

Local Planning Panel

Agenda

Local Planning Panel notice of meeting and agenda

Thursday 31 May 2018

You are invited to attend the next meeting to be held in the Council Chambers
62-64 Menangle Street, Picton on Thursday 31 May 2018 commencing at 5.30pm.

OPENING

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ACKNOWLEDGEMENT OF COUNTRY

APOLOGIES AND LEAVE OF ABSENCE REQUESTS

DECLARATION OF INTEREST

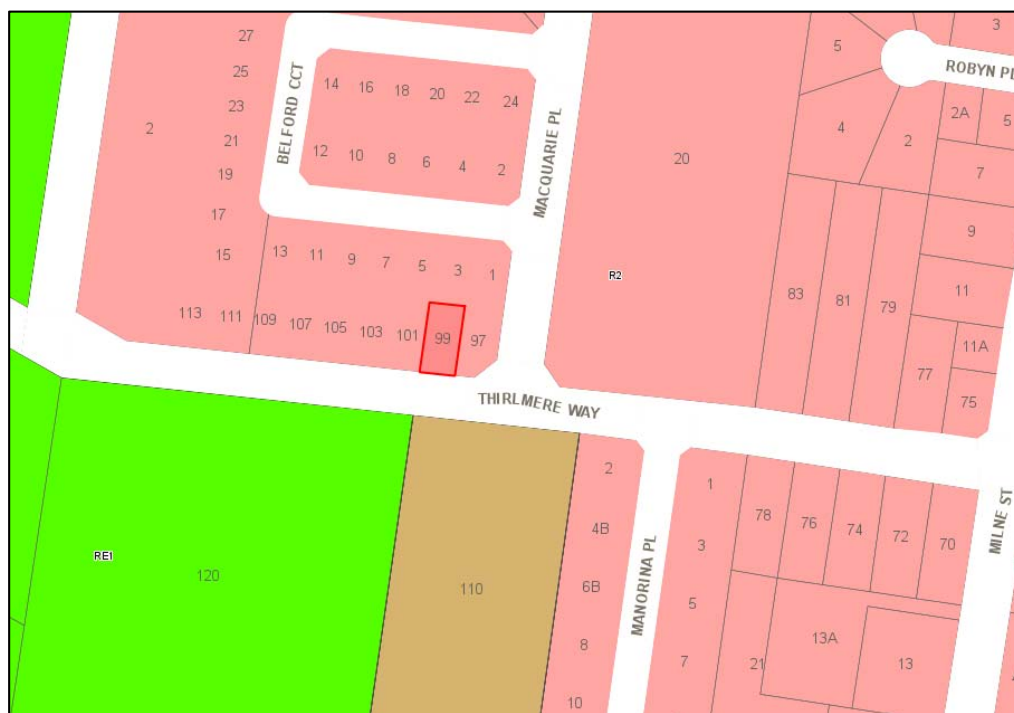
CONFIRMATION OF MINUTES

▪ Local Planning Panel meeting held on Thursday 19 April 2018

LOCAL PLANNING PANEL REPORTS - SUSTAINABLE AND BALANCED GROWTH..... 3

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1. **Application to Modify Development Consent No. 010.2014.00000287.002 - 99 Thirlmere Way Tahmoor - Relocate Driveway Access Point**
265508 010.2014.00000287.002



LOCATION MAP N ↑

DEVELOPMENT INFORMATION

| | |
|--------------------------------|--|
| Reason for LPP referral | Satisfactory Arrangement Certificate (VPA) |
| DA No: | 010.2014.00000287.002 |
| Subject Site | Lot 18 DP 1215452, 99 Thirlmere Way Tahmoor |
| Proposal | Modification to consent to lift restriction on position of layback |
| Zoning | R2 |
| Permissibility | Permitted with consent |
| Cost of development | N/A |
| Applicant: | Frances Bartolo |
| Owner: | Frances Bartolo |
| Notification | Yes |
| Submissions | 0 |
| Variations | Nil |
| Site Inspection | 11 April 2018 |
| Recommendation | Approval |

EXECUTIVE SUMMARY

- Consent is sought to modify Conditions 9 and 26 of Development Consent 010.2014.00000287.001. The modification, if approved effectively removes an 88B Restriction and allow alternate access to Lot 18, No. 99 Thirlmere Way, Tahmoor.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extend to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended that the modification of consent be approved.

REPORT

BACKGROUND

Development Application 010.2014.00000287.001 for land described as Lots 1, 2 and 3 DP: 243776, No. 15 & 21 Macquarie Place and 125 Thirlmere Way Tahmoor for a thirty six (36) lot subdivision was granted consent on 3 November 2015.

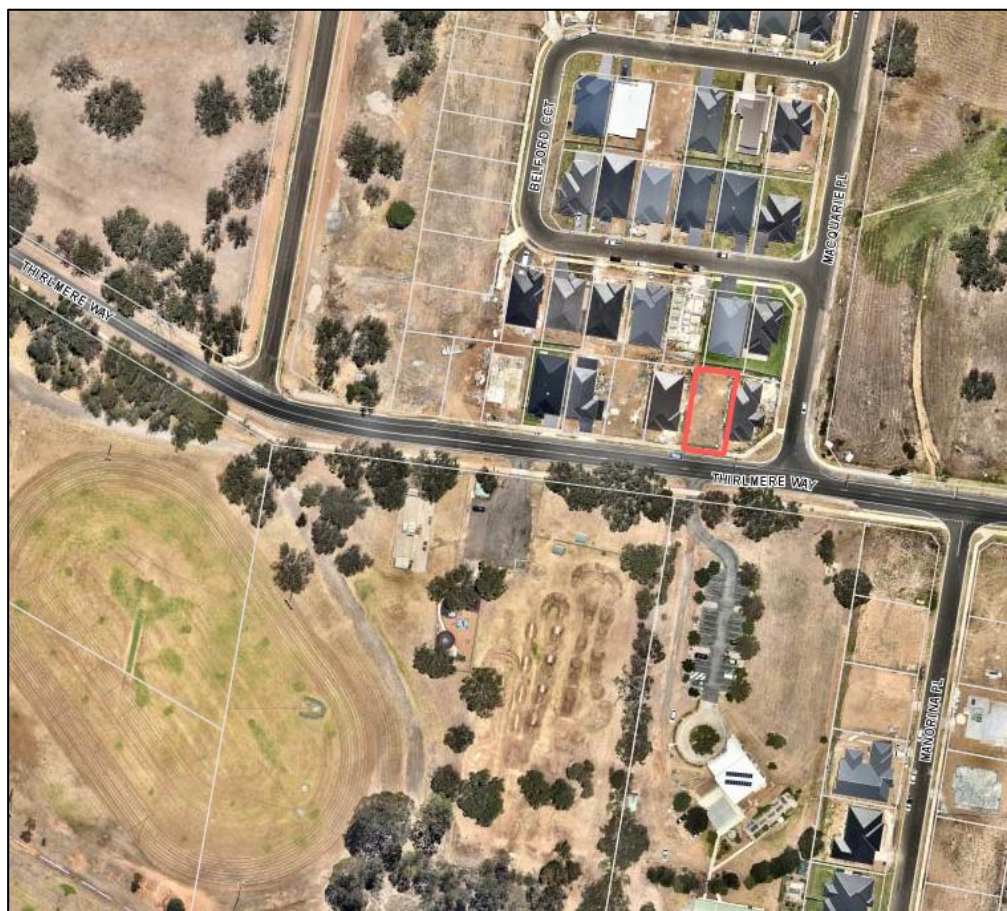
The 88B Restriction was placed on Lot 18 to keep the driveway access closer to the western boundary as far as possible away from the Thirlmere Way / Macquarie Place intersection. However the subdivision works resulted in the driveway access to Lot 18 being provided closer to the eastern boundary.

