

GR6 Attachments

1. Report to Council
2. Picton East Concept Zoning – Gateway
3. Amended Proposed Zone
4. Amended Proposed Minimum Lot size

Monday 19 February 2018

GR6 – Picton East Planning Proposal

PE2 – Picton East Planning Proposal

EXECUTIVE SUMMARY

- The Picton East Planning Proposal comprises parts of Lot 106 DP 1111043, Lot 2 DP 229679 and Lot 9 DP 233840 being No's 108 Baxter Lane, 108-114 and 116-118 Menangle Street, Picton.
- The revised planning proposal is seeking to rezone land for low density residential, environmental living and environmental conservation purposes.
- Council supported an alteration to the Gateway Determination for this planning proposal at its meeting held on Monday 21 September 2015.
- The Department of Planning & Environment ('DP&E') subsequently refused the Gateway alteration on the basis that it departed significantly from the original proposal and would constitute a new planning proposal.
- The revised planning proposal has reduced the scope of the changes and the DP&E have reviewed these and advised that a Gateway alteration would be considered.
- Submitters to the original proposal were advised about the September 2015 Council report and no concerns were raised. These submitters have also been advised about this Council report.
- 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. The proposal is considered consistent with the Community Strategic Plan.
- It is recommended that Council support the revised Picton East Planning Proposal with the changes detailed in this report and forward the planning proposal to the Greater Sydney City Commission for an alteration to the Gateway Determination.

REPORT

1.1 BACKGROUND

Council previously considered a report requesting a Gateway alteration to the planning proposal at its Ordinary meeting held in September 2015. That report and minutes are at Attachment 1. The request for a Gateway alteration was sent to DP&E in December 2015. They advised in September 2016 that the Gateway alteration was refused as it departed significantly from the original proposal and constituted a new planning proposal.

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Further discussions held with the DP&E determined that the planning proposal should only make minor changes to the scale of the original proposal. It was agreed that the planning proposal could be amended with marginal changes to the planning proposal boundary. These and other proposed changes should be supported by the findings of specialist studies. The proponent has submitted a revised planning proposal and request for a Gateway alteration.

1.2 SITE DESCRIPTION

The planning proposal site is in Zone Rural RU2 Rural Landscape and comprises an area of 27.8 hectares within three properties with a total area of 120.771 hectares. These three properties are parts of Lot 106 DP 1111043, parts of Lot 2 DP 229679 and Lot 9 DP 233840 being No's 108 Baxter Lane, 108-114 and 116-118 Menangle Street, Picton which are located immediately east of Picton Town Centre around Vault Hill.

The original planning proposal which covered the entire three properties was reduced in scale by Council at its meeting held on 17 December 2012 due to concerns raised in submissions and by Council staff largely relating to excessive development in this highly visible and scenic location.

1.3 DESCRIPTION OF REVISED PROPOSAL

Summary of changes

- Increase the amount of Zone E2 Environmental Conservation Land subject to suitable funding arrangements for its ongoing maintenance either through a bio-banking mechanism or incorporation into the residual land.
- RE1 Public Recreation Land to be rezoned E2 Environmental Conservation Land and R2 Low Density Residential Land as shown on the revised zoning plan.
- Land proposed as E3 Environmental Management be rezoned to E4 Environmental Living.
- Land proposed to be rezoned R3 Medium Density be rezoned to R2 Low Density Residential.
- Support minor changes to the site boundary beneath the geotechnical constraints line and excluding land designated as "steep slope drainage & slumping constraints" as detailed in the Slope Stability Report by Douglas Partners.

Boundary changes

It is proposed to make minor changes to part of the site to which the planning proposal relates in response to geotechnical findings that highlighted potential slip areas. These minor changes will not significantly increase the land area.

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Medium Density Land

Proposed R3 Medium Density Land is replaced with R2 Low Density Land with a reduced minimum lot size on land that is not subject to significant slope instability. Further assessment of slope stability with regard to the proposed minimum lot sizes will be required.

Lot Sizes

The revised proposal is expected to generate up to 270 Lots, which is an increase of 70 lots over the estimated 200 lots under the current planning proposal. Three minimum lot sizes have been nominated by the proponent as detailed:

Minimum Lot size	No. of Lots
250m ²	75
450m ²	180
700m ²	15
Total	270

The range of lot sizes would increase potential for housing diversity with smaller lots assisting in the provision of more affordable housing. The location of this site near the Picton Town Centre and Picton Railway Station renders it suitable for medium density development which is able to be achieved through smaller lot sizes with single dwellings rather than the R3 Medium Density Zone with community tile housing. However smaller lots may not be suitable on much of the site due to land instability. Further detailed assessment of the suitability of the site for the proposed lot sizes should be undertaken prior to public exhibition of the proposal.

A minimum lot size of 700m² is proposed for the E4 zone but it is considered that a 975m² minimum would enable better retention of large mature trees.

Land facing Menangle Street

This land within the south west corner of Lot 9 DP 233840 is within a view corridor and is located above Picton Conservation Area land. The land rises steeply and currently has a rural landscape character with large trees and a few rural buildings. The proposed minimum lot size of 250m² and 450m² in this location is considered too dense. A minimum lot size of no less than 975m² within this view corridor would enable the retention of large trees, and would be more appropriate subject to further investigation.

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Public Recreation Land

Specialist studies have detailed the importance of the riparian corridor as environmentally sensitive land with a more suitable zoning being E2 Environmental Conservation rather than RE1 Public Recreation (RE1). No other suitably sized land (at least 5,000m² under Council's Land Dedication Policy) has been identified on the site. There is an area of RE1 land of almost 1 ha adjoining the site in Margaret Street owned by the DP&E that would potentially serve the site for passive recreation.

Environmental Living Land

The DP&E has indicated that an E4 Environmental Living Zone (E4) is a more suitable zone than the proposed E3 Environmental Management Zone (E3). E3 land to the east is now proposed to be included within the E2 Environmental Conservation (E2) area along Reeves Creek.

Council considers an R5 Large Lot Residential zone across these areas of the site to be more suitable than an E4 zone for the following reasons:

- Dual Occupancy Development would be prohibited on sensitive parts of the site.
- There would be no potential land use conflict with any extensive agriculture activities which could be carried out in the E4 zone.

Land adjacent to Menangle Street is now proposed to be rezoned to E4 Environmental Living instead of E3 Environmental Management.

However Land near Baxters Lane which was proposed to be E3 Environmental Management is proposed to be rezoned to R2 Low Density Residential. It is considered that this land should be rezoned R5 Large Lot Residential. The area has been found to contain Shale Hills Woodland which is identified as an endangered ecological community and is considered to have high recovery potential. This location also is visible from Menangle Street and provides a vegetated backdrop to existing housing. It is also quite steep and prone to landslip.

Building Height Limit

A maximum building height limit of 9 metre is proposed for the whole site. The proposed 9m height limit allows a 2 storey dwelling which is suitable for most of the site. It is considered that the part of Lot 9 DP 233840 which is in the view corridor from Menangle Street and adjacent to Picton Conservation Area should be 6.8 metres to lessen potential impact on the heritage character. It should be noted that a 6.8m height limit has been applied to the recent rezoning of adjoining land at 136-154 Menangle Street, Picton.

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The proponent's maps detailing proposed zones, minimum lot sizes and maximum building heights can be found at Attachments 2, 3 and 4. These maps will be changed to reflect the matters raised in this report should a Gateway alteration be supported.

CONSULTATION

2.1 CONSULTATION WITH COUNCIL STAFF THAT PROVIDE SPECIALIST COMMENT

Infrastructure & Planning

- Amendments to the geotechnical report have not been peer reviewed. The original geotechnical report was peer reviewed.
- No consideration has been given to achieving building platforms across the mostly steep site in relation to cut/fill and retaining walls. In this regard there is no reference to Development Control Plan 2016 (DCP 2016) Section 3.13 Retaining Walls, it appears with the proposed lot sizes in various locations that compliance for fill, cut and height of retaining walls would be difficult to achieve.
- The proposed 250m² lots on the north side of the extension of Baxter Lane, has a natural slope of approximately 16%. To achieve a building pad on such small lots, significant excavation and retaining would be necessary. It is likely that compliance with DCP 2016 would not be achieved. Similarly significant cut and fill is likely to impact on the proposed 250m² lots located on the SW side of the road leading from Menangle Street. The same concerns apply for all 700m² lots and road along the full length of the eastern side of the site.
- The north west of the site appears to encroach into the “steep slope drainage & slumping constraints” area as identified by the geotechnical assessment. This area should be avoided for development.
- No consideration has been given to the impact of new road construction on the need for cut/fill and retaining walls while still achieving suitable access to lots. The proposed new road from Menangle Street will require significant side cut & fill which could encroach onto the E2 land.
- Similar concerns apply to the proposed road on the north side near Margaret Street. Construction of the road in this location could also impact adjoining land where “no residential Building Envelopes or associated roadways to be included in this area” are identified in the geotechnical report.
- It is requested that the applicant provide a detailed geotechnical assessment to address the above concerns, which should be peer reviewed.

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- While stormwater would generally run to the creeks, the upslope steepness of this site could mean that overland localised flooding may be an issue, as well as potential seepage reducing the infiltration at some locations. This would have some impact on stability possibly requiring significant fill and/or cutting which would also impact the flow regime and therefore flooding potential.
- The Hydrology report was assessed and further detail is required to adequately assess flooding impact.

Environmental Services

Issues identified include the following:

- The site does contain remnant Shale Hills Woodland – part of the Cumberland Plain Woodland complex in various condition from very degraded to moderate to good.
- There are many noxious and environmental weeds that would need to be removed.
- Vegetation types that like moist habitats on clay soils are in abundance in certain parts of the hill side suggesting seepage at these locations. Some of the proposed E2 Environmental Conservation zoned land is highly degraded both ecologically and from a soil stability perspective. There would be substantial cost to council from the geotechnical (soil stabilisation) perspective but also from an ecological perspective should this land be dedicated. Accordingly the applicant for any future subdivision would be required to ensure any E2 Environmental Conservation land dedicated to Council would be stabilised, weeded and revegetated to ensure that there is a low ongoing maintenance burden.
- Bird activity was noted in the weed infested creeklines, suggesting that there is habitat potential for some common species.
- The proposed E2 areas are very steep so the long term use of them for anything other than vegetated riparian area is unlikely. Revegetation along the creek lines is critical to protect the soil.
- It was noted that there was a salt crust in the dam. Therefore salinity issues may be present at certain depths or in certain locations.

Economic Development and Tourism

A walking track that is readily accessible to the peak of Vault Hill would provide an important tourism attraction and assist economic development.

Planning's response to internal consultation

Development on unstable land is a significant concern for this site. In this regard the minimum lot size should reflect the constraints of the site and a more detailed geotechnical assessment that considers the concerns raised by engineering staff should be undertaken before minimum lot sizes across the site are determined.

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To ensure that adequate assessment is undertaken at the development application stage and to ensure future landowners are aware of potential landslip on the site, areas prone to landslip should be mapped and a clause inserted in Wollondilly Local Environmental Plan 2011 detailing the assessment requirements.

An assessment of flooding using the 2014 base hydraulic model for Stonequarry Creek has indicated that post development flood and hazard levels would not exceed current pre development levels. Stormwater management includes a series of detention basins to contain flow. The risk associated with potential failures of these basins also needs to be addressed.

An assessment of salinity has confirmed the potential for salinity and the report has recommended options for management.

There is a significant amount of E2 Environmental Conservation Land proposed which would require a maintenance contribution under the Council's Dedication of Lands Policy should this land be dedicated. Further discussions will be held with the proponent regarding their plans for ensuring ongoing maintenance of this land and/or dedication to Council.

The impact from this planning proposal has been considered in preparation of the Picton Town Centre Transport Management Plan which is anticipated to be finalised over the coming months. Contributions for transport infrastructure are likely to be required should the planning proposal proceed.

Options for a walking track to Vault Hill including the current RE1 Public Recreation zoned potential access route (which is outside the site) will continue to be discussed with the proponent.

2.2 A PLAN FOR GROWING SYDNEY

The revised planning proposal aims to achieve a range of housing lots which are in keeping with the vision for housing choice and affordability.

2.3 DRAFT SOUTH WEST DISTRICT PLAN

The Draft Plan includes liveability actions with regard to housing diversity and affordability which would be met by this proposal. Sustainability actions would be achieved by rezoning sensitive riparian land for environmental conservation.

2.4 SECTION 117 MINISTERIAL DIRECTIONS

The site is considered to be consistent with relevant Section 117 Ministerial Directions.

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

The 2km exclusion zone around residential land for coal seam gas mining applies to this land.

2.6 CREATE WOLLONDILLY COMMUNITY STRATEGIC PLAN 2033

Create Wollondilly Community Strategic Plan 2033

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

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

Council's priority focus for growth under the CSP will be the development of a new town at Wilton and Council will only support appropriately scaled growth within and around its existing towns and villages that respects the character, setting and heritage of those towns and villages. The Picton East Planning Proposal is consistent with this vision of growth in the CSP.

An assessment of the Planning Proposal against the 5 themes is provided below:

- Sustainable and balanced growth

The Planning Proposal is consistent with Council's position on growth as it will provide low scale incremental growth around an existing township in an area that is identified within Council's current Growth Management Strategy. The application of an R5 zone would encourage lower scale development which would be consistent with the existing built environment.

- Management and Provision of Infrastructure

Appropriate road and drainage infrastructure would be provided as part of the future development of the site.

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▪ Caring for the Environment

This report recommends that larger lot sizes be applied to lands facing Menangle Street so that some of the current landscape character can be retained and some trees on the site can be retained. The scale of the Planning Proposal has been reduced substantially from when it was originally received to avoid impacts on views, landslip and water quality issues.

▪ Looking after the community

The proposed amendments to incorporate larger lots for land facing Menangle Street, as well as the amendments to include planning controls (such as an R5 zone) to more sensitive parts of the site to prohibit higher density development would retain the character of the area and would also improve the quality of the final development. Community involvement will be further encouraged during public exhibition of the proposal.

▪ Efficient and Effective Council

Council will continue to work to ensure that the proposal is consistent with the planning of long term growth within the Shire.

2.7 WOLLONDILLY GROWTH MANAGEMENT STRATEGY

The revised planning proposal is considered to be in accordance with the key policy directions of the Growth Management Strategy. It aims to achieve housing diversity and affordability. The revised planning proposal may be able to achieve a slightly higher density in an area convenient to services, community facilities and public transport. However landslip concerns need to be addressed prior to smaller lot sizes being adopted. Environmentally sensitive areas are proposed to be protected. Additional traffic generation would be able to be addressed through improved traffic management infrastructure under a planning agreement.

2.8 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP 2011)

Following consideration of responses from the DP&E and internal consultation, it is considered that the Planning Proposal should take the form as detailed below.

2.8.1 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP, 2011)

The proposed amendments to WLEP 2011 for which an alteration to the Gateway Determination are sought are detailed below:

- Amend the Land Zoning Map from Zone RU2 Rural Landscape to Zone R2 Low Density Residential, Zone R5 Large Lot Residential and zone E2 Environmental Conservation excluding the area which encroaches into the "steep slope drainage & sumping constraints" part of the site as detailed in the Douglas Partners Slope Stability assessment report

PE2 – Picton East Planning Proposal

- Amend the Lot Size Map from a minimum lot size category of 100 hectares to minimum lot sizes determined after further detailed assessment of geotechnical constraints and heritage/visual streetscape considerations
- Amend the Height of Buildings Map from a Maximum Building Height Category of no maximum height to a Maximum Building Height Category of 9 metres
- That a minimum Lot size of no greater than 975m² be applied to Land facing Menangle Street
- Amend Part 7 Additional Local Provisions to include a clause entitled "Landslip Risk" and prepare an accompanying map detailing areas of landslip risk on the site that would require further investigation at the development application stage.

2.8.2 WOLLONDILLY DEVELOPMENT CONTROL PLAN, 2016 (WDCP, 2016)

Amendments to WDCP 2016 are likely to be required and will be the subject of further investigation should the revised planning proposal receive a Gateway alteration.

VOLUNTARY PLANNING AGREEMENT

It is recommended that the landowner/developer and Council enter into a Voluntary Planning Agreement for the Planning Proposal site. This agreement will provide for public works and services specific to the Planning Proposal the details of which are to be negotiated.

FINANCIAL IMPLICATIONS

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

A Voluntary Planning Agreement is to be investigated to address matters specific to the Planning Proposal.

Council has experienced a record increase in the number of Planning Proposals submitted in addition to the Wilton New Town project. Note that the Wilton New Town 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.

PE2 – Picton East Planning Proposal

ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET

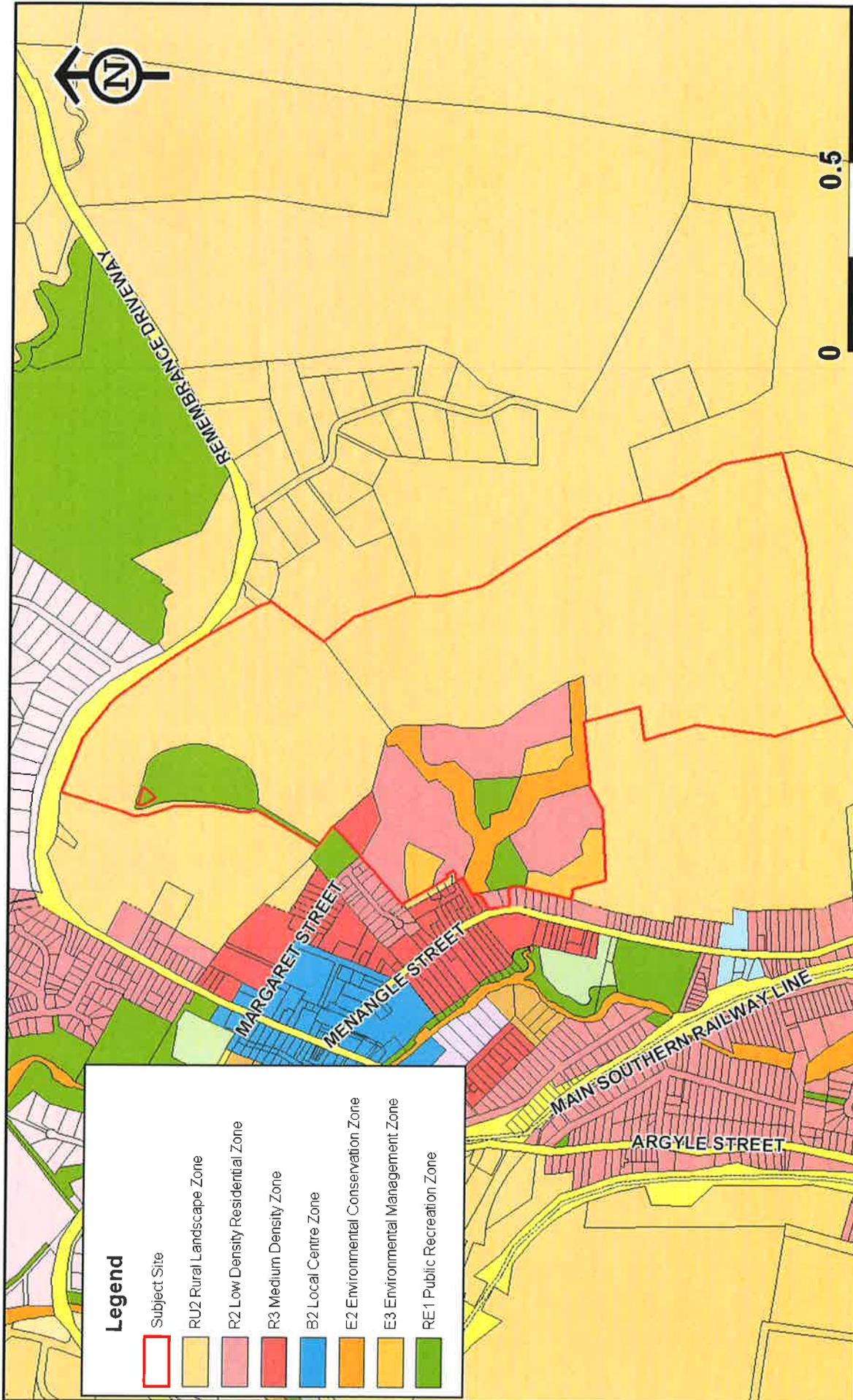
1. Council report and minutes 21 September 2015.
2. Applicant's revised zoning plan.
3. Applicant's revised lot layout.
4. Applicant's revised maximum height map.
5. Council's Zoning Plan with Gateway Determination.

