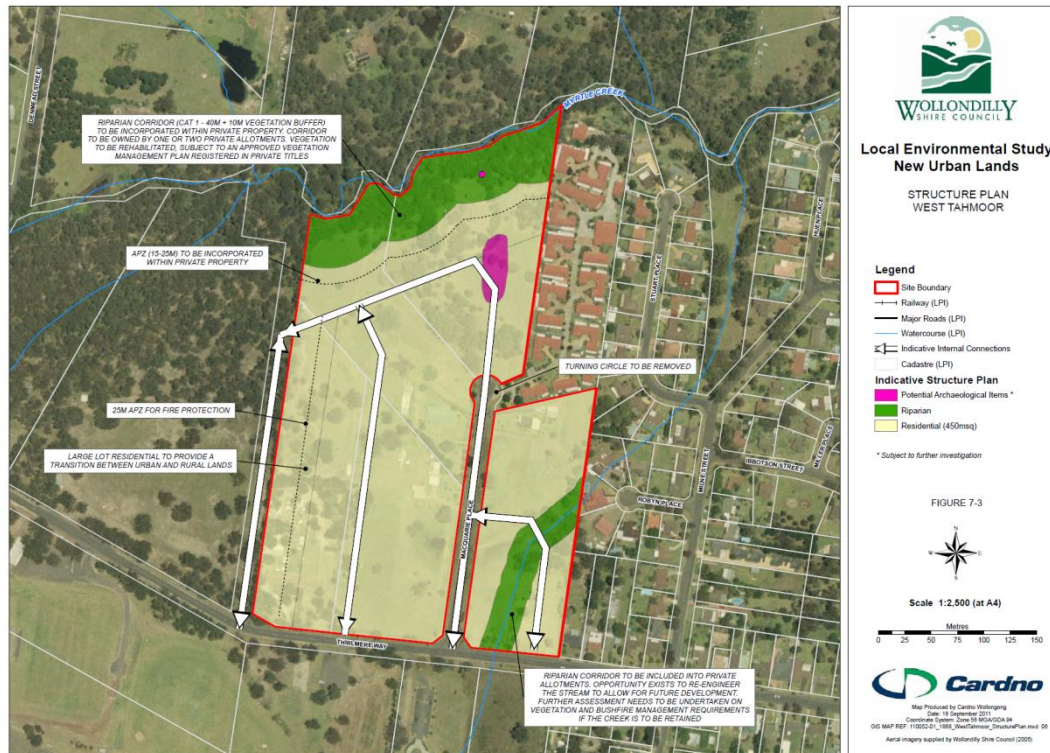
## Letter from Department of Planning, Industry and Environment