The Applicant has prepared house plans based upon the driveway access point constructed in situ.

1.1 DESCRIPTION OF SITE AND SURROUNDING AREA

The subject property is a flat parcel of land having an area of 457.5m². It is located on the northern side of Thirlmere Way one block to the west of the Macquarie Place / Thirlmere Way intersection.

New dwellings are either constructed or under construction within the residential subdivision. Open space and recreation facilities are located to the south-west on the southern side of Thirlmere Way.



AERIAL PHOTO OF SUBJECT LAND & SURROUNDS

1.2 DESCRIPTION OF DEVELOPMENT

Consent is sought to modify Conditions 9 and 26 of Development Consent 010.2014.00000287.001. The modification, if approved effectively removes the 88B Restriction to permit use of the driveway access as constructed at No. 99 Thirlmere Way, Tahmoor.

Justification for the modification submitted by the Applicant states:

'The property has been constructed with the layback on the right hand side of the property as that was most suitable for the driveway gradient. We had plans drawn up and were unaware of the restriction until everything was ready for submission. We wish to leave the house plans and layback to remain the same.'

Plans submitted with the modification indicate that the owners wish in the future to lodge an application for a single storey dwelling with an attached 'granny flat'.

The proposed future development of the site is shown in **Figure 1**.



CONSULTATION

| Internal Referral | Comment |
|--------------------------|--|
| Development Engineer | 'There are no objections to the proposed modification to remove the Restriction on the Use of Land, Numbered 6 in the 88B Instrument DP1215452, from lot 18 (being No. 99 Thirlmere Way) to allow unrestricted access to the lot. To permit removal of the access restriction, condition 9(1) and 26(6) dot point 4 of the Development Consent 010.2014.00000287.001 should be amended to the following: 9(1) - The location of the driveways for Lots 30 and 36 shall be located on the western most point on the lots not closer than 1 metre to the side boundary. A Restriction to this effect shall be placed on the title of each lot. 26(6)(Dot Point 4) – Lots 30 and 36 vehicular access to and from the land shall be located on the western side of the lot not closer than 1 metre to the boundary'. |

1.3 SECTION 4.15 EVALUATION

Development Application DA 010.2014.00000287.001 was comprehensively assessed in accordance with Section 4.15(1) (previously 79C) of the Environmental Planning and Assessment Act 1979 (EPA Act) in a report prepared on 19 October 2015. It is not necessary to repeat the detail of that assessment in this report.

Conditions 9 and 26 were imposed to keep the driveway as far as possible away from the Thirlmere Way / Macquarie Place intersection. The conditions stem from requirements for traffic safety detailed in Council's Engineering Design Specifications.

Council's Development Engineer has calculated that the constructed driveway crossing is located approximately 25m to the west of the Macquarie Place intersection. This distance exceeds the minimum distance of 9m required under Council's Engineering Design Specifications.

Assessment in respect of environmental planning instruments will focus the provisions of Section 4.55(1A) Modification of consents of the EPA Act.

1.3.1 PROVISIONS OF RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

The following tables provide an assessment of the provisions of Sections 4.55(1A) and (3) Modification of consents of the EPA Act.

| Section 4.55(1A) | Comment |
|--|---|
| Consent authority is satisfied that the proposed modification is of minimal environmental impact | Minimal environmental impact would occur as a result of the proposed minor modification. |
| Consent authority satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all). | It is assessed that the development to which the consent as modified relates is substantially the same development. |
| Consent authority has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent. | The application has been notified in accordance with the provisions of Council's Development Control Plan. Previous objectors were notified and the exhibition period was for 15 days ending on 30 March 2018. |
| Consent authority has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan. | No submissions from the public have been received. |
| Section 4.55(3) | Comment |
| Consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. | Matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application have been considered in this report. The original application DA 010.2014.00000287.001 was comprehensively assessed in accordance with Section 4.15 (1) (Formerly 79C) of the Environmental Planning and Assessment Act (EPA |

| Section 4.55(1A) | Comment |
|------------------|--|
| | Act) in a report prepared on 19 October 2015. A minor relocation of the driveway crossing has been assessed as being in excess of Council's requirements. There are no safety concerns in respect of the distance of the layback from the Thirlmere Way/Macquarie Place intersection. |

1.3.4 DRAFT AND/OR PLANNING AGREEMENTS ENTERED OR OFFERED TO ENTER INTO

As the original application involved a Voluntary Planning Agreement (VPA) with the NSW Department of Planning & Environment (DP&E) the modification is being reported to the Local Planning Panel (LPP). The modification has not been referred to DP&E for comment even though that Agency issued a Satisfactory Arrangements Certificate (SAC). It is considered that there is not a need to refer the proposed modification as it is so minor and there is no change to the lot or road layout. The wording of the SAC also reinforces the fact that a referral to DP&E is not required.