RECOMMENDATION

1. That Council support a revised Picton East Planning Proposal for parts of Lot 106 DP 1111043, parts of Lot 2 DP 229679 and Lot 9 DP 233840 being No's 108 Baxters Lane, 108-114 and 116-118 Menangle Street, Picton, and that the proposal proceed in the following manner:
 - Amend the Land Zoning Map to R2 Low Density Residential, R5 Large Lot Residential and E2 Environmental Conservation and;
 - That amendments to the minimum Lot size map be determined following further detailed assessment of geotechnical constraints and Flood Impact Assessment;
 - Amend the Height of Buildings Map to a 9 metre maximum building height except for land above Menangle Street adjoining the Picton Conservation area which shall be 6.8 metres and;
 - Amend Part 7 Additional Local Provisions to include a clause entitled "Landslip Risk" and prepare an accompanying map detailing areas of landslip risk on the site that would require further investigation at the development application stage.
 - That a minimum Lot size of no less than 975m² be applied to Land facing Menangle Street.
2. That Council support the following changes to the Gateway Determination:
 - Increase the amount of Zone E2 Environmental Conservation Land subject to suitable funding arrangements for its ongoing maintenance either through a bio-banking mechanism or incorporation into the residual land.
 - RE1 Public Recreation Land to be rezoned E2 Environmental Conservation Land and R2 Low Density Residential Land as shown on the revised zoning plan.
 - Land proposed as E3 Environmental Management be rezoned to E4 Environmental Living.
 - Land proposed to be rezoned R3 Medium Density be rezoned to R2 Low Density Residential.

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- Support minor changes to the site boundary beneath the geotechnical constraints line and excluding land designated as "steep slope drainage & slumping constraints" as detailed in the Slope Stability Report by Douglas Partners.
3. That subject to a positive Gateway alteration, the applicant shall complete the following prior to public exhibition of the proposal:
 - Prepare a more detailed geotechnical assessment to address the slope instability concerns highlighted in this report and to determine the appropriate minimum lot size for those areas not detailed in Recommendation 1. A peer review shall be undertaken of this detailed assessment.
 - Address the matters raised in the review of the Flood Impact Assessment Hydrology report.
 4. That the revised Planning Proposal be forwarded to the Greater Sydney Commission with a request for an alteration to the Gateway Determination.
 5. 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.
 6. That the applicant and submitters be notified of Council's Resolution.



Legend

- Subject Site
- RU2 Rural Landscape Zone
- R2 Low Density Residential Zone
- R3 Medium Density Zone
- B2 Local Centre Zone
- E2 Environmental Conservation Zone
- E3 Environmental Management Zone
- RE1 Public Recreation Zone



DRAFT Planning Proposal

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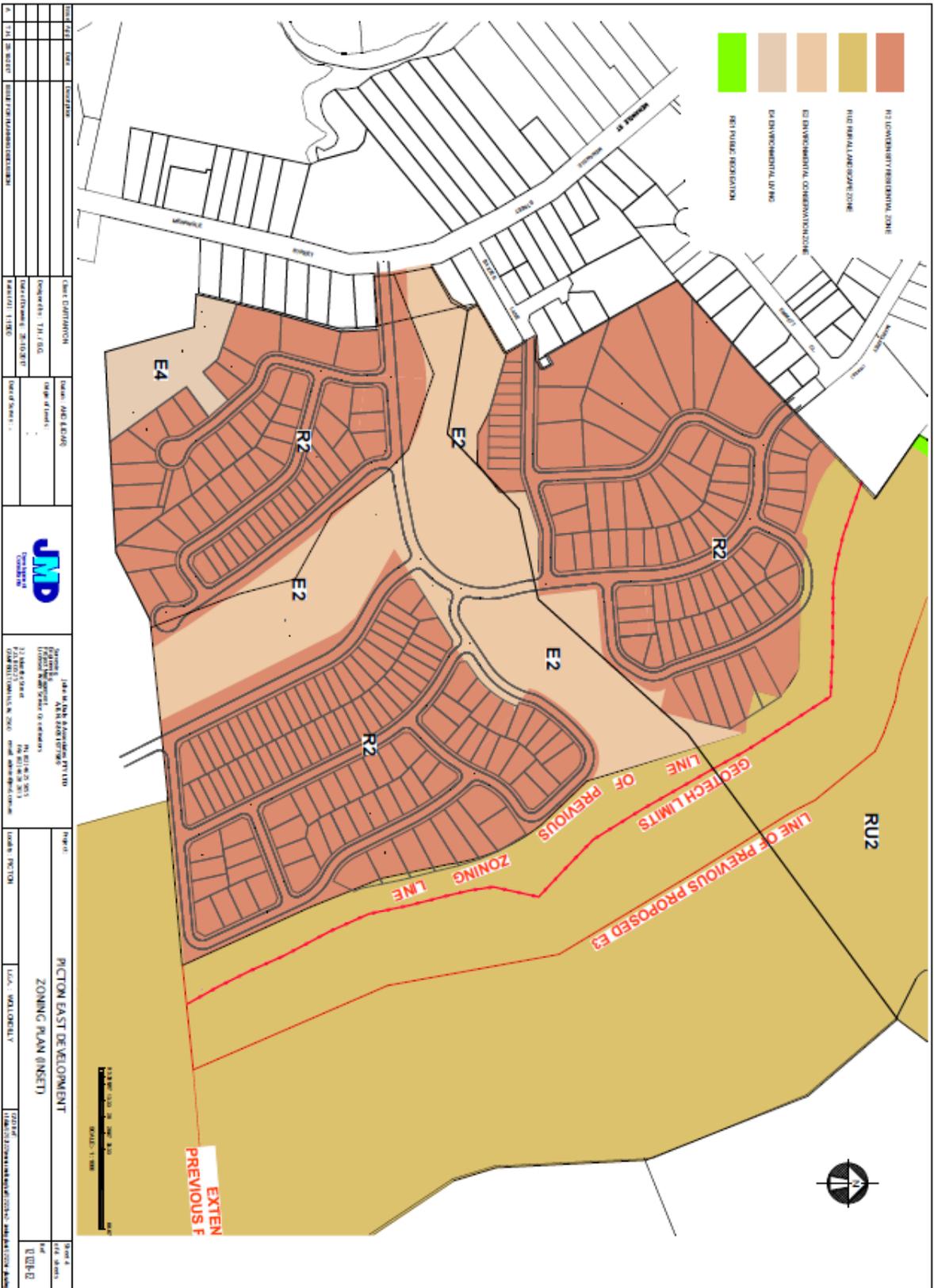
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Picton East Concept Zoning

To rezone land at the end of Margaret Street, Picton from RU2 Rural Landscape to part R2 Low Density Residential, part R3 Medium Density Residential, part RE1 Public Recreation, part E2 Environmental Conservation and part E3 Environmental Management.

Aerial View





GR7 Attachments

1. Minutes & Report to Council from 16 October 2017 – GR2 Station Street, Menangle Planning Proposal – Development Control Plan Provisions
2. Mirvac's proposed amendments to the Wollondilly Development Control Plan 2016 for the Station Street, Menangle Planning Proposal site

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GR7 – Station Street, Menangle Planning Proposal DCP
Provisions

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

GR2

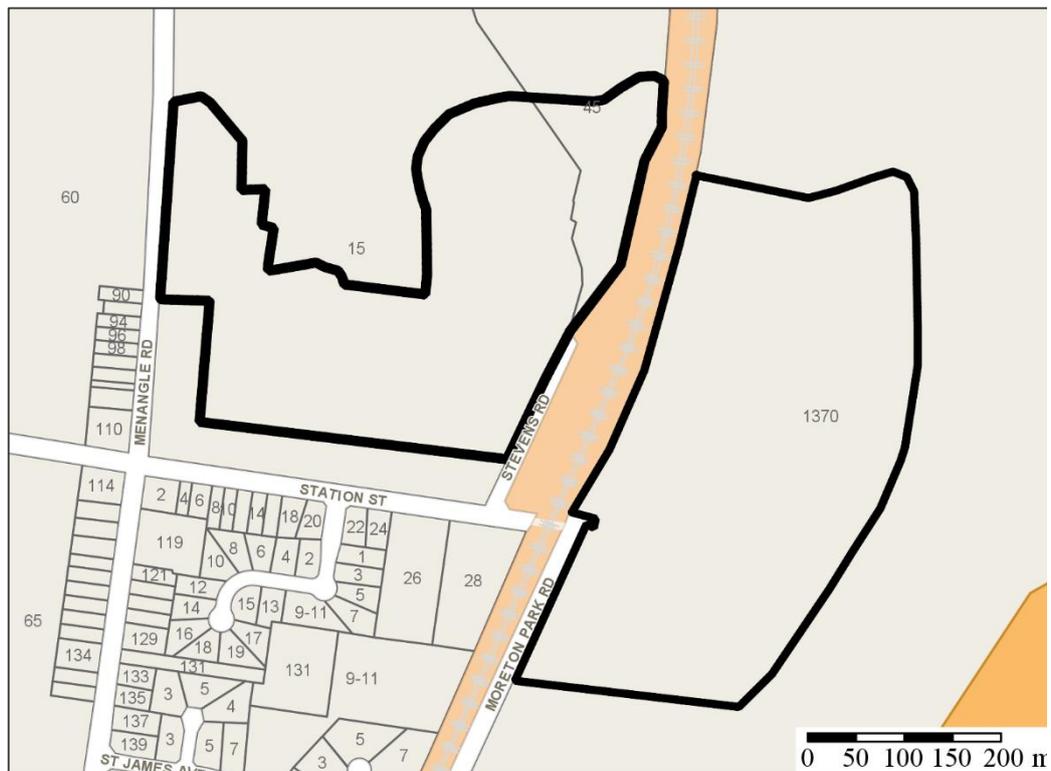
Station Street, Menangle Planning Proposal – Development Control Plan Provisions

272411

TRIM 6814

Applicant: Mirvac
Owner: El Bethel Pty, Ltd, The Central Creamery Pty Limited

Growth



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LOCATION MAP ↑
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EXECUTIVE SUMMARY

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

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

- Council is not the relevant Planning Authority for the Station Street Planning Proposal. This role sits with the Sydney South West District Planning Panel.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirement extends to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended that the proposed amendments to the Wollondilly Development Control Plan, 2016 be placed on public exhibition at the same time as the Station Street, Menangle Voluntary Planning Agreement.

REPORT

1.1 DESCRIPTION OF PROPOSAL

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

The Station Street, Menangle Planning Proposal has sought to:

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

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

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

1.2 BACKGROUND

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

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

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

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

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

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

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

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

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

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

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

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

1.3 SITE DESCRIPTION

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

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

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

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

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

The site includes land in the following conservations areas:

- Menangle Conservation Area
- Menangle Landscape Conservation Area.

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

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

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

1.4 WOLLONDILLY DEVELOPMENT CONTROL PLAN 2016 AMENDMENTS

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

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

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

The amended Wollondilly DCP provisions are included as Attachment 3.

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

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

Growth

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

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

FINANCIAL IMPLICATIONS

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

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

ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET

1. Proposed Amendments to the Wollondilly DCP 2016

RECOMMENDATION

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

3.11 Station Street, Menangle

Application

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



Figure 1: Land to which this part applies

Lot Size and Shape

Explanatory Notes

- *The controls below replace control no. 2 and 7 under section 2.4 Lot Size and Shape within this Volume.*
- *Volume 4 – Residential Development includes an objective for housing delivery that encourages the provision of a range of dwelling types to meet the communities’ needs and promotes social equity.*
- *This is an important objective that also needs to be considered at the subdivision stage of a development. Accordingly, the objective has been included below.*
- *Providing a range of residential lot sizes, with varying dimensions, provides for greater choice of potential housing products, which assists in facilitating housing diversity and choice to meet the different housing needs of the community.*
- *Reducing the minimum lot width would allow the Menangle precinct to provide more opportunities to deliver a larger range of dwelling types and sizes, providing housing affordability and diversity for a range of household types.*
- *Housing affordability remains a concern for new entrants to the market and those with lower disposable incomes. Housing diversity can make provision for housing that is more affordable to rent and buy, meeting these important equity needs.*

Objectives

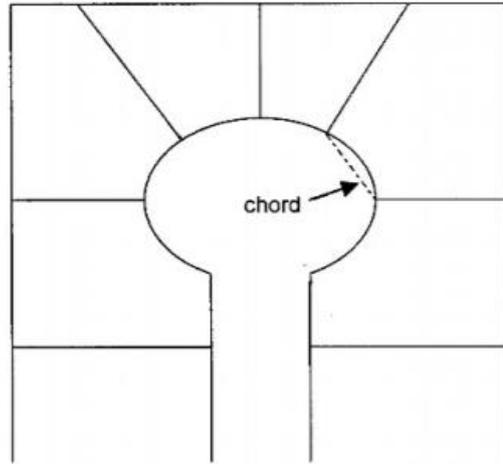
- a. To ensure that residential development provides a range of dwelling types and sizes to meet the needs of the whole community in a way that promotes social equity.
- b. To accommodate a mix of lot sizes and dwelling types across a precinct.
- c. To establish minimum lot dimensions for different residential dwelling types.
- d. To encourage variety in dwelling size, type and design to promote housing choice and create attractive streetscapes with distinctive characters.

Controls

1. Controls in Section 2.4, Volume 3 of this Development Control Plan apply, except where the controls in this clause differ, in which case the controls in this clause take precedence.
2. The following minimum dimension controls apply to the precinct:

Area	Minimum Lot Width	Minimum Lot Width (Corner allotment)	Minimum Lot Depth
Less than 450m ²	7m	8m	20m
Between 450m ² and 650m ² (inclusive)	12m	14m	20m

3. Proposed lots which face onto a cul-de-sac head shall achieve a minimum “chord” width of 5 metres. The area considered to be the chord of the cul-de-sac is demonstrated in the diagram below.



The width of any lot at the front building line shall be in accordance with the table above in control 2.

Pedestrian and Cycle Access

Explanatory Note

- *The controls below are additional and would not replace any controls in the Wollondilly DCP 2016.*

Objectives

- a. To encourage walking and cycling for local trips to help reduce vehicle reliance.
- b. To create an accessible network of routes which connect the development with internal and external road networks and local amenities.

Controls

1. Pedestrian and cycle paths should be provided in conjunction with the subdivision of land, creation of streets and development of open space in accordance with Figure 2.
2. Shared pedestrian/cycle links, cycle ways and public streets should be clearly signposted to indicate their shared status.
3. Shared pedestrian and cycle paths should be a minimum of 2.5m wide.

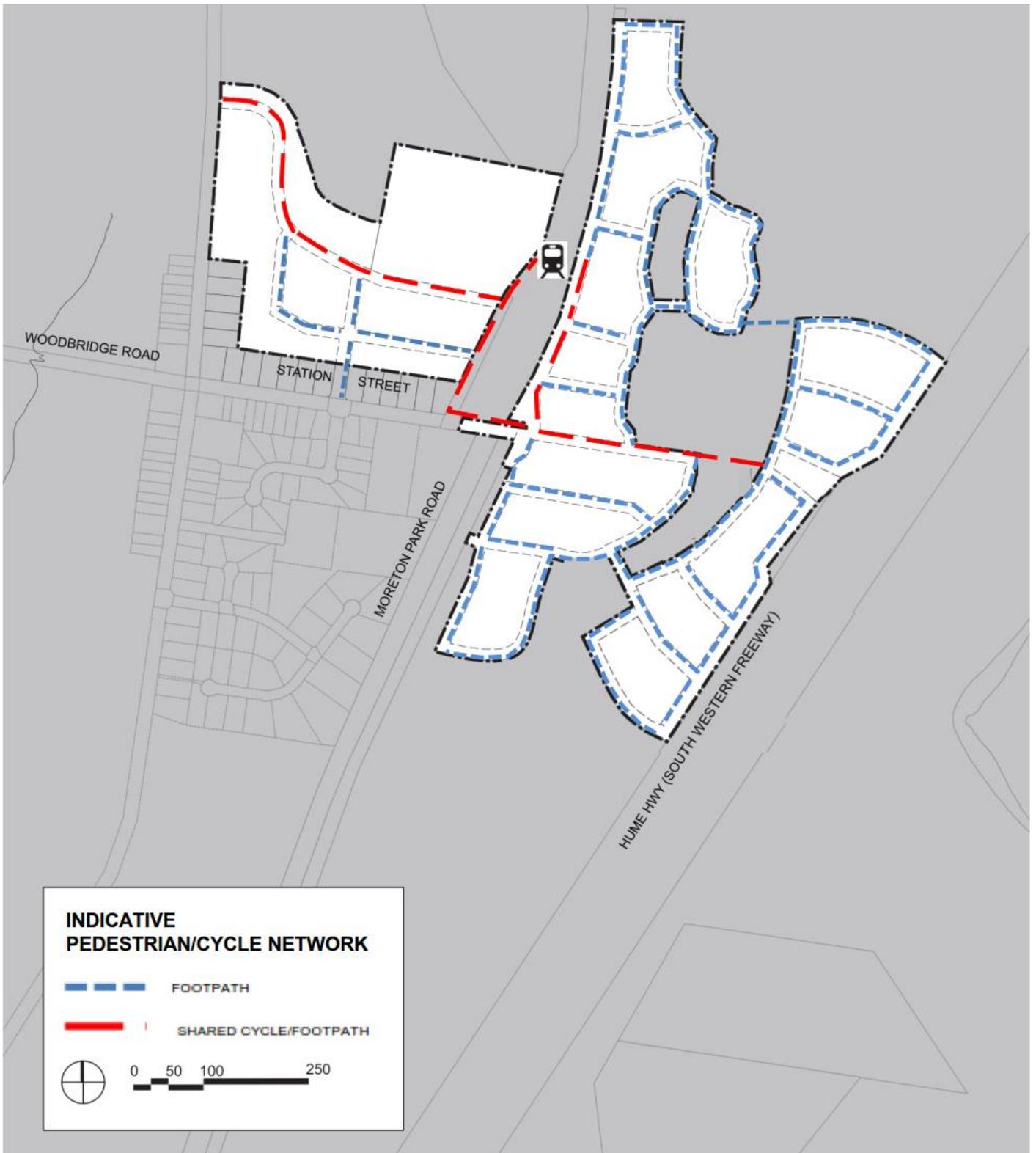


Figure 2: Cycle Paths

Laneways

Explanatory Notes

- *The controls below are additional and would not replace any controls in the Wollondilly DCP 2016.*
- *The Menangle precinct proposes to amend the Wollondilly LEP 2011 to allow attached houses. Laneways facilitate the provision of rear vehicular access to compact or restricted access lots, resulting in improved housing design and amenity for occupants.*
- *Laneways also create attractive front residential streets by removing garages and driveway cuts from the street frontages, improving the presentation of houses and maximising on street parking spaces and street trees.*
- *The reduction in the number of driveway crossovers would result in fewer conflicting movements of vehicles, pedestrians and cyclists.*

Laneways are public roads that are shareways, utilitarian throughways of the street network that provide rear vehicular access to compact or restricted access lots. The primary purpose of rear laneways is to create attractive front residential streets by removing garages and driveway cuts from the street frontages, improving the presentation of houses and maximising on street parking spaces and street trees. While laneways should be neat and tidy, they should not be confused with streets in width, character or function.