*Confirmation to proceed to public exhibition Dated 5 May 2020 DM #328*

### 3.4 Tahmoor West

#### Application

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



#### Objectives

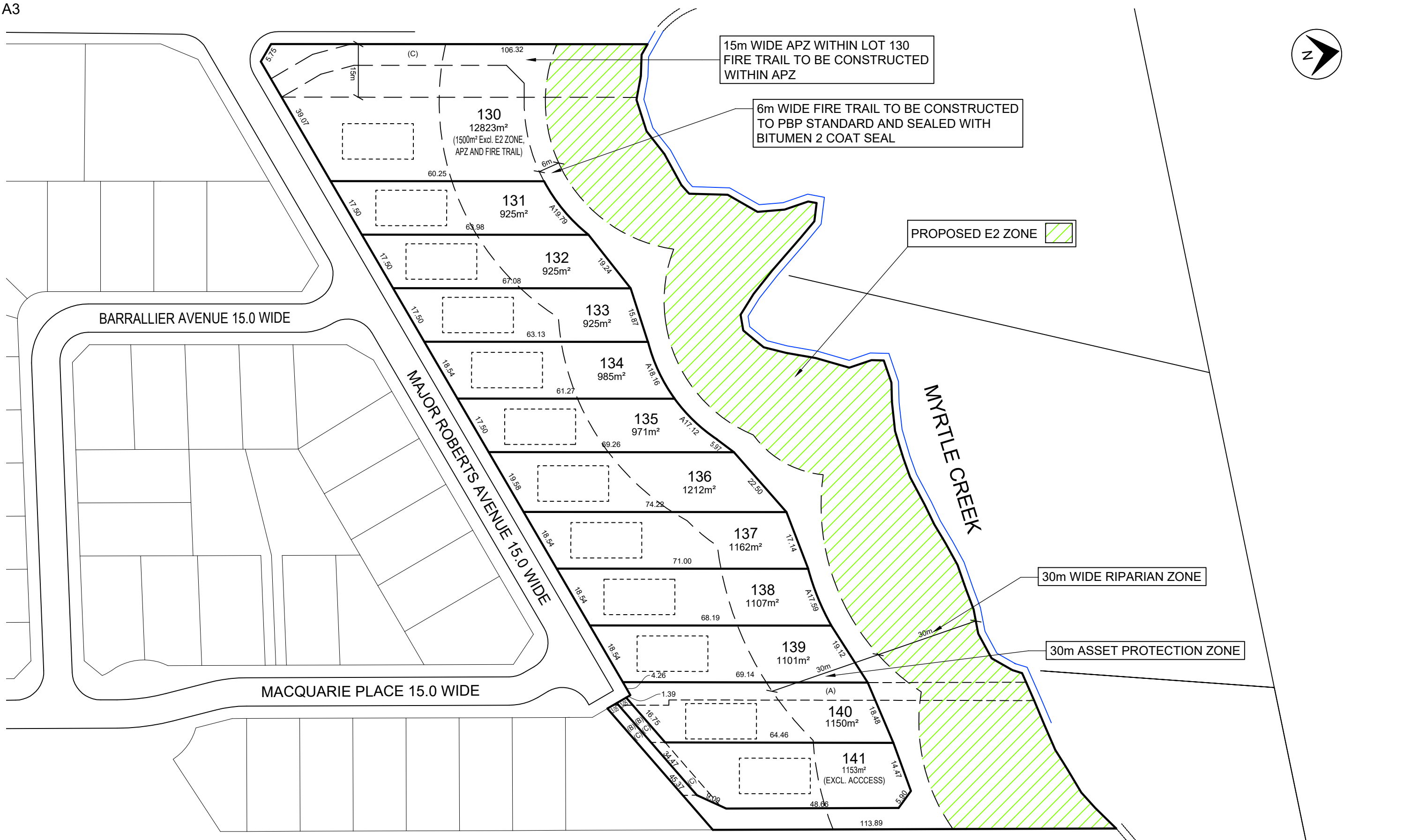
1. To ensure roads and pathways within future subdivision of the land are provided with direct links to the road network.
2. To ensure the protection of significant natural waterways and vegetation.
3. To provide infrastructure to support the provision of public transport.
4. To provide for a transition in lot sizes appropriate to the visual character of the locality.
5. To ensure aboriginal heritage is protected.

#### Controls

1. All land within 50 metres of the top of bank of Myrtle Creek shall be protected by the establishment of a covenant on the land which provides the following:
  - i. Restrict development to only vegetation management for environmental outcomes.
  - ii. prohibit the fencing of this land
  - iii. require the land to be managed in accordance with a vegetation management plan approved by Council or the NSW Office of Environment and Heritage.
2. The land identified as *potential archaeological items* shall be assessed in accordance with Clause 5.10 of Wollondilly Local Environmental Plan, 2011.
3. The subdivision shall provide larger allotments along Thirlmere Way and the western edge of the precinct.
4. Roads and pathways shall be provided generally in accordance with the structure plan and enable direct links to the road network and area within the site identified on the structure plan.

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5. A bus stop with shelter to be provided along the existing bus route in Thirlmere Way.