1.4 IMPACT OF THE DEVELOPMENT

It is assessed that the proposed modification would not result in any unreasonable environmental, social or economic impacts.

1.5 SUITABILITY OF THE SITE

The site is considered to be suitable for the proposed modified development.

1.6 SUBMISSIONS

No submissions have been received.

1.7 THE PUBLIC INTEREST

Based on the minor nature of the modification and its neutral impact, it is considered that the relocation of the driveway crossing is within the public interest.

FINANCIAL IMPLICATIONS

This matter has no financial impact on Council's adopted budget or forward estimates.

| |
|-----------------------|
| RECOMMENDATION |
|-----------------------|

1. The Applicant of the modification application and the Applicant of the original development application are advised that Council being the Prescribed Authority for Item 6 in the 88B instrument for DP 1215452 will not enforce the requirement upon Lot 18 that 'Vehicular access to the lots hereby burdened is limited to the western side of their road frontages, no closer than 1 metre to the boundary.
2. Pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*, the Applicant of the modification application and the Applicant of the original development application are to be advised that Council grant approval to the Modification Application No. 010.2014.00000287.002 and amend the subject Development Consent 010.2014.00000287.001 as follows:

Condition 9(1) is amended to read:

9. ACCESS
Stage Two

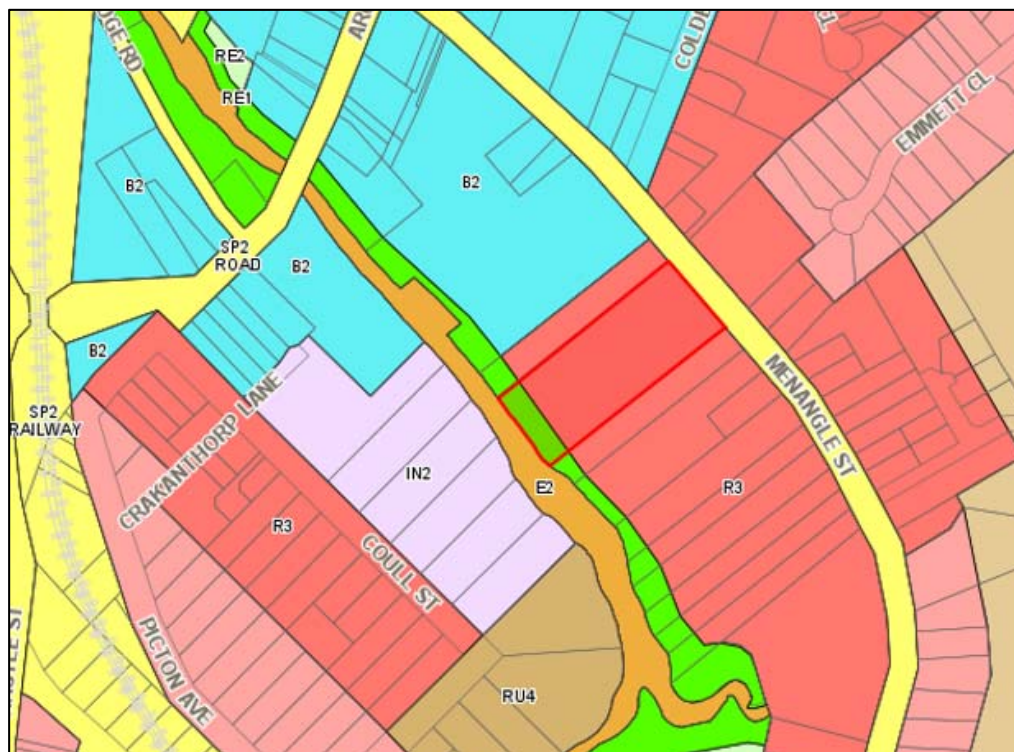
- (1) *The location of the driveways for Lots 30 and 36 shall be located on the western most point on the lots not closer than 1 metre to the side boundary. A Restriction to this effect shall be placed on the title of each lot.*

Condition 26(6) is amended to read:

26 SUBDIVISION PLANS
Stage Two

- (6A) *Lots 30 and 36 vehicular access to and from the land shall be located on the western side of the lot not closer than 1 metre to the boundary; and*

2. **Development Application No. 010.2005.00059605.007 - 83 Menangle Street Picton – Rewording of Conditions - Clarification**
278868 010.2005.00059605.007



LOCATION MAP N

DEVELOPMENT INFORMATION

| | |
|--------------------------------|---|
| Reason for LPP referral | Original Development Application involved a Voluntary Planning Agreement |
| DA No: | 010.2005.00059605.007 |
| Subject Site | 83 Menangle Street, Picton |
| Proposal | Rewording of conditions – Clarification |
| Zoning | Part R3 Medium Density Residential/ Part RE1 Public Recreation |
| Permissibility | Permissible with consent |
| Cost of development | Not applicable |
| Applicant: | Mr J Kavanagh |
| Owner: | Deemkies Pty Ltd |
| Notification | Not required |
| Submissions | - |
| Variations | - |
| Site Inspection | - |
| Recommendation | Modify consent in accordance with the attached draft notice of determination. |

EXECUTIVE SUMMARY

- Consent is sought to modify conditions that predominantly clarify the staging of the proposed development.
- The proposed modification is being reported to the Local Planning Panel (LPP) because the original Development Application (DA) involved a Voluntary Planning Agreement (VPA) and therefore is 'Sensitive Development' under 'Schedule 1' of the 'Local Planning Panels Direction-Development Applications'
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extend to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended that the majority of the proposed modifications be approved.

REPORT

BACKGROUND

Development Application 010.2005.00059605.001 for land described as Lot: 13 DP: 1188967, Lot: B DP: 154331, Lot: 1 DP: 782120, Lot: A DP: 154331, 83 Menangle Street PICTON, 79-85 Menangle Street PICTON, involving the construction of thirty six (36) residential units in six (6) stages and strata subdivision was granted deferred commencement consent on 17 December 2012.

Council advised the Applicant on 13 December 2017 that physical commencement of the development had occurred.