A laneway is a shareway, designed to be shared by all users whether they are pedestrians, cyclists or drivers. Equal priority between all users reinforces the distinctive, slow speed environment for drivers.

Objectives

- a. To provide vehicular access to the rear or side of lots where front access is restricted or not possible, particularly narrow lots.
- b. To reduce garage dominance in residential streets.
- c. To maximise on-street parking spaces and landscaping in residential streets.
- d. To reduce vehicular conflict through reduced driveway cross overs and focusing of traffic to known points.
- e. To facilitate the use of attached and narrow lot housing to achieve overall higher neighbourhood densities.
- f. To enable garbage collection.
- g. To create a slow speed shared zone requiring co-operative driving practices for the very low volume and frequency of vehicle movements that is distinctly different in character and materials to residential streets.

Controls

1. The design and construction of laneways is to be consistent with Figure 3.
2. The laneway is a public “shareway” as the paved surface is for cyclists, pedestrians, garbage collection, mail deliveries, cars etc., with a 10km speed limit and driveway-style crossovers to the street rather than a road junction.
3. The minimum garage doorway widths for manoeuvrability in this laneway section are 2.4m (single) and 4.8m (double).



Figure 3: Laneway principles

4. The configuration of the laneway, associated subdivision and likely arrangement of garages arising from that subdivision should create ordered, safe and tidy laneways by designing out ambiguous and unintended uses such as casual parking, the storage of trailers, bin stacking etc.
5. The layout of laneways should take into account subdivision efficiency, maximising favourable lot orientations, intersection locations with streets, topography, legibility and passive surveillance.
 - Generally, straight layouts across the block are preferred for safety and legibility, however the detailed alignment can employ subtle bends to add visual interest and avoid long distance monotonous views. “C” shaped layouts with the laneway length parallel to the front street can limit the views of laneways from residential streets to short sections. However, if the laneway is used for garbage collection, any bends or intersections are to be sized for garbage truck movements. Suggested layouts are illustrated in Figure 4.
 - Lanes on sloping land with significant longitudinal and/or cross falls require detailed design consideration to demonstrate functionality.

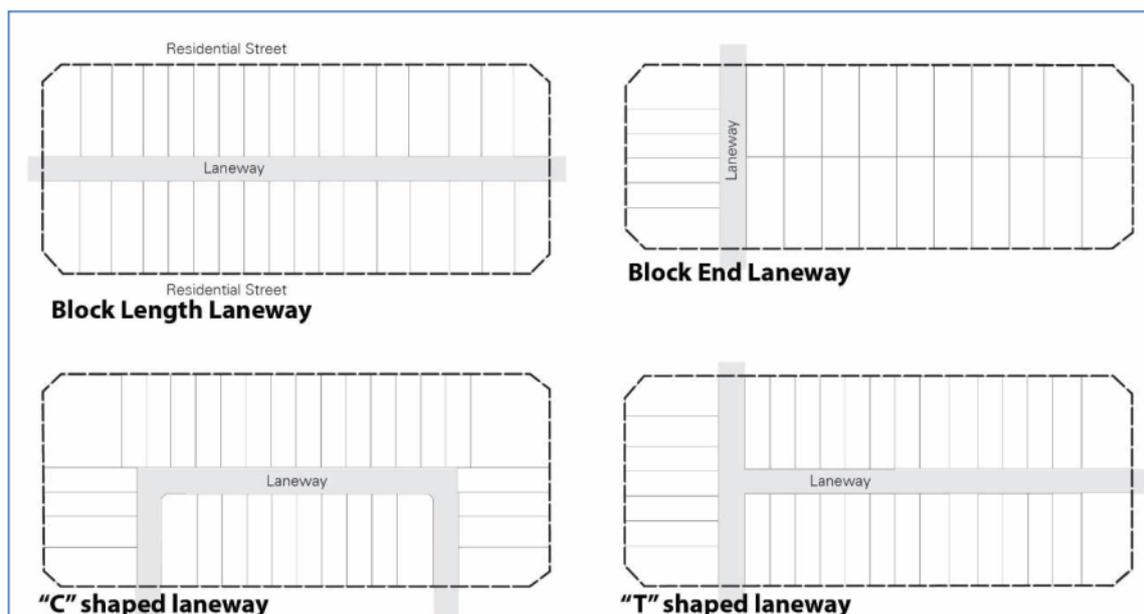


Figure 4: Sample lane layouts

6. Laneways that create a 'fronts to backs' layout (front addressed dwellings on one side and rear accessed garages on the other side) are to be avoided.
7. All lots adjoining a laneway should utilise the laneway for vehicular/garage access.
8. Passive surveillance along the laneway from the upper storey rooms or balconies of dwellings is encouraged. Ground floor habitable rooms on laneways are to be avoided unless they are located on external corners (laneway with a street) and face the street to take advantage of the residential street for an address.
9. All lot boundaries adjoining the lane are to be defined by fencing or built form. The garage setback to the lane is minimal (0.5m) to allow overhanging eaves to remain in the lot without creating spaces where people park illegally in front of garages and/or on the laneway.

Street Tree Plan

Explanatory Note

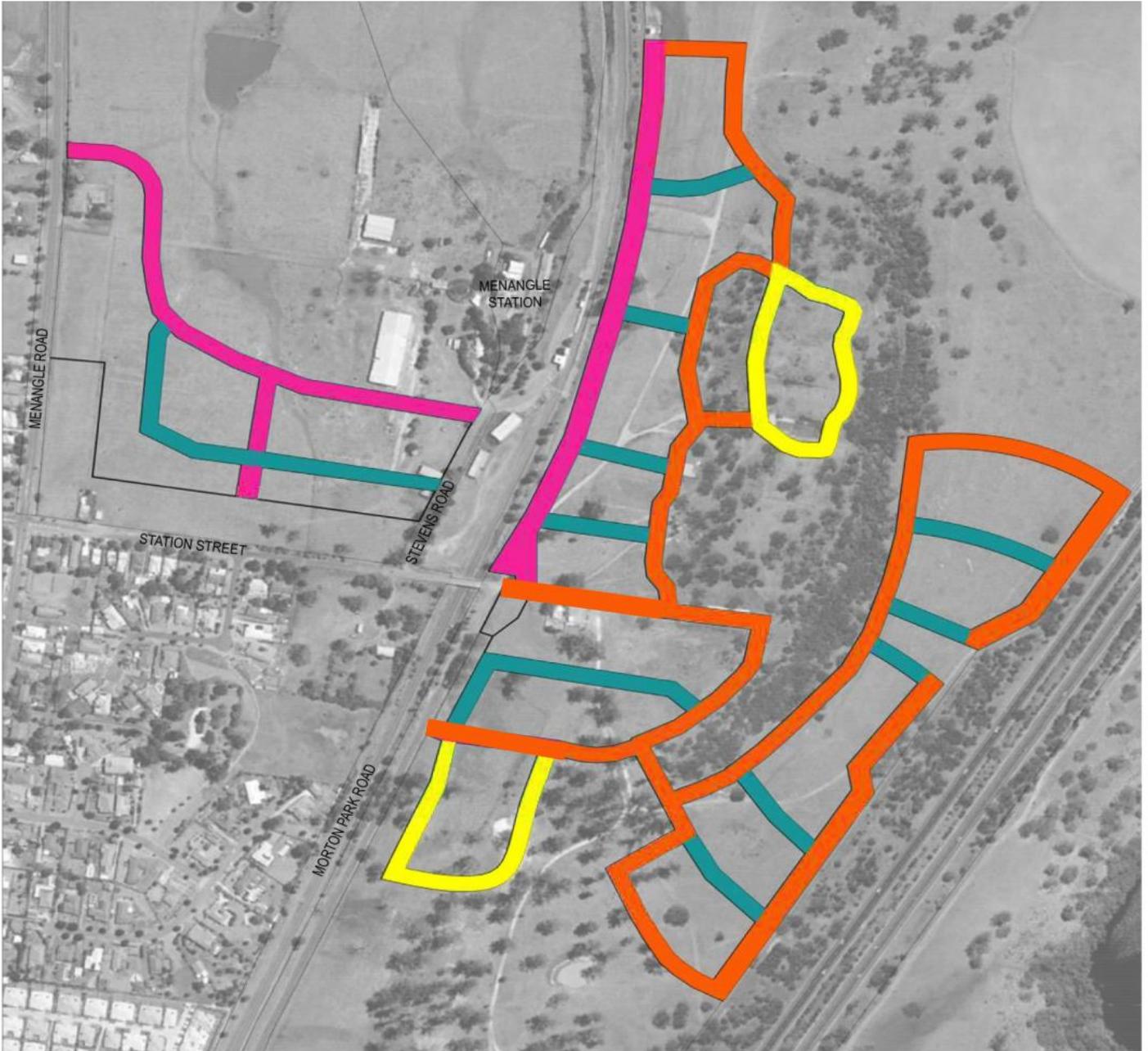
- *The controls below are additional and would not replace any controls in the Wollondilly DCP 2016.*

Objectives

- a. To enhance the existing rural village character by creating an attractive development that is nestled into the landscape.
- b. To create attractive streetscapes which enhance the quality of the public realm, strengthen the streetscape hierarchy and aid legibility.

Controls

1. Street trees are to be planted in conjunction with the creation of a new street.
2. The street trees should be planted prior to the release of the subdivision certificate.
3. Tree species planted along streets are to be in accordance with Figure 5.
4. A minimum of one street tree should be provided per lot. For corner lots, a minimum of two street trees should be provided on the secondary street frontage.
5. Details regarding street tree planting are to be submitted with development applications for subdivision (other than residue lot subdivisions).



TREE SPECIES

- █ ROAD TYPE 1: *Lophostemon confertus*
- █ ROAD TYPE 2: *Acmena smithii*,
- █ ROAD TYPE 3: *Tristaniopsis laurina* 'Luscious'
- █ ROAD TYPE 4: *Waterhousea floribunda*

Figure 5: Street Trees

4.5 Station Street, Menangle

Application

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



Figure 1: Land to which this part applies

Single Dwelling Houses (Town Centre Residential Lots)

Explanatory Note

- *As stated below, the following are additional controls that would be read in conjunction with Section 3.1 Single Dwelling Houses (Town Centre Residential Lots).*

Additional controls for dwelling houses are outlined below, and should be read in conjunction with those in Section 3.1 Single Dwelling Houses (Town Centre Residential Lots).

Parking, Access and Vehicular Safety

Objectives

- a. To provide vehicular access to the rear of lots where front access is restricted or not possible.
- b. To reduce garage dominance in residential streets.

Controls

1. Garages can be front or rear loaded.

Attached Dwellings and Semi-Detached Dwellings

Explanatory Note

- *As stated below, the following are additional controls that would be read in conjunction with Section 3.1 Single Dwelling Houses (Town Centre Residential Lots).*

Additional controls for attached dwellings and semi-detached dwellings are outlined below, and should be read in conjunction with those in Section 3.1 Single Dwelling Houses (Town Centre Residential Lots).

Objectives

- a. To ensure that the development of attached and semi-detached dwellings creates an architecturally consistent street character.

Controls

1. It is preferred that garages for attached dwellings are located at the rear of the lot. Garages should be setback a minimum of 0.5m to the rear lane.
2. For attached or semi-detached dwellings the side setback only applies to the end of a row of attached dwellings or the detached side of a semi-detached dwelling.
3. Attached dwellings and semi-detached dwellings should have a pleasing rhythm and order when seen together as a group, rather than appear as a random arrangement of competing dwellings. Each dwelling should benefit from the unified design of the whole form, a co-ordinated style and base colour palette. Individuality can be added as small details or accent colours, rather than strikingly different forms.

Single Dwelling Houses (Residential Small Lots)

Additional controls for dwelling houses are outlined below, and should be read in conjunction with those in Section 3.2 Single Dwelling Houses (Residential Small Lots).

Setbacks

Explanatory Notes

- *The control below replaces control no.21 under section 3.2 Single Dwelling Houses (Residential Small Lots) within Volume 4.*
- *Section 2.7 Building Envelopes within Volume 3 - Subdivision of Land, permits zero lot line boundaries to be created for Town Centre Residential Lots and Residential Small Lots. However, the current control no. 21 for Residential Small Lots within Volume 4 does not reflect this.*
- *As described above within the explanatory notes for lot size and shape, providing a range of lot sizes and dwelling types would result in greater housing diversity and affordability, meeting the different needs of the community. Provision of Zero lot boundaries would increase the range of dwelling types available within the precinct.*

Objectives

- a. To provide a different setback for some lots to enable the development of a diversity of dwelling types.

Controls

1. The minimum side setback shall be 0.9m. Except in cases where a zero lot line has been nominated at the subdivision stage and satisfactory easements have been provided over the adjoining allotment.

Parking, Access and Vehicular Safety

Objectives

- a. To provide vehicular access to the rear of lots where front access is restricted or not possible.
- b. To reduce garage dominance in residential streets.

Controls

1. Garages should be front loaded.

GR8 Attachments

1. Table (including comments) showing full list of recommendations from the *Menangle Landscape Conservation Area Assessment of Significance & Proposed Boundaries* prepared by MUSEcape Pty Ltd.
2. Proposed planning controls for the Menangle Landscape Conservation Area for inclusion within the Wollondilly Development Control Plan 2016.

Monday 19 February 2018

GR8 – Development Control Plan Provisions for Menangle
Landscape Conservation Area

Attachment 1 - Table (including comments) showing full list of recommendations from the *Menangle Landscape Conservation Area Assessment of Significance & Proposed Boundaries* prepared by MUSEscape Pty Ltd.

Action to be taken as part of current proposed site specific planning controls	
No.	Recommendation from Report
1	<p>Listing of Menangle Landscape Conservation Area (as shown in Figure 88) in Schedule 5 to Wollondilly Local Environmental Plan 2011.</p>
2	<p>Consideration of appropriate land use zones within, and in the vicinity of the Menangle Landscape Conservation Area in the locations shown in Figure 89).</p>
3	<p>Amendment to the provisions of Wollondilly DCP 2011 such that they apply to Menangle Landscape Conservation Area.</p>

No – This has already happened. Menangle Landscape Conservation Area became a conservation area in 2014.

No – Figure 89 shows an extract from the Land Zoning Map which forms part of the *Wollondilly Local Environmental Plan 2011*. The notation which accompanies the image recommends deletion of the ‘low density residential’ north of Station street and east of Menangle Road and replace with ‘Primary Production’.

The scope of this proposal does not include this action. Notwithstanding this, the planning proposal to establish the Landscape Conservation Area did not support this recommendation.

Yes - Planning controls proposed for inclusion within development control plan.

No.	Recommendation from Report	Action to be taken as part of current proposed site specific planning controls
4	Controls on subdivision to conserve historic settlement patterns as shown in Figure 90.	<p>No – Figure 90 is a historical aerial photograph of Menangle village post 1896. The notation which accompanies the image recommends that subdivision north of Station Street would have a ‘negative impact on the perception of the village as an historic settlement.</p> <p>In particular it notes that ‘visitors approaching from the north would be confronted by back fences, garden sheds and play equipment’.</p> <p>Decisions around whether land north of the village can be subdivided is being considered as part of the Station Street, Menangle Planning Proposal. However, the development control plan can influence the visual impact of development from public areas such as public roads.</p>
5	Location of subdivision in less visually sensitive areas as shown in Figure 91.	<p>No – Figure 91 is an aerial photo which identifies locations for potential further residential subdivision in ‘less visually sensitive areas’.</p> <p>The areas identified are located within the Station Street, Menangle Planning Proposal. No controls are considered necessary in the development control plan in response to this recommendation.</p>
6	Development of complementary detailed design guidelines for new development and for sympathetic alterations and	<p>Yes – Controls proposed as part of current amendments to the development control plan.</p>

No.	Recommendation from Report	Action to be taken as part of current proposed site specific planning controls
	<p>additions to existing buildings including adaptive re-use within the Menangle Landscape Conservation Area. Guidelines are to address siting, built form, materials, exterior finishes and landscaping similar to Article 22.2 of the Burra Charter of Australia ICOMOS and are to be added to Wollondilly DCP 2011.</p>	
7	<p>Undergrounding of power lines wherever possible to reduce visual clutter and so as not to detract from visual landscape qualities.</p>	<p>Yes – Controls proposed as part of current amendments to the development control plan.</p>
8	<p>Development of an Interpretation Plan for the Menangle Landscape Conservation Area and the Menangle Conservation Area that complies with the Interpretive Policy and Guidelines of the Heritage Council of NSW and current best practice in interpretation generally and provides culturally appropriate means of communicating significance to the community.</p>	<p>No – The scope of this proposal does not include this action.</p>
9	<p>Integration of interpretation of Menangle Landscape Conservation Area and the Menangle Conservation Area with other places associated with the Macarthur family's agricultural enterprises in the Wollondilly, Camden and Campbelltown local government areas, both government-owned and privately-owned.</p>	<p>No – The scope of this proposal does not include this action.</p>

No.	Recommendation from Report	Action to be taken as part of current proposed site specific planning controls
10	<p>Additional provisions in Wollondilly DCP 2011 which discourage the introduction of discordant elements in the cultural landscape such as the following:</p> <ul style="list-style-type: none"> • dense screens of fast growing conifers; • large farm sheds, particularly those of non-traditional design and with visually intrusive exterior finishes, in visually prominent locations; • solid fences such as metal panel types. 	Yes – planning controls are proposed to address this issue.
11	<p>Additional 'urban - rural' interface design guideline provisions in Wollondilly DCP 2011 which encourage the following;</p> <ul style="list-style-type: none"> • open form fencing with high ratio of voids to solids e.g. rural-style post and wire fencing; • perimeter roads separating urban land from rural land. 	Yes – planning controls are proposed to address this issue.
12	<p>Controls in Wollondilly DCP 2011 for the location, size and design of way-finding, informational, interpretive and advertising signage to prevent a proliferation of unnecessary signs or insensitive signs.</p>	No – The scope of this proposal does not include this action.