# PROPOSED AMENDMENTS TO WOLLONDILLY DEVELOPMENT CONTROL PLAN 2016

## VOLUME 3 SUBDIVISION OF LAND - PART 3 CONTROLS FOR SPECIFIC LOCATIONS

### 3.4 TAHMOOR WEST -

#### Application

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



## **OBJECTIVES**

1. To ensure roads and pathways within future subdivision of the land are provided with direct links to the road network.
2. To ensure the protection of significant natural waterways and vegetation.
3. To provide infrastructure to support the provision of public transport.
4. To provide for a transition in lot sizes appropriate to the visual character of the locality.
5. To ensure aboriginal heritage is protected.
6. To ensure adequate bushfire protection measures are achieved.

## **CONTROLS**

1. All land within 30 metres of the top of bank of Myrtle Creek shall be protected by the establishment of a covenant on the land which provides the following:
  - i. Prohibiting of development as defined by the Environmental Planning and Assessment Act on this land unless approved by Council and the Natural Resource Regulator.
  - ii. Require the installation of three strand steel cable fencing on the interface of the fire trail with the E2 lands.
  - iii. require the land to be managed in accordance with the Vegetation Management Plan (VMP) approved by Council dated December 2018.
  - iv. Compliance with any General Terms of Approval issued by the Natural Resource Regulator
2. The E2 zoned land will be retained in one private allotment and a restriction will be placed on the lot to this effect.
3. Any land shown as being within an APZ area located north of Major Roberts Ave must provide the following:
  - i. In addition to monitoring detailed in the VMP, any subdivision application must include details of a program that would monitor the presence and movement of wildlife through the "Riparian Corridor"
  - ii. Appropriate dog proof fencing must be installed on the interface between the building envelope and the fire trail.
  - iii. Removal or pruning of native vegetation must not exceed the level required to comply with the requirements of Planning for Bushfire Protection Guidelines 2018.
  - iv. Tree species within the APZ that are listed in Schedule 2 of State Environmental Planning Policy (SEPP) (Koala Habitat Protection) 2019 are not permitted to be removed unless approved by a Determination applying to the site or under the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.
  - v. The distance between any tree species listed in Schedule 2 of the SEPP (Koala Habitat Protection) 2019 and the nearest external wall of an inhabitable structure must not be less than 3 metres unless otherwise approved by a Determination applying to the site or directive by Council.

4. The land identified as potential archaeological items shall be assessed in accordance with Clause 5.10 of Wollondilly Local Environmental Plan, 2011.

5. The subdivision shall provide larger allotments along the western edge of the precinct on land bordering Thirlmere Way and Major Roberts Ave.

6. Roads and pathways shall be provided generally in accordance with the structure plan and enable direct links to the road network and area within the site identified on the structure plan.

7. A bus stop with shelter to be provided along the existing bus route in Thirlmere Way.





30m WIDE APZ TO BE INCORPORATED WITHIN PRIVATE PROPERTY AND WITHIN ONE ALLOTMENT

6m WIDE FIRE TRAIL TO BE INCORPORATED WITHIN PRIVATE PROPERTY AND WITHIN ONE ALLOTMENT. FIRE TRAIL TO BE LOCATED OUTSIDE OF E2 ZONED LAND

30m WIDE RIPARIAN CORRIDOR / VEGETATION BUFFER TO BE INCORPORATED WITHIN PRIVATE PROPERTY CORRIDOR TO BE OWNED BY ONE PRIVATE ALLOTMENTS. VEGETATION TO BE REHABILITATED, SUBJECT TO AN APPROVED VEGETATION MANAGEMENT PLAN REGISTERED IN PRIVATE TITLE

15m WIDE APZ FOR FIRE PROTECTION

LARGE LOT RESIDENTIAL TO PROVIDE A TRANSITION BETWEEN URBAN AND RURAL LANDS

25m WIDE APZ FOR FIRE PROTECTION

RIPARIAN CORRIDOR TO BE INCLUDED INTO PRIVATE ALLOTMENTS. OPPORTUNITY EXISTS TO RE-ENGINEER THE STREAM TO ALLOW FOR FUTURE DEVELOPMENT. FURTHER ASSESSMENT NEEDS TO BE UNDERTAKEN ON VEGETATION AND BUSHFIRE MANAGEMENT REQUIREMENTS IF CREEK IS TO BE RETAINED.