Previous Modification Applications

| Date | Application Number | Conditions Deleted | Consent/Conditions Modified |
|------------|--------------------|--|--|
| 18/7/2013 | 10.2005.59605.2 | Deletion of landscaping condition 20(5) was requested but not agreed to. | Deferred commencement conditions 2(d) and 3(a) Correct an error in the description of development |
| 14/11/2013 | 10.2005.59605.3 | | Deferred commencement conditions 2(a) and 3(a) |
| 5/3/2014 | 10.2005.59605.4 | | Application withdrawn |

| Date | Application Number | Conditions Deleted | Consent/Conditions Modified |
|----------|--------------------|--------------------|---|
| 5/5/2015 | 10.2005.59605.5 | | 6(5), 8(8), 15(1), 18(5), 18(6) and 18(9) The following conditions were also added: 1(4), 1(5) and 1(6) |
| 2/8/2016 | 10.2005.59605.6 | | Application withdrawn |

A similar modification application was lodged with Council in March 2014. Correspondence from Council dated 3 June 2014 advised:

'It would seem clarification from Council as to the intent of the conditions of consent and the extent to which they must be applied is required.

ABSA/NatHERS Certificate

These conditions are imposed on the new dwellings, not existing Wendover House. All (NEW) construction works shall comply with the relevant ABSA/NatHERS Certificate. The construction and insulation works of the new dwellings for which the Certificate relates must comply with the certification.

Building Design

These conditions are imposed on the new dwellings, not existing Wendover House. The design details of the proposed building façade must be in accordance with the approved materials schedule and sample board. This related to the proposed (NEW) building façade – Not the existing building façade of Wendover House.

Design for Access and Mobility

These conditions are imposed on the new dwellings, not existing Wendover House. The engineering plans for all stages are to be provided prior to the release of any Occupation Certificate i.e. the design details for all stages are required in Stage 1. The details of the accessible travel paths must be shown on the engineering design plans.

Flood Prone Areas

The conditions with regard to floor levels and floor slab requirements apply to the new development works and not to existing Wendover House.

Car Parking/Loading/Access

The provision of car parking spaces, visitor car parking spaces and car wash bay must be shown on the design details in Stage 1 and constructed in each relevant stage.

Earth Fill

If no earth fill is required in Stage 1 then the condition does not apply to Stage 1.

Security and Safety

These conditions are imposed on the new dwellings, and not the existing Wendover House.

Landscaping

Automatic watering systems are reasonable and have been previously justified for this site and development.

Subdivision plans

Condition 24.7 provides that conditions of consent relevant to each stage of the development prior to the release of Subdivision Certificate for that stage.

The consent therefore provides for the sale of each stage as per the approval.

Condition 4.4 Building Design

As no addition to the existing structure is proposed no certification would be required.

Condition 11.1 Public Roads

As no public road is proposed no certification would be required.'

Subsequently the modification application was withdrawn on 5 June 2014. It appears that the Applicant wants more certainty than provided by the 3 June 2014 letter.

CONSULTATION

| Internal Referral | Comment |
|----------------------|---|
| Design Engineer | Referral of the application occurred on 13 March 2018. Advice received on the same day stating no objection is raised to the proposed modification. |
| Development Engineer | <p>An email dated 6 April 2018 provided the following:</p> <p>'The proposal to delete condition 10(8) for the proposed deletion is not agreed as the construction of the access in stage 2 is required to provide adequate and appropriate access for all vehicles (residents, service vehicle, garbage removal etc.) to enter and exit the development.</p> <p>For proper drainage of the development site the proposed drainage is required with stage 2, staging of the drainage of the site could potentially create issues with flooding , ponding of stormwater & impact on residents.'</p> |

1.1 DESCRIPTION OF SITE AND SURROUNDING AREA

Lot: 13 DP 1188967 83 Menangle Street Picton is a gently undulating parcel of land falling from Menangle Street to Stonequarry Creek. It has an area of 9,732m². It is located on the southern side of Menangle Street.

Historic 'Wendover House' is located at the front of the land adjacent to Menangle Street.

Flooding affects the rear part of the land adjacent to Stonequarry Creek

The site is on the eastern fringe of the Picton commercial centre.



AERIAL PHOTO OF SUBJECT LAND & SURROUNDS

1.2 DESCRIPTION OF PROPOSED MODIFICATION

A description of the modifications sought and the reasons for them is included in the Statement of Environmental Effects (SoEE) accompanying the application as outlined below. Numbering is consistent with that of the original consent proposed to be modified.

Council's planning comments are also included.

| Proposed Modification | Comment |
|--|--|
| 1. Compliance | |
| Delete Condition 1(7) Reason: The subject land has been the subject of a Voluntary Planning Agreement and will be dedicated to Council as part of this agreement. | Proposed deletion cannot be supported. Condition 1(7) is to be reworded as follows: 'The Owner is to dedicate the RE1 zoned land for public open space in accordance with the Planning Agreement signed and dated on 13 November 2017.' |

| Proposed Modification | Comment |
|---|---|
| <p>Amend Condition 1(11) to read as follows:</p> <p>‘The sandstone gutters that are located at the access points to the subject land shall be removed prior to the commencement of any site works for Stage 1 and provided to Council for storage. The sandstone gutters shall then be re-instated as far as practicable at the completion of Stage 1 works subject of this consent.</p> <p>All costs associated with complying with the condition shall be paid for by the persons having the benefit of this consent.’</p> <p>Reason: The sandstone gutters have been reinstated and certified by Council officers.</p> | Agreed. |
| <p>Amend Condition 1(12) to read as follows:</p> <p>‘Prior to the release of any Occupation Certificate for Stage 1, the works required by NSW Transport Roads and Maritime Services shall be satisfied.’</p> <p>Reason: Works already completed in Stage 1.</p> | Agreed. |
| 3. NatHERS/ABSA Certificates | |
| <p>Replace sub-heading ‘All Stages’ with ‘Stages 2 – 6’.</p> <p>Reason: Wendover House already exists and to retro fit the building to be compliant with this requirement would require substantial works to a heritage listed building. It is considered that the heading should relate to Stages 2-6, and not include Stage 1</p> | Agreed. |
| 4. Building Design | |
| <p>Delete sub-heading ‘All Stages’, insert ‘Stages 2 – 6’ above Conditions 4(1) and 4(5) and renumber all remaining conditions</p> | Proposed deletion and insertion cannot be supported. Sub-heading ‘All Stages’ is to be amended to read: |