Part 6 – Heritage (Specific Locations)

Landscape Conservation Area – Menangle

Character Description

The Menangle Landscape Conservation Area is notable for aesthetic qualities derived from a rare mix of natural and cultural heritage values arising from the local topography, geology, soils, streams and vegetation. These influenced land use including agriculture, transport routes and rural style developments.

The Landscape Conservation Area has a close association and its values are interlinked with Menangle Village and the Menangle Conservation Area.

Why is the landscape Conservation Area significant?

- It is significant for its evidence of early 19th century rural settlement and the main Southern Railway Line, a major 19th century engineering work.
- It was part of the Macarthur family's Camden Park rural enterprise which included road and rail links to Sydney.
- Aesthetically significant are the mix of relict agricultural landscapes and visual contrasts of surrounding ridges, hill slopes and cultivated river flats.
- The area includes buildings of outstanding architectural quality designed by prominent architects John Horbury Hunt and Sulman and Power.
- The area preserve important views in historic rural landholdings.
- The Area includes significant parts of the former Camden Park estate around the village as well as lands around the former Macarthur property Gulbulla.

Objectives

1. To maintain and enhance the existing visual, built and landscape character of the Menangle Landscape Conservation Area.
2. To maintain scenic quality and manage visual impact of new development.
3. To protect the historic landscape, including vistas and views.
4. To ensure that new developments are designed and located so they do not have an adverse impact on the Menangle Landscape Conservation Area.
5. To manage the transition between residential and rural zoned areas (the rural urban interface).

Controls

Note: These controls apply to new development within the Menangle Landscape Conservation Area identified under Schedule 5 of the *Wollondilly Local Environmental Plan 2011* and on the associated Heritage Map.

These Controls also apply to new development adjacent to or in the vicinity of the Menangle Landscape Conservation Area where Council consider there is a potential impact.

These controls apply to all new development requiring development approval from Council.

Submission Requirements for all new development

1. New development is not to have an adverse visual impact on the Menangle Landscape Conservation Area.
2. Significant development, including subdivisions, must be accompanied by a heritage impact statement that includes an analysis of the visual impact the development will have on the landscape conservation area.
3. Heritage impact for minor development should still be addressed in the Statement of Environmental Effects which forms part of any development application.

Vistas

4. Important view corridors and vistas should be protected.

Figure 1 below identifies some of the most significant view corridors which include:

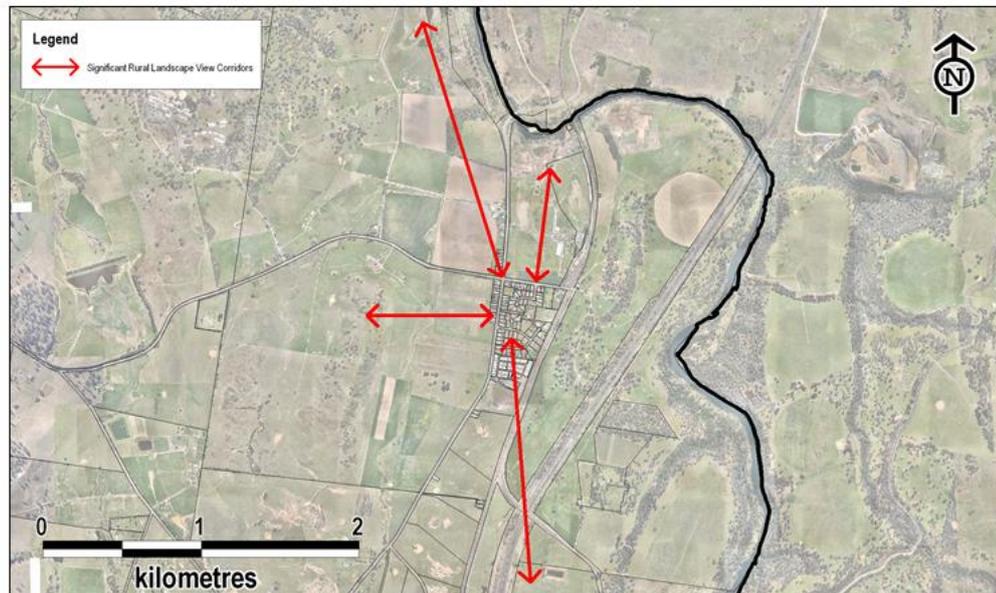
- North – Railway, Rotolactor, Central Creamery with grazing and cropping land,
- South – St James Hill to Gilbulla with grazing and cropping land,
- West – Mt Taurus with grazing and cropping land, and
- North West – Menangle Pond and Barrigal Lagoon with grazing and cropping land.
- Into and out of landscape conservation area

Subdivision of land

5. New roads and associated infrastructure must be carefully integrated into the landscape to ensure minimal impact on the vistas and views of the Menangle Landscape Conservation Area.
6. Development of residential zoned land, involving new roads, should be separated from rural land with perimeter roads.
7. Power lines should be located below ground wherever possible.

8. New subdivisions resulting in more than two (2) lots must be accompanied by a detailed landscape plan to demonstrate that new development will be set in a landscape.

Figure 1 – Significant Rural Landscape View Corridors



DCDB © LP&I NSW 2012 | Aerial Photography © Nearmap 2011 | Maps created on 23 August 2012 | Wollondilly Shire Council accepts no responsibility for any injury, loss or damage arising from the use of this plan or errors or omissions therein.

*This image will be updated for the public exhibition to include additional notations and also to identify significant features.

New Development

Note: Part 5 in this volume also applies to any new development in a heritage conservation area which includes the Menangle Landscape Conservation Area.

9. New buildings and structures are to be located so that they are not visually intrusive.
10. New residential development, including additions and alterations, are required to meet the controls for the Menangle Heritage Conservation Area contained in Part 6, Section 6.3 of this volume.

Note: Section 6.3 provides controls for the Menangle Conservation Area which includes Menangle Village.

11. **Height and scale** – New buildings should have minimal impact on the place’s heritage significance and not overwhelm in bulk, mass or scale. New development must reflect the existing scale (building height, bulk, density and massing) of the Menangle Conservation Area. The impact of development that is of an inappropriate scale cannot be compensated for by building form, design or detailing.

12. **View corridors** – must be retained to and from significant features within the conservation area.
13. **Architectural style and form** – must respect the materials of the best examples of heritage buildings in the existing conservation area/precinct.
14. **Siting** – must respect existing patterns of building setbacks from property boundaries which contribute to the harmony of streetscapes in the conservation area.
15. Dense screening with fast growing conifers is not permitted.
16. Large sheds are not permitted in visually prominent locations.
17. Sheds, particularly those that are visually prominent, should be in a traditional design and use complementary external finishes.
18. New roads or driveways must follow the contours of the landscape with minimal cut and fill (rather than intersecting the contour).
19. Earthworks including cut and/or fill must be minimized in order to retain the natural contours of the lot.

Fencing

20. For rural zoned land fencing visible from public areas must be see-through rural style fencing (post and rail, wire) to a maximum height of 1200mm along street frontages.
21. For residential zoned land, front fences must be see-through (minimum 50% transparent) and maximum height of 1200mm. New and replacement front fences must not obscure building facades. High solid fences are not permitted.
22. For residential zoned land, side or rear fences adjoining public land or visible from public areas must be see-through rural style fencing with a high ration of voids to solids (e.g. rural-style post and wire fencing) to a maximum height 1400mm. Hedges may be used for additional privacy.
23. For residential zoned land, internal boundary fences including those between lots must be consistent with the requirements for fences adjoining public land in control no. 22 above **OR** be stone or timber paling construction to a maximum height of 1500mm not extending forward of the building line. Solid fences such as metal panel/sheet types are not permitted.

GR9 Attachments

1. Summary of Contributions under the Draft Agreement
2. Council resolution from December 2016
3. Copy of Draft Planning Agreement
4. Site plan with Open Space Areas, OSD Basins
5. Shared pathway and cycleway plan
6. List of matters to Consider for exhibition of Draft Agreement

Monday 19 February 2018

GR9 – Public Exhibition of Draft Planning Agreement: 1-41
Marsh Road, Silverdale

Schedule 1 -Summary of Contributions under Draft Planning Agreement

	Revised Planning Agreement	Comments
Lot Yield	447 lots	
Sec 94 payable if no Agreement	\$8,940,000	\$20,000 per lot Cap applies
Benefits under VPA		
Cash Contribution	\$4,888,850	\$10,937 per lot Incs allocations of \$2,293,316 to <ul style="list-style-type: none"> • Regional Play space (\$850k) • Signs (\$75k) • Bus shelter \$15k • Traffic lights (\$1.316 mill) Remainder to be allocated to categories in existing Section 94 Plan.
Works Value	\$2,200,700 (To be allowed as Sec 94 offset)	Incs embellishment works in open space lands as per schedule in VPA
Land value	\$1,850,450 To be allowed as Sec 94 offset	25,607 sq m land to be dedicated to Council for use as passive open space to be dedicated. Valued as en globo land, av cost is \$72 per sq m Lands also to be dedicated for drainage purposes. No offsets to be given where land has purely a drainage function
Totals		
<ul style="list-style-type: none"> • Offsets • Cash Contribution 	\$4,051,150 \$4,888,850	
Total (Sec 94/VPA) Contribution to be Paid	\$8,940,000	
Maintenance Contributions		Contributions to pay for 35 years of maintenance for the stormwater basins and for the bushland sites within the open space areas to be provided to Council. The amount has been calculated in accordance with the Draft Dedication of Land Policy
a) Maintenance Contribution for Stormwater basins	\$2,629,613	
b) Maintenance	\$678,166	

Contributions for bushland		
Total Maintenance Contribution	\$3,307,779	
Other Benefits:		
<ul style="list-style-type: none"> a) Land Covered by Biobanking Agreement (BBA) b) Money to manage land covered by BBA 	<p>1) Land affected is Lot 1301 as shown in attached plan, with area of 4.08 hectares.</p> <p>2) Monetary Contribution agreed to under the BBA is \$270,850</p>	<p>No Sec 94 offset is given for land subject to BBA</p> <p>Amount to be paid has been calculated in preparation of BBA with Council input</p>

Minutes of the Ordinary Meeting of Wollondilly Shire Council held in the Council Chamber, 62-64 Menangle Street, Picton, on Monday 19 December 2016, commencing at 6.30pm

Notice of Motion

TRIM 6416-6

NOM 9 **Notice of Motion No. 9 submitted by Cr Gould on 15 December 2016 regarding Submission to the Planning Panel regarding the old Lion Park Site**

Cr Banasik left the meeting at 8:29pm and returned at 8:31pm.

Cr Hannan and the General Manager left the meeting due to avoid any future Conflict of Interest as they are members of the Sydney Planning Panel. Deputy Mayor, Cr Khan took the Chair. The Executive Director Community Services and Corporate Support took the General Managers position.

304/2016 **Resolved on the Motion of Crs Gould and Landow:**

1. That Council make a detailed submission to the Sydney South West Planning Panel opposing, in its current form, the development application for the subdivision of the old Lion Park Site (DA 010.2015.00000935.001) at Silverdale and that interested councillors be given the opportunity to provide input in the development of the submission.
2. That the submission emphasise that Council is not opposed to reasonable development of the Lion Park site but has concerns with the specific proposal. Further to this the submission highlight concerns raised by the community including (but not limited to):
 - a. Inappropriate block density and an excessive number of small blocks which are inconsistent with the character of the area.
 - b. Inappropriate site design that is not sympathetic to the existing villages, with the larger blocks being towards Warragamba and the smaller blocks towards Silverdale.
 - c. The impacts the development would have on the roads and infrastructure and the failure of the proposal to fully consider the cumulative impacts of other proposals in the area when assessing these impacts.
 - d. The need for the E2 zone to be extended along the length of Production Avenue to provide a wildlife corridor between the catchment area and the rest of the E2 zone on the site.

Notice of Motion

WOLLONDILLY SHIRE COUNCIL

Minutes of the Ordinary Meeting of Wollondilly Shire Council held in the Council Chamber, 62-64 Menangle Street, Picton, on Monday 19 December 2016, commencing at 6.30pm

Notice of Motion

- e. **The potential for koalas to be found on the site and ensuring that the appropriate studies have been done to fully assess this.**
 - f. **That in the event of a major leak at Warragamba Chlorination Plant or other natural disaster the increase in population and traffic from the proposal could compromise the timely evacuation of the Warragamba/Silverdale area due to the single road out of the area.**
3. **That Council request that the Sydney South West Planning Panel hold a Public hearing at Warragamba Town Hall on a weekday evening to provide an opportunity for the local community to have input into this proposal.**
 4. **That a suitable staff member and/or councillor address the planning panel at its meeting to express the view of Council.**

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

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

Cr Hannan and the General Manager returned to the meeting at 8:44pm.

Notice of Motion

PLANNING AGREEMENT

under s 93F of the *Environmental Planning and Assessment Act 1979*

Between

WOLLONDILLY SHIRE COUNCIL

And

SIMBA DEVELOPMENTS PTY LTD (ACN
603 799 220)

Property: Lots 1301, 1302, 1303 and 1304 in Deposited
Plan 1236986

1-41 Marsh Road, Silverdale

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PLANNING AGREEMENT

THIS DEED is dated 2017

BETWEEN **WOLLONDILLY SHIRE COUNCIL (ABN 93 723 245 808)** of Frank McKay Building, 62-64 Menangle Street, Picton in the State of New South Wales 2571 (**the Council**)

AND **SIMBA DEVELOPMENTS PTY LTD (ACN 603 799 220)** of 27 Lawson Street, Penrith in the State of New South Wales 2750 (**the Developer**)

RECITALS

- A. The Developer owns Lots 1301, 1302, 1303 and 1304 in Deposited Plan 1236986, being 1-41 Marsh Road, Silverdale in the State of New South Wales 2752 (**the Land**).
- B. The Developer intends to develop the Land.
- C. The Development will give rise to the need for the provision of public facilities to manage the impacts of the Development within the Council area.
- D. On 23 October 2006 the Council entered into the Former Planning Agreement with ALSP Pty Ltd (ACN 103 007 790) (**ALSP**) under which ALSP offered to carry out works, and make development contributions to the Council if the Instrument Change was gazetted and development consent for the development, as defined in clause 4.1 of the Former Planning Agreement was granted. ALSP further offered to dedicate certain land if the Instrument Change was gazetted.
- E. The land to which the Former Planning Agreement applied included the Land and Lot 2 in Deposited Plan 588912 (**Lot 2**).
- F. On 23 February 2007 the Instrument Change was gazetted in the New South Wales Government Gazette No 189, Folio 11832 and took effect as of that date.
- G. The Former Planning Agreement is registered on the title of the Land and Lot 2.
- H. The Developer has offered to undertake the obligations under this Planning Agreement on the understanding and basis that the Former Planning Agreement dated 23 October 2006 burdening the Land is to be released.
- I. On 8 December 2017, a Plan of Subdivision of Lot 1 in DP 1233499 was registered, being DP 1236986 creating the following lots:
 - Lot 1301,
 - Lot 1302,

- Lot 1303, and
- Lot 1304.

J. The Parties have agreed to enter into this Deed to set out their respective obligations.

DRAFT

OPERATIVE PROVISIONS

PART 1 – PRELIMINARY

1. Interpretation

1.1 In this Deed the following definitions apply:

Act means the *Environmental Planning and Assessment Act 1979*.

Approval includes approval, consent, licence, permission or the like.

Authority means the Commonwealth or New South Wales government, a Minister of the Crown, a government department, a public authority established by or under any Act, a council or county council constituted under the *Local Government Act 1993*, or a person or body exercising functions under any Act including a commission, panel, court, tribunal and the like.

Bank Guarantee means a guarantee or an undertaking by a trading bank or another financial institution acceptable to the Council (acting reasonably) whereby that bank or institution unconditionally and irrevocably agrees to pay the Council on written demand a specified sum of money and must include an expiry date without an end date.

Claim includes a claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding or a right of action.

Community Land has the same meaning as contained in the Council's *Dedication of Land Policy – PLA0036* being land to be dedicated for community halls, parks, active and passive recreation facilities and other like purposes.

Completion Notice means a written notice issued by an Independent Engineer:

- (a) certifying that the Developer has completed all or part of the Works;
- (b) certifying that the Works the subject of the notice have been completed in accordance with clause 14.4;
- (c) attaching inspection reports from an Independent Engineer confirming the matters in (a) and (b), above; and
- (d) acknowledging that the Independent Engineer recognises that the Council relies upon the certification provided by the engineer.

Consent Authority means Wollondilly Shire Council.

Construction Certificate has the same meaning as in the Act.

Contribution Value in respect of a Development Contribution Item means the \$ amount shown in **Schedule 1** corresponding to that Development Contribution Item.

Contribution Plan has the same meaning as in section 93C of the Act.

Cost means a cost, charge, expense, outgoing, payment, fee and other expenditure of any nature.

Council means Wollondilly Shire Council.

Dedication means dedication of land by way of transfer or registration of a deposited plan in accordance with clause 11.

Dedication Land means that part of the Land required to be Dedicated under this Deed described in **Schedule 1** and as indicated in the Land Dedication Plan at **Schedule 2**.

Deed means this Deed and includes any schedules, annexures and appendices to this Deed.

Defect, means anything that adversely affects, or is likely to adversely affect, the appearance, structural integrity, functionality or use or enjoyment of a Work or any part of a Work for its intended use for a public purpose.