| Proposed Modification | Comment |
|---|--|
| Reason: This clause should not apply to Stage 1, as Wendover House is heritage listed and will require works that would be contrary the heritage significance of this building, particularly in respect of colour scheme. Extensive research was undertaken by Heritage Consultant Clive Lucas and the building is presently painted in its original colours. The slate roofing is original | <u>'All Stages (except in the case of 4(1) and 4(5) Stages 2 – 6)'</u> |
| Delete Condition 4(4) | Agreed. |
| Reason: There are no additions. | |
| Amend Condition 4(11) to read as follows: 'This clause should not apply to Stage 1, as Wendover House is heritage listed and will require works that would be contrary the heritage significance of this building, particularly in respect of colour scheme. Extensive research was undertaken by Heritage Consultant Clive Lucas and the building is presently painted in its original colours. The slate roofing is original.' | Agreed. Condition 4(11) can be amended to read: 'Prior to the release of the Occupation Certificate for each stage, certification shall be provided demonstrating that conditions (7) and (8) for Stages 2-6; and Condition (9) have been satisfied.' |
| Reason: Condition (9) only requires details on the engineering design plans. Conditions (7) and (8) should apply to Stages 2, 3, 4, 5 & 6 not Stage 1. | |
| 5. Flood Prone Areas | |
| Insert sub-heading 'Stages 2 – 6' after Condition 5(3) | Agreed. |
| Reason: The location of Wendover House is not affected by flood from Stonequarry Creek and is not subject to any filling of the site to create building sites for the remainder of the development. The conditions can relate to all stages, but from Condition 4 onwards these should relate to Stages 2-6. | |
| 9. Drainage/Stormwater | |
| Amend Condition (4) to read as follows: | |

| Proposed Modification | Comment |
|---|---|
| <p>'Staging of the drainage work shall be undertaken in accordance with the plans prepared by D & M Consulting Pty Ltd (Drawing No 14083 - Stage 2 Plan (including soil and water management plan) and Drawing No 14083 - Stage 3 Plan), with the final main drainage and creek outlet completed prior to the issue of an Occupation Certificate for Stage 3. This plan shall be approved by the Principal Certifying Authority prior to the issue of any Construction Certificate.'</p> <p>Reason: Drainage plans have been prepared by D & M Consulting showing how drainage works will be undertaken at Stage 2 and then at Stage 3. It is considered that the wording of the consent reflect the staging and the plans.</p> | |
| 10. Car Parking/Loading/Access | |
| Delete Condition (8) under the heading of Stage 2 | Deletion cannot be supported as no justification is provided for the deletion. |
| Move Conditions 15 and 16 to Stage 4 | Agreed. Conditions 10(15) and 10(16) to be included under Stage 4 and re-number the remaining conditions. |
| Reason: This is the stage nominated elsewhere in the conditions to construct 9 visitor parking spaces | |
| Delete sub-heading 'All Stages' and insert new sub-heading 'Stages 2, 3, 5 & 6' after Condition 10(13) | Agreed. |
| Reason : These are the only unit blocks with adaptable units and disabled parking spaces | |
| 11. Public Roads | |
| Delete Condition 11(1) | Agreed. |
| Reason: This condition is not applicable to the development. There are no public roads to be constructed or dedicated to Council, as it is an internal driveway system. It is therefore requested that this condition be deleted. | |

| Proposed Modification | Comment |
|---|--|
| 13. Earth Fill | |
| <p>Replace sub-heading 'All Stages' with 'Stage 2 - 6'</p> <p>Reason: The condition relates to works that need to be undertaken to enable other stages to be constructed. The condition should not apply to Stage 1, as there are no filling works involved. Council is requested to amend the heading to relate to Stages 2-6</p> | Agreed. |
| 15. Services | |
| <p>Reword Condition 15(1)</p> <p>Reason: Condition 1 was amended by Council by letter dated 2 July 2015 and should be reworded accordingly.</p> | Proposed amendment cannot be supported. Condition 15(1) does not need to be reworded as the previous modification still applies. |
| <p>Amend Condition 15(2) to read as follows:</p> <p>'Provision is to be made for the supply of telephone services to all proposed dwellings in accordance with the requirements of Telstra. In this regard, written confirmation from Telstra Australia that arrangements have been made shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate for each stage.'</p> <p>Reason: The condition should be amended to reflect the staging.</p> | Agreed. |
| <p>Amend Condition 15(3) to read as follows:</p> <p>'A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.</p> <p>Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Co-ordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.</p> | Agreed. |

| Proposed Modification | Comment |
|---|---|
| <p>The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate for each stage.'</p> <p>Reason: The condition should be amended to reflect the staging.</p> | |
| 18. Security and Safety | |
| <p>Replace sub-heading 'All Stages' with 'Stages 2 – 6'</p> <p>Reason: This heading should also be headed Stages 2-6, as Wendover House already exists, and the conditions would require work to the heritage listed building to be compliant with these conditions</p> | Agreed. |
| 20. Landscaping | |
| <p>Amend Condition 20(2) to read as follows:</p> <p>'All landscaping shall be established in accordance with the approved staged plans prepared by Nicholas Bray Drawing L01 (D) and L02 (D) prior to the release of the Occupation Certificate for each stage.'</p> <p>Reason: This condition should be amended to reflect staging</p> | <p>Proposed modification cannot be supported. It is not considered that any of the conditions relating to landscaping be modified. Landscape Plans L01 D-L04 D were approved subject to conditions. Staging shown on the landscape plans was altered by Condition 20(2).</p> <p>Condition 20(2) requires all landscaping to be established prior to the release of any Occupation Certificate for any unit within Stage 2. The original report to Council emphasised the need for planting to soften the potential visual impact of the development as early as possible.</p> |
| <p>Delete Condition 20(5)</p> <p>Reason : This condition should be deleted as automatic watering systems are not in the interest of the environment and it is more appropriate to plant drought resistant plants</p> | <p>Proposed deletion cannot be supported. Condition 20(5) should not be deleted as it was applied to the proposed landscaping as shown on Landscape Plans L01 D-L04 D. The landscape plans have not been amended. Council has previously refused to modify this condition.</p> |
| 23. Section 94 Contributions | |
| <p>Amend Condition 23(1) to read as follows:</p> <p>'Payment of a contribution for the thirty six (36) dwellings in accordance</p> | <p>Agreed. Relevant wording in the Planning Agreement signed and dated on 13 November 2017 is as follows:</p> |