Defects Liability Period means the period of 1 year commencing on the day immediately after a Work is completed for the purposes of this Deed.

Developer means Simba Developments Pty Ltd (ACN 603 799 220), its successors and/or assigns.

Development means the Subdivision of the Land in Lot 1304 in Deposited Plan 1236986 into 425 residential lots and dedication of Lots 1301, 1302 and 1303 in Deposited Plan 1236986 for a public reserve with environmental values,, managed reserves, drainage reserves, proposed Asset Protection Zone and cycleways as proposed in Development Application DA 935/2015 lodged with the Council on 16 December 2015 and any future Development Application lodged to give effect to provisions of this Deed.

Development Application has the same meaning as in the Act.

Development Consent has the same meaning as in the Act.

Development Contribution means any of the following under this Deed:

- (a) a monetary contribution to be made by the Developer pursuant to clause 10,
- (b) the maintenance and Dedication of the Dedication Land without monetary consideration by the Developer pursuant to clauses 11 and 12, and
- (c) the Works to be undertaken by the Developer pursuant to clause 14.

to be used for, or applied towards a public purpose.

Development Contribution Item means an item specified in the first column of the table in **Schedule 1**.

Dispute means a dispute or difference between the Parties under or in relation to this Deed.

Environmental Land has the same meaning as contained in the Council's *Dedication of Land Policy – PLA0036* being land that has been reserved for the purpose of conservation of biodiversity, scenic or indigenous heritage purposes.

Former Planning Agreement means the planning agreement between the Council and ALSP Pty Ltd (ACN 103 007 790) dated 23 October 2006.

GST has the same meaning as in the GST Law.

GST Law has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999* and any other Act or regulation relating to the imposition or administration of the GST.

Independent Engineer means an appropriately qualified and experienced civil engineer who is a member of the Institute of Engineers Australia, known as Engineers Australia, or the Association of Professional Engineers, Scientists and Managers, Australia that is approved by the Council (which approval must not be unreasonably withheld) prior to engagement by the Developer.

Infrastructure Land has the same meaning as contained in the Council's *Dedication of Land Policy – PLA0036* being land to be dedicated for roads, pedestrian pathways, drainage and stormwater management and treatment, car parking, emergency management, administration facilities, community services facilities, depots and other like purposes.

Insolvency Event means the happening of any of these events:

- (a) application which is not withdrawn or dismissed within twenty-eight (28) days is made to a court for an order or an order is made that a body corporate be wound up; or
- (b) an application which is not withdrawn or dismissed within twenty-eight (28) days is made to a court for an order appointing a liquidator or provisional liquidator in respect of a body corporate or one of them is appointed, whether or not under an order; or
- (c) except to reconstruct or amalgamate while solvent, a body corporate enters into, or resolves to enter into, a scheme of arrangement, agreement of company arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any of them; or
- (d) a body corporate resolves to wind itself up, or otherwise dissolve itself, or files notice of intention to do so, except to reconstruct or amalgamate while solvent or is otherwise wound up or dissolved; or
- (e) a body corporate is or states that it is insolvent; or
- (f) as a result of the operation of section 459F(1) of the *Corporations Act 2001*, a body corporate is taken to have failed to comply with a statutory demand; or
- (g) a body corporate is or makes a statement from which it may be reasonably deduced that the body corporate is, the subject of an event described in section 459C(2)(b) or section 585 of the *Corporations Act 2001*; or
- (h) a body corporate takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation or an administrator is appointed to a body corporate; or
- (i) a person becomes an insolvent under administration as defined in section 9 of the *Corporations Act 2001* or action is taken which could result in that event;

- (j) a receiver, manager or receiver and manager is appointed to the Company;
- (k) a body corporate becomes an externally administered body corporate within the meaning of the *Corporations Act 2001*; or
- (l) anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction.

Instrument Change means *Wollondilly Local Environmental Plan 1991 Amendment No. 71*.

Land means the land comprised in Lots 1301, 1302, 1303 and 1304 in Deposited Plan 1236986 as at the date of this Deed and any part of that land comprised in a lot created by Subdivision of that land.

Maintenance in relation to land the subject of Maintenance Contributions means maintenance *pursuant to Clause 12.4 and the approved Vegetation Management Plan. Maintenance Year 1 to commence on the date of the first transfer of Dedication Land to* of the Council to a value not less than the following:

Year 1	\$13,266
Year 2	\$13,266
Year 3	\$15,152
Year 4	\$16,226
Year 5	\$16,266

Maintenance Contributions means the contributions to be made by the Developer towards the maintenance of Environmental Land, Infrastructure (Drainage or Stormwater Management) Land and Community Land as required to be dedicated to the Council pursuant to this Deed.

Party means a party to this Deed.

Rectification Notice means a notice in writing:

- (a) identifying the nature and extent of a Defect;
- (b) specifying the works or actions that are required to Rectify the Defect;
- (c) specifying the date by which or the period within which the Defect is to be rectified.

Rectify means, rectify, remedy or correct.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Residential Lot means a lot created in the Development for separate residential occupation and disposition or a lot of a kind or created for a purpose that is otherwise agreed by the Parties, not being a lot created by a Subdivision of the Land:

- (a) that is to be dedicated or otherwise transferred to the Council, or
- (b) on which is situated a dwelling-house that was in existence on the date of this Deed.

Stage means a stage of the Development as specified in and approved by a Development Consent or otherwise approved in writing by the Council for the purposes of this Deed.

Stage 1 means the first stage of the Development for 71 Residential Lots as specified in and approved by the relevant Development Consent or otherwise approved in writing by the Council for the purposes of this Deed.

Stage 2 means the second stage of the Development for 50 Residential Lots as specified in and approved by the relevant Development Consent or otherwise approved in writing by the Council for the purposes of this Deed.

Stage 3 means the third stage of the Development for 56 Residential Lots as specified in and approved by the relevant Development Consent or otherwise approved in writing by the Council for the purposes of this Deed.

Stage 4 means the fourth stage of the Development for 31 Residential Lots as specified in and approved by the relevant Development Consent or otherwise approved in writing by the Council for the purposes of this Deed.

Stage 5 means the fifth stage of the Development for 59 Residential Lots as specified in and approved by the relevant Development Consent or otherwise approved in writing by the Council for the purposes of this Deed.

Stage 6 means the sixth stage of the Development for 56 Residential Lots as specified in and approved by the relevant Development Consent or otherwise approved in writing by the Council for the purposes of this Deed.

Stage 7 means the seventh stage of the Development for 69 Residential Lots as specified in and approved by the relevant Development Consent or otherwise approved in writing by the Council for the purposes of this Deed.

Stage 8 means the eighth stage of the Development for 33 Residential Lots as specified in and approved by the relevant Development Consent or otherwise approved in writing by the Council for the purposes of this Deed.

Stage 9 means the ninth stage of the Development for 22 Residential Lots as specified in and approved by the relevant Development Consent or otherwise approved in writing by the Council for the purposes of this Deed.

Subdivision has the same meaning as in the Act.

Subdivision Certificate has the same meaning as in the Act.

Works means all works set out in the scope of works table at **Schedule 1** to this Deed.

Works Guarantee means a Bank Guarantee for the amount specified in works table at **Schedule 3** to this Deed, to secure the obligations of the Developer in relation to carrying out of the Works.

1.2 In the interpretation of this Deed, the following provisions apply unless the context otherwise requires.

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Deed.
- (b) A reference in this Deed to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.

- (c) If the day on which any act, matter or thing is to be done under this Deed is not a business day, the act, matter or thing must be done on the next business day.
- (d) A reference in this Deed to dollars or \$ means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.
- (e) A reference in this Deed to a \$ value relating to a Development Contribution is a reference to the value exclusive of any GST.
- (f) A reference in this Deed to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (g) A reference in this Deed to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- (h) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Deed.
- (i) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (j) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- (k) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- (l) Reference to the word 'include' or 'including' are to be construed without limitation.
- (m) A reference to this Deed includes the agreement recorded in this Deed.
- (n) A reference to a Party to this Deed includes a reference to the servants, agents and contractors of the Party, the Party's successors and assigns.
- (o) A reference to 'dedicate' or 'dedication' in relation to land is a reference to dedicate or dedication free of cost to the recipient.
- (p) Any schedules and attachments form part of this Deed.

2. Status of this Deed

- 2.1 This Deed is a planning agreement within the meaning of section 93F(1) of the Act.

3. Commencement

- 3.1 This Deed takes effect on the date when all Parties have executed this Deed.
- 3.2 The Party who executes this Deed last is to date the Deed and provide a copy of the fully executed and dated Deed to any other person who is a Party.

4. Application of this Deed

- 4.1 This Deed applies to the Land and to the Development.
- 4.2 The Land may not be developed in a manner materially inconsistent with the Development except insofar as this Deed is revoked or relevantly modified by further agreement between the Parties.

5. Warranties

- 5.1 The Parties warrant to each other that they:
 - (a) have full capacity to enter into this Deed; and
 - (b) are able to fully comply with their obligations under this Deed.

6. Further Agreements

- 6.1 The Parties may, at any time from time to time, enter into agreements relating to the subject-matter of this Deed that are not inconsistent with this Deed for the purpose of implementing this Deed.

7. Surrender of Right to Appeal, etc.

- 7.1 The Developer is not to commence or maintain, or to cause or procure the commencement or maintenance, of any proceedings in any court of tribunal or similar body appealing against, or questioning the validity of this Deed, or an Approval (or any part of an Approval) relating to the Development in so far as it requires the Developer to enter into or comply with the provisions of this Deed.

8. Application of s 94, s 94A and s 94EF of the Act to the Development

- 8.1 This Deed excludes the application of section 94 and section 94A of the Act to the Development.
- 8.2 This Deed does not exclude the application of section 94EF of the Act to the Development.
- 8.3 The benefits provided by the Developer under this Deed are excluded from consideration under s94(6) of the Act.

PART 2 – DEVELOPMENT CONTRIBUTIONS

9. Provision of Development Contributions

- 9.1 The Developer is to make Development Contributions to the Council in accordance with **Schedule 1** and any other provision of this Deed relating to the making of Development Contributions.
- 9.2 The Developer is to Dedicate the Dedication Land.

- 9.3 The Council is to apply each Development Contribution made by the Developer under this Deed towards the public purpose for which it is made in accordance with this Deed including Schedule 5.
- 9.4 Despite clause 9.3, the Council may apply a Development Contribution made under this Deed towards a public purpose other than the public purpose specified in this Deed if the Council reasonably considers that the public interest would be better served by applying the Development Contribution towards that other purpose rather than the purpose so specified.

10. Payment of Monetary Development Contributions

- 10.1 A monetary Development Contribution payable pursuant to clause 9.1, is made for the purposes of this Deed when the Council receives the full amount of the contribution payable under this Deed in cash or by unendorsed bank cheque or by the deposit by means of electronic funds transfer of cleared funds into a bank account nominated by the Council.
- 10.2 The Developer must pay any monetary Development Contribution specified in the table at **Schedule 1** of this Deed to the Council prior to the issuing of the Subdivision Certificate for the Stage identified in the third column of the table at Schedule 3 of this Deed relating to that Contribution Item.
- 10.3 The amount payable under clause 10.2 or as specified in Schedule 4 shall be the amount so specified indexed from the date of this Deed to the date of payment in accordance with movements in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.

11. Dedication of Land

- 11.1 The Developer must Dedicate and transfer the Dedication Land, the estimated Contribution Value of which is set out in the table at **Schedule 1** of this Deed, to the Council at no cost to the Council upon the registration of the relevant Subdivision Certificate for the relevant Stage of the Development Consent as identified in the table at **Schedule 1** of this Deed for the carrying out of the Development on the Land.
- 11.2 Land that is required to be Dedicated under this Deed is taken to be Dedicated for the purposes of this Deed when:
- (a) a deposited plan is registered in the register of plans held with the Registrar-General that dedicates land as a public road (including a temporary public road) under the *Roads Act 1993* or creates a public reserve or drainage reserve under the *Local Government Act 1993*, or
 - (b) the Council is given:
 - (i) an instrument in registrable form under the *Real Property Act 1900* duly executed by the registered owner as transferor that is effective to transfer the title to the land to the Council when executed by the Council as transferee and registered,
 - (ii) the written consent to the registration of the transfer of any person whose consent is required to that registration, and

- (iii) a written undertaken from any person holding the certificate of title to the production of the certificate of title for the purposes of registration of the transfer.
- 11.3 The Developer is to do all things reasonably necessary to enable registration of the instrument of transfer to occur.
- 11.4 The Developer is to ensure that land Dedicated to the Council under this Deed is free of all encumbrances and affectations (whether registered or unregistered and including without limitation any charge or liability for rates, taxes and charges) except as otherwise agreed in writing by the Council.
- 11.5 If, having undertaken all reasonable endeavours, the Developer cannot ensure that land to be Dedicated to the Council under this Deed is free from all encumbrances and affectations, the Developer may request that the Council agree to accept the land subject to those encumbrances and affectations, but the Council may, acting reasonably, withhold its agreement.
- 11.6 The Land Dedicated to the Council under this Deed is to include all Works to be completed under this Deed on that Land and any works required to be undertaken on that Land in accordance with any Condition of Development Consent.

12. Developer Maintenance of Dedication Land

- 12.1 The Developer agrees to make Maintenance Contributions for Environmental Land and Infrastructure (Drainage or Stormwater Management) Land dedicated to the Council pursuant to this Deed.
- 12.2 The Developer agrees to make Maintenance Contributions for the Community Land dedicated to the Council pursuant to this Deed.
- 12.3 The Developer agrees to make the Maintenance Contributions in accordance with **Schedule 4** to this Deed.
- 12.4 In addition to the Maintenance Contributions, the Developer agrees to carry out the Maintenance of the Infrastructure (Drainage or Stormwater Management) Land and the Community Land dedicated under this Deed for a period of five (5) years, commencing from the day after the relevant Dedication Land has been transferred to the Council.
- 12.5 In carrying out the Maintenance in accordance with clause 12.4, the Developer must comply with the reasonable directions of the Council and provide a written report on the work carried out after the end of year.
- 12.6 Upon the passing of five (5) years from the date upon which the Developer commenced carrying out the Maintenance of both the Infrastructure (Drainage or Stormwater Management) Land and Community Land in accordance with clause 12.3, the Council shall take over and undertake the maintenance of such land and the Developer shall be released from all further maintenance obligations or contributions relating to such land.
- 12.7 The Council in taking over and undertaking the maintenance of the land in accordance with clause 12.6, shall fund such maintenance from the monetary

Maintenance Contribution paid by the Developer in accordance with **Schedule 4**.

12.8 The Council is to provide to the Developer with details of the use of the Maintenance Contributions, as requested by the Developer, but not more than once annually on and from the end of the fifth year from the date upon which the Developer commenced carrying out Maintenance in accordance with clause 12.4.3.

13. Licence to Undertake Works

13.1 Where the Developer:

- (a) is required to dedicate any of the Dedication Land; and
- (b) has not completed the works or maintenance that it must perform on the Dedication Land pursuant to this Deed or the conditions of any Development Consent granted prior to its dedication,

then the Council must grant a licence over the relevant Dedication Land in accordance with the terms set out in clause 13.2.

13.2 The Council grants to the Developer a licence over the relevant Dedication Land in accordance with the following terms:

- (a) the licence is to be at no cost to the Developer;
- (b) the permitted use is to be the performance of such works or maintenance on the Land which are to be performed by the Developer in accordance with the conditions of any consent granted to the Development Application or under this Deed;
- (c) the Developer is to occupy the relevant licensed land at its own risk;
- (d) the Developer must:

- (i) effect policies of insurance reasonably requested by the Council including without limitation:
 - I. public liability insurance in the amount of \$20,000,000.00, The insurance must cover all Claims in respect of damage to real and personal property and injury to, or death of persons, arising out of or in connection with the operation, use, repair or maintenance of the Land; and
 - II. a policy of insurance for the full amount of its legal liability under the *Workers Compensation Act 1987* in respect of each person employed by it in the activities conducted in and from the Land.

(ii) Ensure that the policies of insurance referred to in clause 13.2(d)(i):

- I. are effected with a reputable insurer reasonably approved by the Council;
- II. (in the case of the public liability insurance policy) include a cross liability clause and note the interest of the Council; and

- III. are kept in force until such time as the works or maintenance on the Land which is to be performed by the Developer in accordance with the conditions of any consent granted to the Development Application or this Deed have been completed.
- (e) the Developer is to indemnify the Council against any Claim made in respect of personal injury or death or damage to property arising from the Developer's use and occupation of the licensed land; and
- (f) the Developer must, at its own cost, maintain and keep in good and clean condition the licensed land until it has completed all works that it must perform on that land.

14. Works to be Provided

- 14.1 The Developer is to commence the Works specified in the Table to **Schedule 1**, in accordance with this clause, prior to the issue of the Subdivision Certificate for the relevant Stage of the Development Consent as identified in the table at **Schedule 1** of this Deed for the carrying out of the Development on the Land.
- 14.2 The estimated Contribution Value of the Works specified in the Table to **Schedule 1** of this Deed shall be the amount so specified in the Table indexed from the date of this Deed in accordance with movements in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician up until the date on which the Work is completed for the purposes of this Deed.
- 14.3 A Development Contribution Item comprising the carrying out of the Works specified in the Table to **Schedule 1** is made for the purposes of this Deed when the Council accepts the hand-over of the Work in accordance with clause 15.
- 14.4 The Developer must construct and complete the Works in accordance with the following and in the event of any inconsistency in the following order of priority:
 - (a) in accordance with all relevant Development Consents;
 - (b) in accordance with Australian Standards applicable to works of the same nature as each aspect of the Works; and
 - (c) in a proper and workmanlike manner complying with current industry practice and standards relating to each aspect of the Works.
- 14.5 The parties agree that the indicative embellishment works set out in Appendix 6 comprise an indicative suite of works for the Works set out in Schedule 1 of this Deed, as prepared by the Developer
- 14.6 The actual Works to be carried out must meet the requirements of Schedule 1 on the basis of a Contribution Value of not less than that specified in Column 4 of Schedule 1 as indexed and specified in a landscape plan (that includes final quantities), approved in writing by the Council prior to the issuing of the first Subdivision Certificate for Stage 1 of the Development. The landscape plan submitted for approval shall be accompanied by an independent quantity surveyor's report attesting to the Contribution Value of the works proposed.