| Proposed Modification | Comment |
|--|---|
| <p>with the Wollondilly Section 94 Contribution Plan 2000, the cost of which will be determined and payable at the time of the release of the Construction Certificate. The contribution to Council can be offset by way of the dedication of the RE1 Open Space land, as referred to in the agreed to in the Voluntary Planning Agreement, subject to any variation to the contribution rates applicable at the time of issuing the Occupation Certificates for each stage.'</p> <p>Reason: The wording shall be amended to reflect the VPA that has been endorsed by the owner and Council</p> | <p>'7.1 The Owner must dedicate the RE1 Land to Council prior to the issue of a Construction Certificate for the Development.</p> <p>7.2 Except as modified by this Deed, the Owner will pay the s94 Contributions as set out in the Development Consent to the Development.</p> <p>7.3 Upon dedication of the RE1 Land the s94 Contribution payable pursuant to the Act and set out in condition 23(1) of the Development Consent to the Development shall be reduced by the Reduction Amount.'</p> <p>'Reduction Amount' is defined in the Agreement as:</p> <p>'Reduction Amount means an amount of \$321,500.00, being an amount agreed between the parties based on 2 independent valuations of the RE1 Land.'</p> <p>It is noted that the condition refers to the 'Wollondilly Section 94 Contribution Plan 2000'. This is because the application was lodged before December 2005. The condition also referred to 30 dwellings but indicated the amount of contributions (at the time of approval) for 36 dwellings.</p> <p>Condition 23(1) can be amended to read:</p> <p>'Payment of a contribution for the thirty six (36) dwellings in accordance with the Wollondilly Section 94 Contribution Plan 2000, the cost of which will be determined and payable at the time of the release of the Construction Certificate. The contribution to Council can be offset by way of the dedication of the RE1 Open Space land, as referred to in the executed Planning Agreement,</p> |

| Proposed Modification | Comment |
|--|---|
| | subject to any variation to the contribution rates applicable at the time of issuing the Occupation Certificates for each stage.' |
| 24. Subdivision Plans | |
| <p>Replace sub-heading 'All Stages' with 'Each Stage'.</p> <p>Reason: The DA Approval is for a Staged Strata Title Subdivision so that each stage can be completed and sold off.</p> | <p>Delete sub-heading 'All Stages' and insert new sub-heading 'Each Stage' above Conditions 24(b) to 24(4).</p> <p>Delete sub-heading 'Stage 1 Only' and insert new sub-heading 'Each Stage' above Condition 24 (5).</p> |
| <p>Amend Condition 24(5) to read as follows :</p> <p>'Stage 1 Only</p> <p>Submission of a Linen Plan of Subdivision of Lot 13 DP 1188967 to create Torrens Title Lots 1 & 2. Lot 2 to be dedicated to Wollondilly Shire Council as Public Reserve as per the agreed Voluntary Planning Agreement.</p> <p>The Public Reserve Land shall measure 185M along the western boundary of Lot 13 DP 1188967 towards, in a straight line, 16.5M eastern property boundary of Lot 13 DP 1188967.</p> <p>A Section 88B Easement to Drain Water 3M wide shall be created and shall contain a provision that it may not be extinguished or altered except with the consent of Wollondilly Shire Council.'</p> <p>Reason: A plan of subdivision will be submitted to Council with the VPA to create the open space lot</p> | <p>Pertinent wording in the Planning Agreement signed and dated on 13 November 2017 is as follows</p> <p>'7.4 This dedication of the RE1 Land is conditional upon the Owner preparing and procuring the registration of:</p> <p>7.4.1 A plan of subdivision to create the RE1 Land generally in accordance with Schedule 2, and</p> <p>7.4.2 An instrument pursuant to s88B of the Conveyancing Act 1919 creating the Drainage Easement on the RE1 Land generally in accordance the map attached to Schedule 2.'</p> <p>Any rewording of Condition 24(5) needs to reflect the Agreement and therefore Condition 24(5) is amended to read:</p> <p>'Submission of a Linen Plan of Subdivision of Lot 13 DP 1188967 to create Torrens Title Lots 1 and 2 to enable Lot 2 to be dedicated to Wollondilly Shire Council as Public Reserve as per the Planning Agreement signed and dated on 13 November 2017.</p> <p>The Public Reserve Land and Section 88B Easement to Drain Water 3m wide shall be in accordance with Schedule 2 of the Planning Agreement signed and dated on 13 November 2017.'</p> |

1.3 SECTION 4.15 EVALUATION

The original application DA 010.2005.00059605.001 was comprehensively assessed in accordance with Section 79C of the Environmental Planning and Assessment Act (EPA Act) in a report prepared on 17 December 2012. It is not intended to repeat the detail of that assessment in this report.

Assessment in respect of environmental planning instruments will focus the provisions of Section 96(1A) Modification of consents of the EPA Act.

1.3.1 PROVISIONS OF RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

The following tables provide an assessment of the provisions of Sections 96(1A) and (3) Modification of consents of the EPA Act.

| Section 96(1A) [now section 4.55(1A)] | Comment |
|---|---|
| Consent authority is satisfied that the proposed modification is of minimal environmental impact | <p>Minimal environmental impact would occur as a result of the proposed modification.</p> <p>The major purpose of the proposed modification is to provide clarification of interpretation of conditions to the developer.</p> |
| Consent authority satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all). | The consent as modified is substantially the same development. |
| <p>Consent authority has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require, or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent.</p> | <p>Council's Development Control Plan (DCP) states:</p> <p>'Council may also determine not to notify previous submitters if the amendments are minor and the changes do not relate to any of the issues raised in their original submission.'</p> <p>As part of the DA allocation process it was determined that the proposed modification did not require notification.</p> <p>It is also noted that the report to Council on 17 December 2012 stated that no submissions had been received to the original application.</p> |

| Section 96(1A) [now section 4.55(1A)] | Comment |
|---|--|
| Consent authority has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan. | No submissions from the public have been received. |

| Section 96(3) [now section 4.55 (3)] | Comment |
|--|--|
| Consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application. | <p>Matters referred to in section 79C (1) [now section 4.15 (1)] as are of relevance to the development the subject of the application have been considered in this report.</p> <p>It is acknowledged that a comprehensive assessment in accordance with section 79C (1) was undertaken for the original application and no further assessment is required due to the nature of the proposed modifications.</p> <p>The modifications recommended have no additional impacts upon matters for consideration under section 79C (1) [now section 4.15 (1)].</p> |

1.3.4 DRAFT AND/OR PLANNING AGREEMENTS ENTERED OR OFFERED TO ENTER INTO

As stated earlier in the report a Planning Agreement signed on 13 November 2017 applies to the development and the land.

1.4 IMPACT OF THE DEVELOPMENT

It is assessed that the proposed modification would not result in any unreasonable environmental, social or economic impacts.

1.5 SUITABILITY OF THE SITE

The site is considered to be suitable for the proposed modified development.

1.6 SUBMISSIONS

No submissions have been received.

1.7 THE PUBLIC INTEREST

It is considered that the proposed recommended modifications are within the public interest as they:

- Clarify the application of conditions of consent to the developer
- Facilitate the implementation of the signed Planning Agreement especially in relation to the dedication of land zoned for open space.

FINANCIAL IMPLICATIONS

This matter has no financial impact on Council's adopted budget or forward estimates.

ATTACHMENTS IN SEPARATE BOOKLET

1. Draft Notice of Determination.
2. Notice of Determination for Development Application 010.2005.00059605.001.
3. Statement of Environmental Effects including Planning Agreement dated 13 November 2017 as Annexure A.
4. Deferred Commencement correspondence and attached approved plans.

| |
|-----------------------|
| RECOMMENDATION |
|-----------------------|

Pursuant to Section 96(1A) [now Section 4.55(1A)] of the *Environmental Planning and Assessment Act 1979*, Council grant approval to the Modification Application No. 010.2005.00059605.007 and amend the subject Development Consent ID788-05 as previously amended as follows:

1. **COMPLIANCE**

Condition 1(7) is modified to read:

- (7) The Owner is to dedicate the RE1 zoned land for public open space in accordance with the Planning Agreement signed and dated on 13 November 2017.

Condition 1(11) is modified to read:

- (11) The sandstone gutters that are located at the access points to the subject land shall be removed prior to the commencement of any site works for Stage 1 and provided to Council for storage. The sandstone gutters shall then be re-instated as far as practicable at the completion of Stage 1 works subject of this consent.

All costs associated with complying with the condition shall be paid for by the persons having the benefit of this consent.

Condition 1(12) is modified to read:

- (12) Prior to the release of any Occupation Certificate for Stage 1, the works required by NSW Transport Roads and Maritime Services shall be satisfied.

3. NATHERS/ABSA CERTIFICATES

The sub heading under 3. NATHERS/ABSA Certificates is modified from All Stages to Stages 2-6.

4. BUILDING DESIGN

The sub heading under 4. BUILDING DESIGN is modified from All Stages to All Stages (except in the case of 4(1) and 4(5) Stages 2-6).

Delete Condition 4(4).

Condition 4(11) be modified to read:

- (11) Prior to the release of the Occupation Certificate for each stage, certification shall be provided demonstrating that conditions 4(7) and (8) for Stages 2-6; and condition (9) have been satisfied.

5. FLOOD PRONE AREAS

The sub heading Stages 2-6 be inserted after Condition 5(3).

9. DRAINAGE/STORMWATER

Condition 9(4) is modified to read:

- (4) Staging of the drainage work shall be undertaken in accordance with the plans prepared by D & M Consulting Pty Ltd (Drawing No 14083 - Stage 2 Plan (including soil and water management plan) and Drawing No 14083 - Stage 3 Plan), with the final main drainage and creek outlet completed prior to the issue of an Occupation Certificate for Stage 3. This plan shall be approved by the Principal Certifying Authority prior to the issue of any Construction Certificate.

10. CAR PARKING/LOADING/ACCESS

The sub heading All Stages after Condition 10(13) is modified to read Stages 2, 3, 5 & 6.

Conditions 10(15) and 10(16) are moved under the sub-heading "Stage 4" within Part 10, CARPARKING/LOADING/ACCESS and are to be renumbered as condition 10(12) and 10(13) respectively.

Existing condition 10(12) under sub-heading Stage 5 is renumbered as condition 10(14).

Existing condition 10(13) under sub-heading Stage 6 is renumbered as condition 10(15).

Existing condition 10(14) under the new subheading "Stages 2, 3, 5 & 6" is renumbered as condition 10(16).

11. PUBLIC ROADS

Delete Condition 11(1).

13. EARTH FILL

The sub heading under 13. EARTH FILL is modified from All Stages to Stages 2-6.

15. SERVICES

Condition 15(2) is modified to read:

Provision is to be made for the supply of telephone services to all proposed dwellings in accordance with the requirements of Telstra. In this regard, written confirmation from Telstra Australia that arrangements have been made shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate for each stage.

Condition 15(3) is modified to read:

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Co-ordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate for each stage.

18. SECURITY AND SAFETY

The sub heading under 18. SECURITY AND SAFETY is modified from All Stages to Stages 2-6.

23. SECTION 94 CONTRIBUTIONS

Condition 23(1) is modified to read:

Payment of a contribution for the thirty six (36) dwellings in accordance with the Wollondilly Section 94 Contribution Plan 2000, the cost of which will be determined and payable at the time of the release of the Construction Certificate. The contribution to Council can be offset by way of the dedication of the RE1 Open Space land, as referred to in the executed Planning Agreement signed and dated on 13 November 2017, subject to any variation to the contribution rates applicable at the time of issuing the Occupation Certificates for each stage.