15. Completion of the Works

- 15.1 When the Developer considers that the Work specified in the Table at **Schedule 1** is complete, the Developer may give to the Council a Completion Notice relating to that Work.
- 15.2 The Council is to inspect the Work the subject of the Completion Notice referred to in clause 15.1 within 14 days.
- 15.3 Work required to be carried out by the Developer under this Deed, or a Stage, is completed for the purposes of this Deed when the Council, acting reasonably, gives a written notice to the Developer to that effect.
- 15.4 If the Council is the owner of the land on which Work the subject of a notice referred to in clause 15.1 is issued, the Council assumes responsibility for the Work upon the issuing of the notice, but if it is not the owner at that time, it assumes that responsibility when it later becomes the owner.
- 15.5 A notice referred to in clause 15.3, is to be a written direction and may specify that the Developer complete, rectify or repair any Defect of the Work to the reasonable satisfaction of the Council.
- 15.6 The Developer, at its own cost, is to promptly comply with a direction referred to in clause 15.5.
- 15.7 If satisfactory completion of the Works required to be undertaken by the Developer as identified in the table at **Schedule 1** of this Deed is delayed due to circumstances beyond the control of the Developer, the Council may in its absolute discretion agree to retain the Works Guarantee as security for the completion of the Works in the amounts specified at **Schedule 3** and if so this Deed does not restrict the issuing of a Subdivision Certificate for the relevant Stage.

16. Rectification of Defects

- 16.1 The Council may give the Developer a Rectification Notice during the Defects Liability Period.
- 16.2 The Developer, at its own cost, is to comply with a Rectification Notice according to its terms and to the reasonable satisfaction of the Council.
The Council is to do such things as are reasonably necessary to enable the Developer to comply with a Rectification Notice that has been given to it under clause 16.1.

PART 3 – DISPUTE RESOLUTION

17. Dispute Resolution – Expert Determination

- 17.1 This clause applies to a Dispute between any of the Parties to this Deed concerning a matter arising in connection with this Deed that can be determined by an appropriately qualified expert if:
 - (a) the Parties to the Dispute agree that it can be so determined, or
 - (b) the Chief Executive Officer of the professional body that represents persons who appear to have the relevant expertise to determine the

Dispute gives a written opinion that the Dispute can be determined by a member of that body.

- 17.2 A Dispute to which this clause applies is taken to arise if one Party gives another Party a notice in writing specifying the particulars of the Dispute.
- 17.3 If a notice is given under clause 17.2, the Parties are to meet within ten (10) Business Days of the notice in an attempt to resolve the Dispute in good faith.
- 17.4 If the Dispute is not resolved within a further twenty (20) Business Days then the Dispute is to be referred to the President of the New South Wales Law Society to appoint an expert for expert determination.
- 17.5 The expert determination is binding on the Parties except in the case of fraud or misfeasance by the expert.
- 17.6 Each Party is to bear its own costs arising from or in connection with the appointment of the expert and the expert determination.
- 17.7 The Parties are to share equally in the costs of the President, the expert and the expert determination.

18. Dispute Resolution – Mediation

- 18.1 This clause applies to any Dispute arising in connection with this Deed other than a Dispute to which clause 17 applies.
- 18.2 Such a Dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- 18.3 If a notice is given under clause 18.2, the Parties are to meet within ten (10) Business Days of the notice in an attempt to resolve the Dispute in good faith.
- 18.4 If the Dispute is not resolved within a further twenty (20) Business Days, the Parties are to mediate the Dispute in accordance with the Mediation Rules of the New South Wales Law Society published from time to time and are to request the President of the New South Wales Law Society to select a mediator.
- 18.5 If the Dispute is not resolved by mediation within a further twenty (20) days, or such longer period as may be necessary to allow any mediation process which has been commenced to be completed, then the Parties may exercise their legal rights in relation to the Dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.
- 18.6 Each Party is to bear its own costs arising from or in connection with the appointment of a mediator and the mediation.
- 18.7 The Parties are to share equally the costs of the President, the mediator and the mediation.

PART 4 – ENFORCEMENT

19. Security for Performance of Works

- 19.1 The Developer acknowledge that the Council requires, and the Developer has agreed to provide, security in the form of Bank Guarantees for due performance of the Works required under this Deed for the scope of Works

due to be completed as described in the table at **Schedule 1** of this Deed in the relevant stage of the Development.

20. Works Guarantee

- 20.1 The Works Guarantee must name “Wollondilly Shire Council” as the relevant beneficiary.
- 20.2 The Developer agrees to provide the Council with the Works Guarantee prior to the issue of the Construction Certificate for each Stage in the development in relation to which Works are to be undertaken by the Developer as specified in the Table to Schedule 3.
- 20.3 The amount of the Works Guarantee to be provided pursuant to clause 20.2 shall be indexed from the date of this Deed in accordance with movements in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.
- 20.4 If requested by the Council the Developer is to promptly ensure that the Works Guarantee provided to the Council is supplemented so that it is maintained at no less than the current indexed value as calculated under clause 20.3.
- 20.5 The Developer may at any time provide the Council with a replacement Works Guarantee.
- 20.6 On receipt of a replacement, the Council is to release and return the Works Guarantee that has been replaced to the Developer.
- 20.7 If the Council calls-up the Works Guarantee, or any portion of it, it may, by written notice to the Developer, require the Developer to provide a further or replacement Works Guarantee to ensure that the amount of Works Guarantee held by the Council equals the amount it is entitled to hold under this Deed.

21. Works Guarantee is no limitation

- 21.1 The provision of the Works Guarantee does not:
 - (a) relieve the Developer from any of the obligations on its part under any other provision of this Deed; and
 - (b) limit the right of the Council to recover from the Developer in full all money payable to the Council under this deed, including without limitation, interest on any such amounts or damages or losses incurred by the Council.

22. Release of the Works Guarantee

- 22.1 Subject to clauses 22.2 and 22.3, the Works Guarantee is to be released to the Developer upon the completion and the expiry of any Defects Liability Period in respect of the Developer’s obligations under this Deed to which the Guarantee relates.
- 22.2 Where the Developer is in default of its obligations with respect to the Works the Council may at its absolute discretion upon giving the Developer five (5) days notice in writing perform the Works itself and convert the Works Guarantee into money and use that money towards the cost of rectifying the default.

- 22.3 If the Council exercises its rights under clause 22.2 and the funds realised from the conversion of the Works Guarantee into money is not sufficient to discharge the costs incurred by the Council in performing or rectifying the Works (calculated under clause 23) then any deficiency remaining may be recovered by the Council from the Developer as a debt due and payable.

23. Breach of Obligations

- 23.1 If the Council reasonably considers that the Developer is in breach of any obligation under this Deed, it may give a written notice to the Developer:
- (a) specifying the nature and extent of the breach,
 - (b) requiring the Developer to rectify the breach,
 - (c) specifying the period within which the breach is to be rectified, being a period that is reasonable in the circumstances.
- 23.2 If the Developer fails to fully comply with a notice referred to in clause 23.1, the Council may, without further notice to the Developer, remedy the Developer's breach.
- 23.3 Any costs incurred by the Council in remedying a breach in accordance with clause 23.2 may be recovered by the Council as a debt due in a court of competent jurisdiction.
- 23.4 For the purpose of clause 23.3, the Council's costs of remedying a breach the subject of a notice given under clause 23.1 include, but are not limited to:
- (a) the costs of the Council's servants, agents and contractors reasonably incurred for that purpose,
 - (b) all fees and charges necessarily or reasonably incurred by the Council in remedying the breach, and
 - (c) all legal costs and expenses reasonably incurred by the Council, by reason of the breach.
- 23.5 Nothing in this clause 23 prevents the Council from exercising any rights it may have at law or in equity in relation to a breach of this Deed by the Developer, including but not limited to seeking relief in an appropriate court.

24. Compulsory Acquisition of Dedication Land

- 24.1 If the Developer does not dedicate land required to be dedicated under this Deed at the time at which it is required to be dedicated, and subject to 24.7 and 24.8, the Developer consents to the Council compulsorily acquiring the land for compensation in the amount of \$1 without having to follow the pre-acquisition procedure under the Just Terms Act.
- 24.2 The Council is to only acquire land pursuant to clause 24.1 if it considers it reasonable to do so having regard to the circumstances surrounding the failure by the Developer to dedicate the land required to be dedicated under this Deed.
- 24.3 Clause 24.1 constitutes an agreement for the purposes of s30 of the Just Terms Act.

- 24.4 If, as a result of the acquisition referred to in clause 24.1, the Council is required to pay compensation to any person other than the Developer, the Developer is to reimburse the Council that amount, upon a written request being made by the Council, or the Council can call on any Security provided under clause 19.
- 24.5 The Developer indemnifies and keeps indemnified the Council against all Claims made against the Council as a result of any acquisition by the Council of the whole or any part of the land concerned except if, and to the extent that, the Claim arises because of the Council's negligence or default.
- 24.6 The Developer is to promptly do all things necessary, and consents to the Council doing all things necessary, to give effect to this clause 24, including without limitation:
- (a) signing any documents or forms,
 - (b) giving land owner's consent for lodgement of any Development Application,
 - (c) producing certificates of title to the Registrar-General under the Real Property Act 1900, and
 - (d) paying the Council's costs arising under this clause 24.
- 24.7 Prior to the Council exercising its right to compulsorily acquire the Dedication Land from the Developer pursuant to this clause 24, the Council must provide written notice of not less than twenty-one (21) days to the Developer.
- 24.8 Should the Developer fail to rectify the breach of this Deed within the period specified in then written notice issued pursuant to clause 24.7, the Council shall be entitled to exercise their rights under clause 24.1 of this Deed.

25. Enforcement in a Court of Competent Jurisdiction

- 25.1 Without limiting any other provision of this Deed, the Parties may enforce this Deed in any court of competent jurisdiction.
- 25.2 For the avoidance of doubt, nothing in this Deed prevents:
- (a) a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Deed or any matter to which this Deed relates;
 - (b) in addition, the Council from exercising any function under the Act of any other act or law relating to the enforcement of any aspect of this Deed or any matter to which this Deed relates.

26. Termination

- 26.1 This Deed terminates on the earlier of the following:
- (a) the Parties agree in writing to terminate the operation of this Deed at any time;
 - (b) an Insolvency Event affects a Party;

- (c) the Council, acting reasonably, serves a notice on the Developer terminating this Deed where the Developer has failed to comply with a notice issued in accordance with clause 23.1; or
 - (d) provision by the Developer of all of the Development Contributions to the Council in accordance with the terms of this Deed and the expiry of every Defects Liability Period.
- 26.2 Upon termination of this Deed:
- (a) all future rights and obligations of the parties under this Deed are discharged; and
 - (b) all pre-existing rights and obligations of the parties under this Deed continue to subsist.

PART 5 – REGISTRATION & RESTRICTION ON DEALINGS

27. Registration of this Deed

- 27.1 The Parties agree to register this Deed for the purposes of section 93H(1) of the Act.
- 27.2 On execution, the Developer is to deliver to the Council in registrable form:
- (a) an instrument requesting registration of this Deed on the title to the Land duly executed by the Developer as owner of the Land, and
 - (b) the written irrevocable consent of each person referred to in section 93H(1) of the Act to the registration.
- 27.3 On the provision by the Developer of the instrument in clause 27.2, the Council is to promptly provide to the Developer a request duly executed by the Council for the removal of the notation of the Former Planning Agreement from the title of the Land.
- 27.4 The Parties are to do such things as are reasonably necessary to remove any notation relating to this Deed from the title to the Land:
- (a) in so far as the part of the Land concerned is a Residential Lot in the subdivision,
 - (b) in relation to any other part of the Land, once the Developer has completed its obligations under this Deed to the reasonable satisfaction of the Council or this Deed is terminated and the Council has no continuing pre-existing rights or obligations protected by such continuing registration.

28. Restriction of Dealings

- 28.1 The Developer must not:
- (a) sell or transfer the Land, other than a Residential Lot in the subdivision, or
 - (b) assign the Developer's rights or obligations under this Deed, or novate this Deed to any person unless:

- (i) the Developer has, at no cost to the Council, first procured the execution by the person to whom the Land or part is to be sold or transferred or the Developer's rights or obligations under this Deed are to be assigned or novated, of a deed in favour of the Council on terms reasonably satisfactory to the Council, and
 - (ii) the Council (acting promptly) has given notice to the stating that it reasonably considers that the purchaser, transferee, assignee or novatee, is reasonably capable of performing its obligations under this Deed, and
 - (iii) the Developer is not in breach of this Deed, and
 - (iv) the Council otherwise consents to the transfer, assignment, or novation, such consent not to be unreasonably withheld.
- 28.2 Clause 28.1 does not apply in relation to any sale or transfer of the Land if this Deed is registered on the title to the Land at the time of the sale.

PART 6 – INDEMNITIES

29. Risk

- 29.1 Subject to the provisions of this Deed, the Developer and the Council perform this Deed at their own risk and their own cost.

30. Release

- 30.1 The Developer releases the Council from any Claim they may have against the Council arising in connection with the performance of the obligations under this Deed, except if, and to the extent that, the Claim arises because of the Council's negligence or default.

31. Indemnity

- 31.1 The Developer indemnifies the Council from and against all Claims that may be sustained, suffered, recovered or made against the Council arising in connection with the negligent performance or default of the Developer's obligations under this Deed except if, and to the extent that, the Claim arises because of the Council's negligence or default.

PART 7 – OTHER PROVISIONS

32. Notices

- 32.1 Any notice, consent, information, application or request that must or may be given or made to a Party under this Deed is only given or made if it is in writing and sent in one of the following ways:
- (a) delivered or posted to that Party at its address set out below,

- (b) faxed to that Party at its fax number set out below, or
- (c) emailed to that Party at its email address set out below

Council

Attention: General Manager
Address: 62-64 Menangle Street
PICTON NSW 2571
Mail: PO Box 21
PICTON NSW 2571
Fax: (02) 4677 2339
Email: council@wollondilly.nsw.gov.au

Developer

Attention: General Manager
Address: 27 Lawson Street
PENRITH NSW 2750
Mail: PO Box 332
PENRITH NSW 2751
Fax: (02) 4721 1811
Email: corporate@allam.com.au

- 32.2 If a Party gives the other Party three (3) business days notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed or emailed to the latest address or fax number.
- 32.3 Any notice, consent, information, application or request is to be treated as given or made at the following time:
 - (a) if delivered, when it is left at the relevant address;
 - (b) if it is sent by post, two (2) business days after it is posted;
 - (c) if sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number, or
 - (d) if sent by email and the sender does not receive a delivery failure message from the sender's internet service provider with a period of twenty-four (24) hours of the email being sent.
- 32.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

33. Approvals and Consent

- 33.1 Except as otherwise set out in this Deed, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given

under this Deed in that Party's absolute discretion and subject to any conditions determined by the Party.

- 33.2 A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions, unless the party's obligation is to act reasonably.

34. Costs

- 34.1 The Developer is to pay to the Council the Council's reasonable legal costs of preparing, negotiating, executing, stamping and registering this Deed, and any document related to this Deed within thirty (30) days of a written demand by the Council for such payment provided that the Council provides the Developer with a tax invoice.
- 34.2 The Developer is also to pay to the Council the Council's reasonable costs for enforcing this Deed within thirty (30) days of a written demand by the Council for such payment, provided that the Council provides the Developer with a tax invoice.

35. Entire Deed

- 35.1 This Deed contains everything to which the Parties have agreed in relation to the matters it deals with.
- 35.2 No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Deed was executed, except as permitted by law.

36. Further Acts

- 36.1 Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to effect, perfect or complete this Deed and all transactions incidental to it. Each party must act promptly and reasonably.

37. Governing Law and Jurisdiction

- 37.1 This Deed is governed by the law of New South Wales. The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The Parties will not object to the exercise of jurisdiction by those courts on any basis.

38. Joint and Individual Liability

- 38.1 Except as otherwise set out in this Deed:
- (a) any agreement, covenant, representation or warranty under this Deed by two (2) or more persons binds them jointly and each of them individually, and

- (b) any benefit in favour of two (2) of more persons is for the benefit of them jointly and each of them individually.

39. No Fetter

- 39.1 Nothing in this Deed shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

40. Illegality

- 40.1 If this Deed or any part of it becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties are to co-operate and do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Deed is entered into.

41. Severability

- 41.1 If a clause or part of this Deed can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.
- 41.2 If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Deed, but the rest of this Deed is not affected.

42. Amendment

- 42.1 No amendment of this Deed will be of any force or effect unless it is in writing and signed by the parties to this Deed in accordance with clause 25D of the Regulation.

43. Waiver

- 43.1 The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Deed, does not amount to a waiver of any obligation of, or breach of obligation by, another Party.
- 43.2 A waiver by a Party is only effective if it is in writing and may be conditional. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

44. GST

- 44.1 In this clause:

Adjustment Note, Consideration, GST, GST Group, Margin Scheme, Money, Supply and Tax Invoice have the meaning given by the GST Law.

GST Amount means the relation to a Taxable Supply the amount of GST payable in respect of that Taxable Supply.

GST Law has the meaning given by the A New Tax System (Goods and Services Tax) Act 1999.

Input Tax Credit has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a party includes an Input Tax Credit for an acquisition made by that party but to which another member of the same GST Group is entitled under the GST Law.

Taxable Supply has the meaning given by the GST Law excluding (except where expressly agreed otherwise) a supply in respect of which the supplier chooses to apply the Margin Scheme in working out the amount of GST on that supply.

- 44.2 Subject to clause 44.4, if GST is payable on a Taxable Supply made under, by reference to or in connection with this Deed, the Party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.
- 44.3 Clause 44.2 does not apply to the extent that the Consideration for the Taxable Supply is expressly stated in this Deed to be GST inclusive.
- 44.4 No additional amount shall be payable by the Council under clause 44.2 unless, and only to the extent that, the Council (acting reasonably and in accordance with the GST Law) determines that it is entitled to an Input Tax Credit for its acquisition of the Taxable Supply giving rise to the liability to pay GST.
- 44.5 If there are Supplies for Consideration which is not Consideration expressed as an amount of Money under this Deed by one Party to the other Party that are not subject to Division 82 of the A New Tax System (Goods and Services Tax) Act 1999, the Parties agree:
- (a) to negotiate in good faith to agree the GST inclusive market value of those Supplies prior to issuing Tax Invoices in respect of those Supplies;
 - (b) that any amounts payable by the Parties in accordance with clause 44.2 (as limited by clause 44.4) to each other in respect of those Supplies will be set off against each other to the extent that they are equivalent in amount.
- 44.6 No payment of any amount pursuant to this clause 44, and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided a Tax Invoice or Adjustment Note as the case may be to the recipient.
- 44.7 Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a party, must exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense or other liability.
- 44.8 This clause continues to apply after expiration or termination of this Deed.

45. Explanatory Note

- 45.1 The Appendix contains the Explanatory Note Relating to this Deed required by clause 25E of the Regulation.
- 45.2 Pursuant to clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note is not to be used to assist in construing this Planning Deed.

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EXECUTION PAGE

Executed as a Deed:

WOLLONDILLY SHIRE COUNCIL)
)
)
)
)
)
)

General Manager (by Delegation)

Name (PRINT)

Witness
Name (PRINT)

EXECUTED for and on behalf **SIMBA**)
DEVELOPMENTS PTY LTD (ACN 603)
799 220) in accordance with section)
127 of the *Corporations Act* 2001 in the)
presence of:)

Signature

Signature

Name (PRINT)

Name (PRINT)

Capacity

Capacity

SCHEDULE 1 – DEVELOPMENT CONTRIBUTIONS

ITEM/ CONTRIBUTION	SCOPE	TIMING	CONTRIBUTION VALUE
<u>MONETARY CONTRIBUTIONS subject to indexation under clause 10.3</u>			
Stage 1 – Monetary Contributions	The Developer is to pay to the Council \$1,420,000 .00 for Stage 1 of the Development.	Before the issuing of the first Subdivision Certificate for Stage 1 of the Development.	\$1,420,000.00
Stage 2 – Monetary Contributions	The Developer is to pay to the Council \$1,000,000.00for Stage 2 of the Development	Before the issuing of the first Subdivision Certificate for Stage 2 of the Development.	\$1,000,000.00
Stage 3 – Monetary Contributions	The Developer is to pay to the Council \$NIL for Stage 3 of the Development	Not applicable.	\$0.00
Stage 4 – Monetary Contributions	The Developer is to pay to the Council \$ NIL for Stage 4 of the Development.	Not applicable	\$0.00
Stage 5 – Monetary Contributions	The Developer is to pay \$171,252.00 for Stage 5 of the Development.	Before the issuing of the first Subdivision Certificate for Stage 5 of the Development	\$171,252.00
Stage 6 – Monetary Contributions	The Developer is to pay to the Council \$625,740.00 for Stage 6 of the Development.	Before the issuing of the first Subdivision Certificate for Stage 6 of the Development.	\$625,740.00
Stage 7 – Monetary Contributions	The Developer is to pay to the Council \$819,858.00 for Stage 7 of the Development.	Before the issuing of the first Subdivision Certificate for Stage 7 of the Development.	\$819,858.00
Stage 8 – Monetary Contributions	The Developer is to pay to the Council \$427,500.00 for Stage 8 of the Development.	Before the issuing of the first Subdivision Certificate for Stage 8 of the Development.	\$427,500.00
Stage 9 – Monetary Contributions	The Developer is to pay to the Council \$424,500.00 for Stage 9 of the Development.	Before the issuing of the first Subdivision Certificate for Stage 9 of the Development.	\$424,500.00
Total Monetary Contributions			\$4,888,850.00

Vsn received from Simba 21 Dec 2017 - submitted to Council at Meeting in Feb 2018 seeking a resolution to exhibit though subject to minor changes to be done by GM 1765#502

DEDICATION OF LAND			
	DESCRIPTION	TIMING	ESTIMATE OF CONTRIBUTION VALUE
Dedication of Land – Managed Reserve	The Developer is required to dedicate Managed Reserve land of approximately 12,574 m ² being Proposed Lot 1002 to the Council as indicated on the Land Dedication Plan at Schedule 2.	Upon registration of the first Subdivision Certificate for Stage 3 of the Development.	\$1,131,660.00
Dedication of Land – Managed Reserve- Drainage Infrastructure	The Developer is required to dedicate Managed Reserve and drainage land totalling 6,449 m ² being Lot 1302 in Deposited Plan 1236986 to the Council as indicated on the Land Dedication Plan at Schedule 2.	Upon registration of the first Subdivision Certificate for Stage 3 of the Development.	\$58,125.00
Dedication of Land – Shale Sandstone Transitional Forest (Biobank Site)	The Developer is required to dedicate the Shale Sandstone Transitional Forest (Biobank Site) totalling 40,770 m ² being Lot 1301 in Deposited Plan 1236986 to the Council as indicated on the Land Dedication Plan at Schedule 2.	Upon registration of the first Subdivision Certificate for Stage 6 of the Development.	No land value attributed.
Dedication of Land – Drainage Reserve	The Developer is required to dedicate Drainage Reserve Land totalling approximately 3,608 m ² being Proposed Lot 1003 to the Council as indicated on the Land Dedication Plan at Schedule 2.	Upon registration of the first Subdivision Certificate for Stage 5 of the Development.	\$107,910.00
Dedication of Land – Drainage Reserve	The Developer is required to dedicate Drainage Land totalling 1,312 m ² being Lot 1303 in Deposited Plan 1236986 to the Council as indicated on the Land Dedication Plan at Schedule 2.	Upon registration of the first Subdivision Certificate for Stage 7 of the Development.	\$16,485.00
Dedication of Land – Managed Reserve – Parkland	The Developer is required to dedicate Land totalling approximately 4,851m ² being Proposed Lot 1001 to the Council as indicated on the Land Dedication Plan at Schedule 2.	Upon registration of the first Subdivision Certificate for Stage 7 of the Development.	\$ 436,590.00
Dedication of Land – Managed Reserves for Drainage Infrastructure	The Developer is required to dedicate Land totalling approximately 1,567 m ² being Proposed Lot 1004 to the Council as indicated on the Land Dedication Plan at Schedule 2.	Upon registration of the first Subdivision Certificate for Stage 6 of the Development.	\$99,680.00

Vsn received from Simba 21 Dec 2017 - submitted to Council at Meeting in Feb 2018 seeking a resolution to exhibit though subject to minor changes to be done by GM 1765#502

Total Land Value	\$1,850,450.00
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WORKS			
WORKS CONTRIBUTION VALUE subject to indexation under clause 14.2			
	DESCRIPTION	TIMING	ESTIMATED CONTRIBUTION VALUE
Boardwalk & associated Landscaping Managed Reserve- on Lot 1302	The Developer is required to install the boardwalk and associated landscaping on Lot 1302 in Deposited Plan 1236986 as approved by Council. (refer note 1)	Before the issuing of the first Subdivision Certificate for Stage 3 of the Development.	\$810,124.00
Managed Reserve - Local Parkland on Lot 1002	Embellishment of the local parkland on proposed Lot 1002 as approved by Council. (refer note 1) .	Before the issuing of the first Subdivision Certificate for Stage 3 of the Development.	\$358,467.00
On-site Cycleway – Stage 4	Supply and install 400 metres of 2.5 metres wide cycleway to Council's Engineering Specification D9; within the road reserve between Stage 4 and Site boundary.	Before the issuing of the first Subdivision Certificate for Stage 4 of the Development.	\$200,000.00
On-site Cycleway – Stage 6	Supply and install a 685 metres long 2.5 metre wide cycle path within the road reserve between Stage 6 and the E2 zone boundary.	Before the issuing of a Subdivision Certificate for Stage 6 of the Development.	\$341,000.00
Managed Reserves – Open Space on Lot 1303.	Landscape embellishment of Lot 1303 in Deposited Plan 1236986 as approved by Council. (refer note 1).	Before the issuing of a Subdivision Certificate for Stage 7 of the Development.	\$24,621.00
Managed Reserves - Open Space on Lot 1003.	Landscape embellishment of Lot 1303 in Deposited Plan 1236986 as approved by Council. (refer note 1) .	Before the issuing of a Subdivision Certificate for Stage 5 of the Development.	\$82,462.00
Managed Reserves Passive Open Space on Lot 1001	Embellishment of managed reserve on proposed Lot 1001 as passive open space as approved by Council, (refer note 1).	Before the issuing of a Subdivision Certificate for Stage 7 of the Development	\$82,446.00
On-site Cycleway – Stage 8	Supply and install 465 metres of 2.5 metres wide cycle path, to Council's Engineering Specification D9; within the road	Before the issuing of a Subdivision Certificate for Stage	\$232,500.00

Vsn received from Simba 21 Dec 2017 - submitted to Council at Meeting in Feb 2018 seeking a resolution to exhibit though subject to minor changes to be done by GM 1765#502

	reserve between Stage 8 and Site boundary.	8 of the Development.	
Managed Reserves Passive Open Space on Lot 1004.	Embellishment of managed reserve on proposed Lot 1004 as passive open space as approved by Council. (refer note 1) .	Before the issuing of a Subdivision Certificate for Stage 6 of the Development.	\$53,580.00
On-site Cycleway - Stage 9	Supply and install 31 metres of 2.5 metres wide cycle path, to Council's Engineering Specification D9; within the road reserve between Stage 4 and Site boundary.	Before the issuing of a Subdivision Certificate for Stage 9 of the Development.	\$15,500.00
Total Works Value			\$2,200,700.00

Note 1: The Works to be generally in accordance with the Overall Works Schedule prepared by Site Plus (refer to Schedule 6) and with any approved Landscape Master Plan or other plans to be submitted and approved by Council prior to these works being commenced.

Landscape Embellishment Works scope as indicated on Landscape Concept Plan revision E prepared by SitePlus on 22 June 2017. Final Works scope and location of playground equipment and park furniture are to be subject to Landscape Master Plan approval by Wollondilly Shire Council.

SCHEDULE 2 – LAND DEDICATION PLAN

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LAND DEDICATION STAGES



LEGEND

- PROPERTY BOUNDARY
- PRELIMINARY BOUNDARY
- PRELIMINARY EASEMENT
- BOUNDARY
- SEWER/ELECTRICITY EASE
- WATER/ELECTRICITY EASE
- TOWNSHIP AS PER SUPPLEMENTARY PLAN
- BOUNDARY

COLOUR	No.	AREA (m ²)	TYPE
Green	1001	41,008	ENVIRONMENTAL CONSERVATION
Blue	1002	1,212	WATERWAY
Yellow	1003	1,212	DRAINAGE RESERVE

COLOUR	ID	AREA (m ²)	LENGTH (m)	TYPE
Blue	(A)	190	35	CYCLEWAY (2.5m WIDE)
Blue	(C)	408	225	CYCLEWAY (2.5m WIDE)
Blue	(D)	700	150	CYCLEWAY (2.5m WIDE)

COLOUR	No.	AREA (m ²)	TYPE
Blue	1001	4,851	RESERVED LOT
Blue	1002	12,574	MANAGED RESERVE
Blue	1003	12,574	MANAGED RESERVE
Blue	1004	1,887	MANAGED RESERVE

COLOUR	ID	AREA (m ²)	LENGTH (m)	TYPE
Blue	(D)	10,983	843	MANAGED ASP (15.5m WIDE)
Blue	(E)	2,991	895	CYCLEWAY (2.5m WIDE)
Blue	(F)	1,212	150	CYCLEWAY (2.5m WIDE)
Blue	(G)	1,212	150	CYCLEWAY (2.5m WIDE)

NOTE: SHEET REVISIONS TO LETTER FROM WOLLONDLIFFY SHIRE COUNCIL DATED 16th JANUARY 2018.

NOTE: ALL LOTS SUBJECT TO SURVEY, COUNCIL APPROVAL AND ENGINEERING DESIGN APPROVALS.

PROPOSED SUBDIVISION
 LOT 1301-1304 DP-1236986
 MARSH ROAD SILVERDALE
 MANAGED RESERVES PLAN

APPROVAL WOLLONDLIFFY
 Local Authority

DESIGNED BY
 A.C. SIMBA DEVELOPMENTS
 1/1236986
 1/1236986
 1/1236986
 1/1236986

DATE
 25/05/16
 01/07/16
 16/08/16
 30/08/16
 31/10/17

DESCRIPTION
 REVISED MANAGED RESERVES
 REVISED ROAD NO. 7 & 8 RESERVE WIDTHS
 SHOWN TO BE REVISIONS TO COUNCIL ENGINEERING COMMENTS
 REVISED LOT NUMBERING
 REVISED PROPERTY DESCRIPTION

DATE
 25/05/16
 01/07/16
 16/08/16
 30/08/16
 31/10/17

DESCRIPTION
 REVISED MANAGED RESERVES
 REVISED ROAD NO. 7 & 8 RESERVE WIDTHS
 SHOWN TO BE REVISIONS TO COUNCIL ENGINEERING COMMENTS
 REVISED LOT NUMBERING
 REVISED PROPERTY DESCRIPTION



1/1236986
 1/1236986
 1/1236986
 1/1236986

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SCHEDULE 3 – WORKS GUARANTEE

WORKS	AMOUNT OF BANK GUARANTEE	WHEN IS IT PAYABLE
Boardwalk and associated Landscaping Managed Reserve- Drainage Infrastructure on Lot 1302	Estimated Contribution Value of Work in Schedule 1 multiplied by 120%.	Before the issuing of the first Subdivision Certificate for Stage 3 of the Development.
Managed Reserve - Local Parkland on Lot 1002	Estimated Contribution Value of Work in Schedule 1 multiplied by 120%.	Before the issuing of the first Subdivision Certificate for Stage 3 of the Development.
On-site Cycleway – Stage 4	Estimated Contribution Value of Work in Schedule 1 multiplied by 120%.	Before the issuing of the first Construction Certificate for Stage 4 of the Development.
On-site Cycleway – Stage 6	Estimated Contribution Value of Work in Schedule 1 multiplied by 120%.	Before the issuing of the first Subdivision Certificate for Stage 6 of the Development.
Managed Reserves - Open Space on Lot 1303.	Estimated Contribution Value of Work in Schedule 1 multiplied by 120%.	Before the issuing of the first Construction Certificate for Stage 7 of the Development.
Managed Reserves - Open Space on Lot 1003.	Estimated Contribution Value of Work in Schedule 1 multiplied by 120%.	Before the issuing of the first Construction Certificate for Stage 5 of the Development.
Managed Reserves Passive Open Space on Lot 1001	Estimated Contribution Value of Work in Schedule 1 multiplied by 120%.	Before the issuing of the first Construction Certificate for Stage 7 of the Development
On-site Cycleway – Stage 8	Estimated Contribution Value of Work in Schedule 1 multiplied by 120%.	Before the issuing of the first Construction Certificate for Stage 8 of the Development.
Managed Reserves Passive Open Space on Lot 1004.	Estimated Contribution Value of Work in Schedule 1 multiplied by 120%.	Before the issuing of the first Construction Certificate for Stage 6 of the Development.
On-site Cycleway – Stage 9	Estimated Contribution Value of Work in Schedule 1 multiplied by 120%.	Before the issuing of the first Construction Certificate for Stage 9 of the Development.

SCHEDULE 4 – MAINTENANCE CONTRIBUTIONS

1. THE MAINTENANCE CONTRIBUTIONS

RELEVANT DEDICATION LAND	AMOUNT	WHEN IS IT PAYABLE
ENVIRONMENTAL LAND		
Dedication of Lot 1301 as a future reserve for conserving threatened species of Land Shale Sandstone Transitional Forest (Biobank Site).	A Maintenance Contribution calculated to be a present value amount sufficient to provide at least thirty (30) years of maintenance—being \$270,850.00 paid to the Biodiversity Stewardship Trust Fund. ..	The Biodiversity Stewardship Trust is to be established for the Land prior to the transfer of the title to the relevant Dedication Land to the Council.
INFRASTRUCTURE (DRAINAGE AND STORMWATER MANAGEMENT) LAND		
Dedication of Drainage Reserve – Lot 1302	A Maintenance Contribution calculated to be a present value amount sufficient to provide at least thirty (30) years of maintenance – being \$549,699.00.	The Maintenance Contribution is to be paid by the Developer prior to the transfer of the title to the relevant Dedication Land to the Council.
Dedication of Drainage Reserve – Lot 1003	A Maintenance Contribution calculated to be a present value amount sufficient to provide at least thirty (30) years of maintenance – being \$955,344.00.	
Dedication of Drainage Reserve – Lot 1303	A Maintenance Contribution calculated to be a present value amount sufficient to provide at least thirty (30) years of maintenance – being \$458,347.00.	
Dedication of Drainage Reserve – Lot 1004	A Maintenance Contribution calculated to be a present value amount sufficient to provide at least thirty (30) years of maintenance – being \$666,223.00.	
INFRASTRUCTURE MAINTENANCE		\$2,629,613
COMMUNITY LAND		
Dedication of Managed Reserve – Park -Lot 1001	A Maintenance Contribution calculated to be a present value amount sufficient to provide at least thirty (30) years of maintenance—being \$92,995.00	The Maintenance Contribution is to be paid by the Developer prior to the transfer of the title to the relevant Dedication Land to the Council.
Dedication of Managed Reserve –Park - Lot 1002	A Maintenance Contribution calculated to be a present value amount sufficient to provide at least thirty (30) years of maintenance—being \$175,609.00	

Vsn received from Simba 21 Dec 2017 - submitted to Council at Meeting in Feb 2018 seeking a resolution to exhibit though subject to minor changes to be done by GM 1765#502

Dedication of Managed Reserve –Park - Lot 1003	A Maintenance Contribution calculated to be a present value amount sufficient to provide at least thirty (30) years of maintenance– being \$41,192.00	
Dedication of Managed Reserve –Park - Lot 1004	A Maintenance Contribution calculated to be a present value amount sufficient to provide at least thirty (30) years of maintenance– being \$23,885.00	
Dedication of Managed Reserve –Park - Lot 1302	A Maintenance Contribution calculated to be a present value amount sufficient to provide at least thirty (30) years of maintenance– being \$74,286.00	
Dedication of Managed Reserve –Park - Lot 1303	A Maintenance Contribution calculated to be a present value amount sufficient to provide at least thirty (30) years of maintenance– being \$21,064.00	
Dedication of Road Reserve with Cycleway [adjacent to Water NSW]	A Maintenance Contribution calculated to be a present value amount sufficient to provide at least thirty (30) years of maintenance– being \$249,135.00	
COMMUNITY LAND MAINTENANCE		\$678,166

SCHEDULE 5 – PURPOSE FOR MONETARY DEVELOPMENT CONTRIBUTIONS

WORKS/LAND	DESCRIPTION	ESTIMATED COST
Regional All Abilities Childrens' Playground	Regional Playground designed to meet the needs of all abilities design by Touched for Olivia Foundation to be constructed by Council in Warragamba.	\$850,000.00
Welcome to Wollondilly Shire sign	Welcome to Wollondilly Shire sign to be installed by Council on Silverdale Road and the corner of Bents Basin Road, Wallacia	\$45,000
Silverdale Suburb sign	Silverdale Suburb sign to be installed by Council at a location to be determined.	\$30,000
Bus Shelter	Bus shelter to be replaced on Marsh Road, Silverdale to Council's new accessible design.	\$15,000
Traffic Lights	Traffic lights to be installed by Council or RMS at roundabout on the corner of Silverdale Road and Farnsworth Avenue, Silverdale.	\$1,353,316

Vsn received from Simba 21 Dec 2017 - submitted to Council at Meeting in Feb 2018 seeking a resolution to exhibit though subject to minor changes to be done by GM 1765#502

Section 94 Works/Land	For the purpose for which, and in proportion to, the s94 contributions rates which would have applied to the Development, but for this planning agreement, under the applicable Contribution Plan as at the date of this Deed.	Balance of monetary contributions payable under this Deed.
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DRAFT

SCHEDULE 6 – OVERALL WORKS BUDGET FOR LANDSCAPE EMBELLISHMENT AND CYCLEWAYS

Simba Developments VPA				revised 3 Oct 2017		
Costing Guide						
Managed Reserves	Recreation Areas	Indicative Embellishment Works	Unit	Quantity or Area	Rate per m2	Estimate of Costs
	m ²					
Lot 1001	4,851	Weed control, establishment planting		4,851	\$ 5	\$ 24,255.00
		Feature Planting		4,851	\$ 10	\$ 48,510.00
		Seating		2	\$ 2,500	\$ 5,000.00
Design, Tender & Project Management						\$ 4,680.80
Part Lot 1002	4,851					\$ 82,446
	4,939	Weed control, establishment planting		4,939	\$ 3	\$ 12,841.40
Playground		Installation of playground - play equipment sited in and around existing trees with assistance of arborist to ensure native canopy, mid-storey and shrub layer is not impacted. Costed at 1 playground providing the following:	item		1	\$ 70,000.00
		a. slide				
		b. swing				
		c. climbing frame				
		Shaping of playground - 100m ² allowance per item of play equipment	m ²	300	\$ 70	\$ 21,000.00
		Softfall in playground area - 100m ² allowance per item of play equipment	m ²	300	\$ 200	\$ 60,000.00
Signage		Installation of interpretive / information signage	item	2	\$ 5,000	\$ 10,000.00
Bicycle Racks		Bike station for 5 bikes	item	1	\$ 2,000	\$ 2,000.00
Seating		Supply and Install Seating (non timber incl civils)		4	\$ 2,500	\$ 10,000.00
Design, Tender & Project Management						\$ 29,734.62
SubTotal				0.4		\$ 208,142
SSTF (Managed Bush Parkland)	7385	Weed control, establishment planting		7385	\$ 5	\$ 36,925.00
		Planting of native endemic species and mulching		3000	\$ 30	\$ 90,000
		Interpretative Signage		4	\$ 5,000	\$ 20,000.00
Design, Tender & Project Management						\$ 3,400.00
Sub Total Lot 1002						\$ 150,325
Total Lot 1002	12,324					\$358,467
	2,096 m ²	Weed control, establishment planting	m ²	2096	\$ 5.00	\$ 10,480.00
		Bollards requested by WSC	item	200	\$ 300.00	\$ 60,000.00
Design, Tender & Project Management						\$ 11,981.60
Part Lot 1003						\$ 82,461.60
	1238m ²	Weed control, establishment planting	m ²	1238	\$ 5.00	\$ 6,190
		Bollards requested by WSC	item	100	\$ 300.00	\$ 30,000
		Installation of interpretive / information signage	item	1	\$ 10,000.00	\$ 10,000
Design, Tender & Project Management						\$ 7,390.40
Part Lot 1004						\$ 53,580

Part Lot 1302	2009 m ²	Weed control, establishment planting	m ²	2009	5	\$	10,045.00
		Feature Planting		1689		\$	16,890.00
		Civil allowances / Earthworks for installation of boardwalk	m ²	320		\$	16,000.00
		Boardwalk safety fencing 1.2m high to match format of E2 area	lm	120		\$	18,000.00
		Installation of boardwalk (non timber - recycled/concrete materials)	m ²	320		\$	400,000.00
		Allowance for 30 specialist foundations @ \$2800 each	item	30		\$	84,000.00
		Installation of steel viewing structure	item	1		\$	15,000.00
		Installation of feature planting [with corten steel elements 'Iron pride' developer funded]	item	1		\$	15,000.00
		Installation of boundary fence (1.5m high) and gate along Marsh Road	lm	70		\$	10,500.00
		Installation of security type fence 2.1m high (between E2 land & boardwalk)	lm	65		\$	14,950.00
		Sandstone Retaining Wall	lm	90		\$	45,000.00
		Bollards requested by WSC	item	100		\$	30,000.00
		Installation of interpretive / information signage	item	2		\$	20,000.00
						\$	114,739
Design, Tender & Project Management						\$	\$810,124
Part Lot 1303	1072 m ²	Weed control, establishment planting	m ²	1072	5	\$	5,360
		Installation of interpretive / information signage	item	1		\$	5,000
		Feature Planting		1072	10	\$	10,720
Design, Tender & Project Management						\$	3,541
Part Lot 1303						\$	24,621
Cycleway and Shared paths							
Concrete cycleway 2.5 m wide to WSC engineering specification D9							
		Stage 4 cycle path	lm	400		\$	200,000
		Stage 6 cycle path	lm	682		\$	341,000
		Stage 8 cycle path	lm	465		\$	232,500
		Stage 9 cycle path	lm	31		\$	15,500
						\$	
Total Open Space embellishment costs				1,578		\$	789,000
						\$	2,200,700

APPENDIX – EXPLANATORY NOTE

Explanatory Note pursuant to Clause 25E of the *Environmental Planning and Assessment Regulation 2000*

DRAFT PLANNING AGREEMENT

Under section 93F of the *Environmental Planning and Assessment Act 1979*.

PARTIES

WOLLONDILLY SHIRE COUNCIL (ABN 93 723 245 808) of Frank McKay Building, 62-64 Menangle Street, Picton in the State of New South Wales 2571 (**the Council**)

SIMBA DEVELOPMENTS PTY LTD (ACN 603 799 220) of 27 Lawson Street, Penrith in the State of New South Wales 2750 (**the Developer**)

DESCRIPTION OF THE LAND TO WHICH THE DRAFT PLANNING AGREEMENT APPLIES

The land comprised in Lots 1301, 1302, 1303 and 1304 in Deposited Plan 1236986 as at the date of this Deed and any part of that land comprised in a lot created by Subdivision of that Land.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The Subdivision of Lot 1304 into 425 residential lots, dedication of Lots 1301, 1302 and 1303 for a public reserve with environmental values, managed reserves, drainage reserves and proposed Asset Protection Zone and cycleways as approved by a Development Consent.

SUMMARY OF OBJECTIONS, NATURE AND EFFECT OF THE DRAFT PLANNING AGREEMENT

Objectives of the Draft Planning Agreement

The objective of the Draft Planning Agreement is to require the provision of public facilities and suitable funding for the provision of public facilities to meet the Development.

Nature of the Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under section 93F of the *Environmental Planning and Assessment Act 1979 (the Act)*. The Draft Planning Agreement is a voluntary agreement under which Development Contributions (as defined under clause 1.1 of the Draft Planning Agreement) are made by the Developer for various public purposes (as defined in section 93F(3) of the Act).

Effect of the Draft Planning Agreement

The Draft Planning Agreement:

- (a) relates to the carrying out by the Developer of the development of the Land
- (b) excludes application of section 94 and section 94A of the Act to the Development
- (c) requires monetary Development Contributions
- (d) requires dedication of land by the Developer
- (e) requires works to be undertaken by the Developer for the provision of public facilities
- (f) is to be registered on the title to the Land
- (g) provides for the removal of an existing planning agreement from the title to the Land
- (h) imposes restrictions on the Parties transferring the Land or part of the Land if the Deed is not registered on title or assigning an interest under the agreement
- (i) provides two dispute resolution methods for a dispute under the agreement, being expert determination and mediation.
- (j) Provides that the agreement is governed by the law of New South Wales, and
- (k) Provides that the *A New Tax System (Goods and Services Tax) Act 1999* applies to the Agreement.

ASSESSMENT OF THE MERITS OF THE DRAFT PLANNING AGREEMENT

The Planning Purposes Served by the Draft Planning Agreement

The Draft Planning Agreement:

- (a) promotes and co-ordinates of the orderly and economic use and development of the Land to which the agreement applies,
- (b) provides and co-ordinates the provision of public infrastructure and facilities in connection with the Development, and
- (c) provides increased opportunity for public involvement and participation in environmental planning and assessment of the Development.

How the Draft Planning Agreement Promotes the Public Interest

The draft Planning Agreement promotes the public interest by promoting the objects of the Act as set out in section 5(a)(ii),(iv),(v) and 5(c) of the Act.

For Planning Authorities

Development Corporations – How the Draft Planning Agreement Promotes its Statutory Responsibilities

Not applicable

Other Public Authorities – How the Draft Planning Agreement Promotes the Objects (if any) of the Act under which it is Constituted

Not applicable

Councils- How the Draft Planning Agreement Promotes the Element of the Council's Charter (now Guiding Principles)

The Draft Planning agreement promotes the elements of the Council's charter (now Guiding Principles) by:

- (a) providing funds and undertaking works to enable the Council to provide adequate, equitable and appropriate services and facilities for the community,
- (b) providing a means that allows the wider community to make submissions to the Council in relation to the agreement.

All Planning Authorities – Whether the Draft Planning Agreement Conforms with the Authority's Capital Works Program

The Planning Agreement conforms with the Council's Capital Works Program.

All Planning Authorities – Whether the Draft Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

This Draft Planning Agreement contains requirements that must be complied with before subdivision certificates and construction certificates are issued.

LAND DEDICATION PLAN- STAGES FOR DEDICATION



- LEGEND**
- PROPERTY BOUNDARY
 - PRELIMINARY TEMPORARY AVZ/ BUSHFIRE MANAGEMENT BOUNDARY
 - BOUNDARY
 - PRELIMINARY INNER AVZ/ BUSHFIRE SETBACK
 - ZONING BOUNDARY PER COUNCIL APPROVED PLAN



COLOUR	No.	AREA (m ²)	TYPE
	1301	41,406	ENVIRONMENTAL CONSERVATION
	1302	6,253	DRAINAGE RESERVE
	1303	1,332	DRAINAGE RESERVE

COLOUR	I.D.	AREA (m ²)	LENGTH (m)	TYPE
	(A)	190	35	CYCLEWAY (2.5m WIDE)
	(B)	406	128	CYCLEWAY (2.5m WIDE)
	(C)	260	150	CYCLEWAY (2.5m WIDE)

COLOUR	No.	AREA (m ²)	TYPE
	1001	13,372	RESIDUAL LOT
	1002	4,853	MANAGED RESERVE
	1003	12,574	MANAGED RESERVE
	1004	3,069	MANAGED RESERVE

COLOUR	I.D.	AREA (m ²)	LENGTH (m)	TYPE
	(D)	10,063	943	MANAGED AVZ (15.5m WIDE)
	(E)	2,391	865	CYCLEWAY (2.5m WIDE)
	(F)	483	64	CYCLEWAY (6.0m WIDE)

NOTE: SHEET REVISED TO LETTER FROM WOLLINDILLY SHIRE COUNCIL DATED 18th JANUARY 2016.

NOTE: ALL LOTS SUBJECT TO SURVEY, COUNCIL APPROVAL AND ENGINEERING DESIGN APPROVALS

PROPOSED SUBDIVISION, DRAINAGE & ANCILLARY WORKS
 LOTS 1301-1304 DP. 12369886
 MANAGED RESERVES PLAN

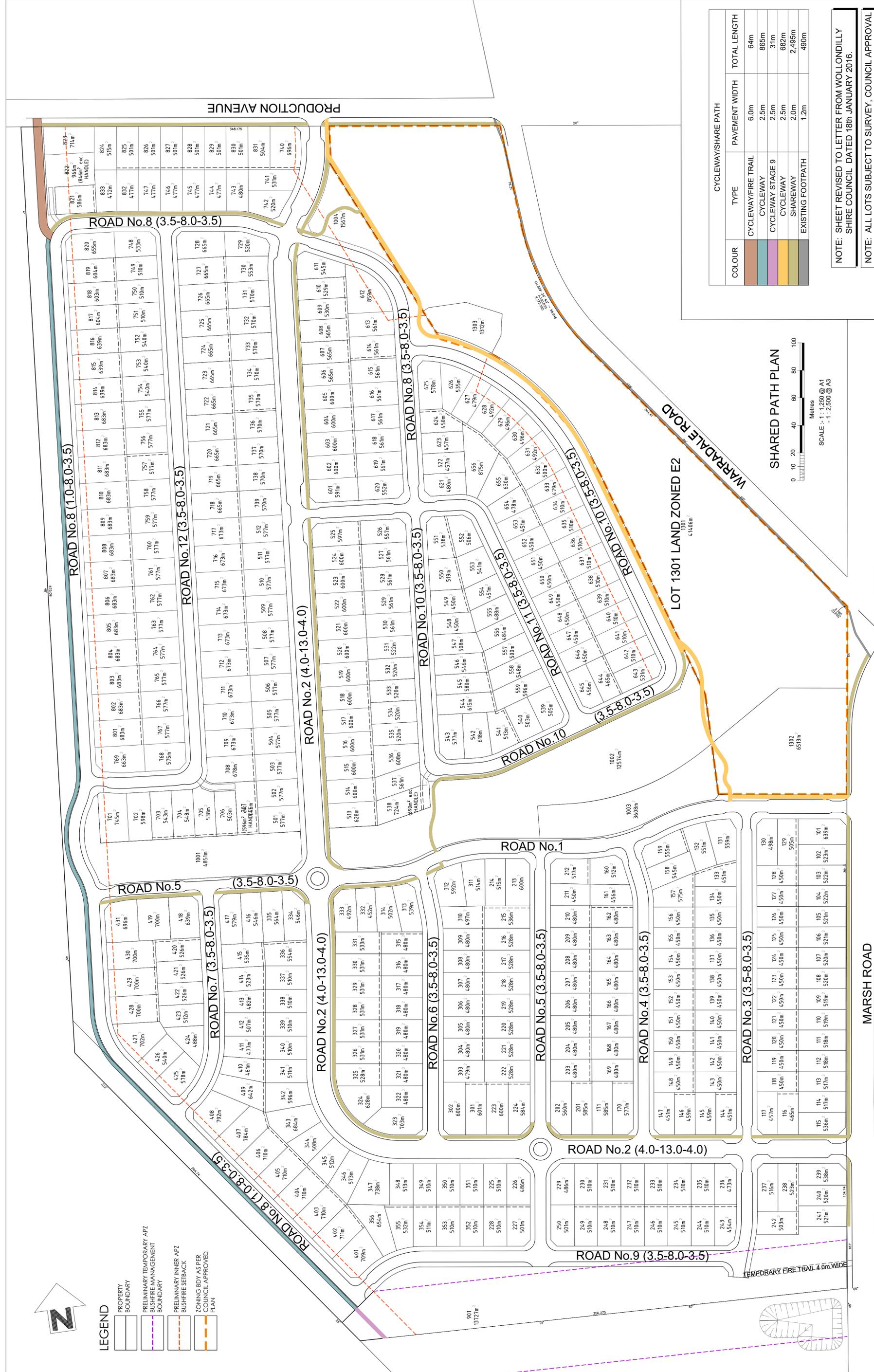
APPROVAL
 WOLLINDILLY
 LOCAL AUTHORITY

APPROVED
 A.C. V.M.
 12/07/17

DESIGNER
 A.C. V.M.
 29/07/16

DESCRIPTION
 T1 REVISED TO COUNCIL LETTER DATED 18/07/16
 T2 REVISED TO COUNCIL ENGINEERING COMMENTS
 T3 REVISED LOT NUMBERING
 T4 REVISED LOT NUMBERING
 T5 REVISED BIO-BASIN NO. 1 AND SOUTHERN OSD
 T6 REVISED PROPERTY DESCRIPTION

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NO	DESCRIPTION	DATE	APP	DRN	APP	DATE	CLIENT TITLE	HEIGHT DATUM	CLIENT TITLE	DWG TITLE
T1	REVISED ROAD NO. 7 & 9 RESERVE WIDTHS	01/07/16	V.M	A.C	A.H.D		SIMBA DEVELOPMENTS	A.C		WOLLONDILLY
T2	REVISED TO COUNCIL LETTER DATED 18/07/16	29/07/16	V.M	A.C	A.C					
T3	REVISED TO COUNCIL ENGINEERING COMMENTS	16/08/16	V.M	A.C	V.M					
T4	REVISED LOT NUMBERING	30/08/16	V.M	A.C	V.M					
T5	REVISED BIO-BASIN NO. 1 AND SOUTHERN OSD	12/07/17	v.m	A.C	design					
					landscape					
					management					
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Attachment 6: Checklist of Matters for Consideration to Exhibit Draft Planning Agreement (1-41 Marsh Rd Silverdale)

Matter for Consideration	Comment
What benefits are proposed under the Agreement (any land to be dedicated should be identified)?	Benefits are summarized in the Table in Attachment 1 and include: <ul style="list-style-type: none"> • Dedication of Land as shown on Plan in Attachment 4. • Embellishment works in open space land; • Stormwater management infrastructure ; • Money to maintain this infrastructure and bushland • \$4,888,850 as a combination of cash contribution and to fund off site works as per the Table in Attachment 1
Does the agreement accompany a DA or Planning proposal?	A DA for the development of 425 residential lots for which the Sydney South West Planning Panel is the consent authority.
Does the agreement exclude Council's Sec 94/94A Plan?	Yes
Is there likely to be significant community interest in the agreement or associated application?	A high level of community interest is anticipated;
Are any special probity considerations required (eg Probity Plan or Probity Advisor)	None
Does the agreement comply with the mandatory content requirements (s93f of Act)?	Yes
Does it comply with Council's strategic objectives for VPAs (cl 4.2)?	Yes – in particular the following: <ol style="list-style-type: none"> 1) It is supplementing and replacing Councils developer contributions system (4.2 (d); and 2) To provide or upgrade services/infrastructure to appropriate levels --- (4.2(g) and 3) Provide certainty for the Council, the community and developers (4.2(h))

Is the agreement for a legitimate planning purpose? (cl 4.3)	<p>Yes specifically</p> <p>4.3(b) meets the demand for new public infrastructure and services that may be outside the current Contributions Plan</p> <p>4.3 (c) address a deficiency in the existing provision of public facilities, and</p> <p>4.3(d) achieve recurrent funding in respect of public facilities</p>
Is it consistent with Council's principles regarding the use of planning agreements (cl 4.4)?	Yes – in particular item 4.4(b) as the merits of the DA will be assessed by the Planning Panel (not Council) so Council cannot permit this development in exchange for the benefits being offered under the Agreement.
Does it meet the acceptability test for planning agreements (cl 4.5)?	<p>Yes – in particular</p> <p>4.5 (e) the benefits provided by the Agreement are related to the development though they will also be available for use by other members of the community</p> <p>4.5 (h) – there are no circumstances to preclude Council entering the Planning Agreement</p> <p>4.5 (i) – It is consistent with the Dedication of Land Policy</p>
Does it comply with other clauses of Councils Policy (cl 4.7)?	Yes
Has a valid Explanatory Note been prepared	Yes
Does the Council need to be further involved at this stage	A resolution from Council to exhibit the Draft Planning Agreement is being requested;
Is the Agreement approved for exhibition	