24. SUBDIVISION PLANS

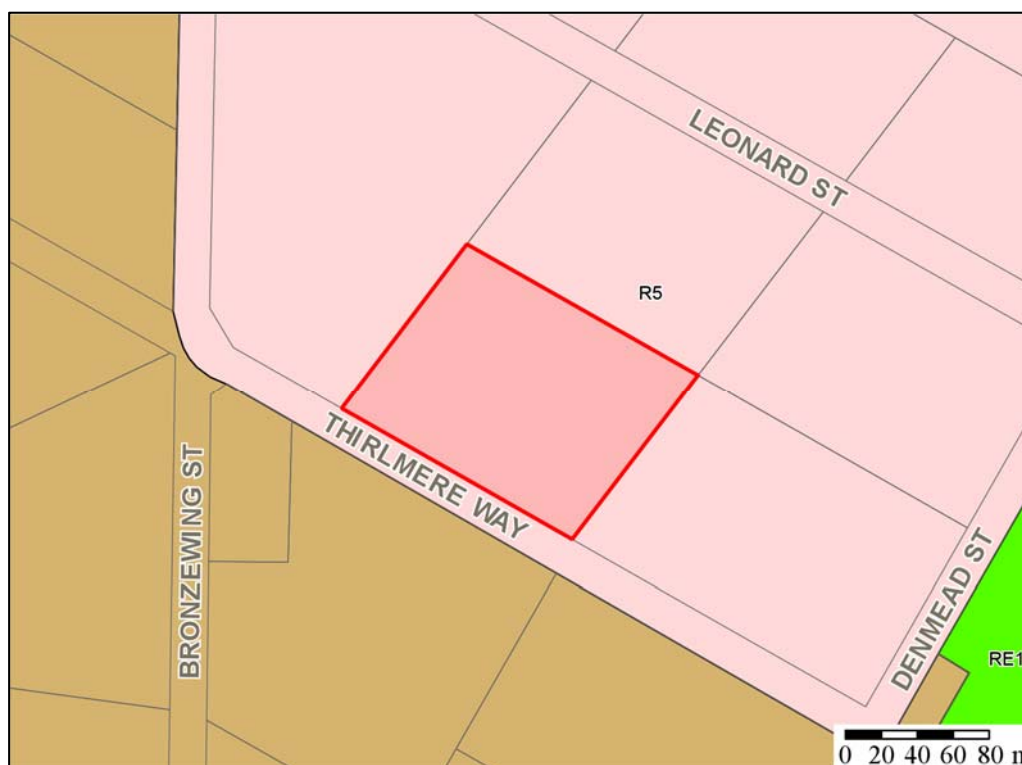
The sub headings under after 24(b) and 24(5) can be altered from All Stages to Each Stage.

Condition 24(5) is amended to read:

- (5) Submission of a Linen Plan of Subdivision of Lot 13 DP 1188967 to create Torrens Title Lots 1 and 2 to enable Lot 2 to be dedicated to Wollondilly Shire Council as Public Reserve as per the Planning Agreement signed and dated on 13 November 2017.

The Public Reserve Land and Section 88B Easement to Drain Water 3m wide shall be in accordance with Schedule 2 of the Planning Agreement signed and dated on 13 November 2017.

3. **Development Application No. 010.2015.00000823.001 – 195 Thirlmere Way, Thirlmere – 4 Lot Subdivision**
269974 010.2015.00000823.001



LOCATION MAP N

DEVELOPMENT INFORMATION

| | |
|--------------------------------|--|
| Reason for LPP referral | Satisfactory Arrangement Certificate (VPA) |
| DA No: | 010.2015.00000823.001 |
| Subject Site | Lot 172 in DP 751270, No 195 Thirlmere Way THIRLMERE |
| Proposal | Four (4) Lot Torrens Title Subdivision |
| Zoning | R5 Large Lot Residential |
| Permissibility | Permitted with Consent |
| Cost of development | Cost estimate not provided at time of lodgement |
| Applicant: | K J Byrne |
| Owner: | K J Byrne |
| Notification | Notified on the 09.11.15 until the 23.11.15 |
| Submissions | Nil (0) |
| Variations | No variations are required |
| Site Inspection | 29.01.18 |
| Recommendation | Approval subject to attached conditions |

EXECUTIVE SUMMARY

- The purpose of this report is to determine the proposed subdivision of land into four (4) lots.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements 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 application be approved subject to conditions.

REPORT

BACKGROUND

The proposal was submitted on the 3 of November 2015.

Notification and referrals occurred on the 9 November 2015.

Satisfactory arrangements have been received by Council on the 14 December 2017.

CONSULTATION

| Authority | Outcome |
|----------------------------|---|
| NSW RFS | 04.12.15 GTA's have been provided. |
| NSW Department of Planning | 18.12.17 Satisfactory arrangements have been provided in relation to this application. |
| Mine Subsidence Board | 06.04.18 Amended GTA's have been provided. |

| Referral | Outcome |
|-----------------------|---|
| Development Engineer | 17.02.17 Conditions of consent have been provided. |
| Health Officer | 09.12.15 No Concerns with this subdivision, condition no pump out is permissible, recommend 88B restriction on title. |
| Environment Officer | 04.12.15 No concerns in relation to this application in relation to environmental concerns. Conditions of consent have been recommended. |
| Contamination Officer | Contamination, no concerns in relation to this proposal. |

1.1 DESCRIPTION OF SITE AND SURROUNDING AREA

The proposed site is an existing rural site which has been rezoned from RU4 Primary Production Small Lots to R5 large lot residential. The site is open with little to no vegetation on the site, currently the site contains a single storey dwelling and a garage. The surrounding area was part of the same rezoning proposal has a small creek line at the south east corner of the site (this is located on 60 Thirlmere Way).

1.2 DESCRIPTION OF DEVELOPMENT

The proposal is for a Torrens Title Four (4) Lot Subdivision.

1.3 SECTION 4.15 EVALUATION

1.3.1 PROVISIONS OF RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

State Environmental Planning Policy No. 55 – Remediation of Land

| Question | YES | NO |
|--|--------------------------------------|--|
| 1. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)? | Proceed to Question 3 | X Proceed to Question 2 |
| 2. Does the proposal result in a change of use (that is the establishment of a new use)? | X Proceed to Question 3 | Assessment under SEPP 55 and DCP not required. |
| 3. Does the application proposed a new: | Proceed to Question 5 | X Proceed to Question 4 |
| 4. Review the property file and conduct a site inspection of the site and surrounding lands. Is there any evidence that the land has been used for a listed purpose? | Proceed to Question 5 | X Proposal satisfactory under SEPP 55 and DCP. |
| 5. Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater? | Request contaminated site assessment | Proposal satisfactory under SEPP 55 and DCP. |

Comments: A site inspection and a review of the property file has occurred, no potential contamination has been identified. The inspection and review of the property file was carried out by the assessing officer.

Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River

| Relevant Provisions | Comment |
|---|---|
| 3. Aims of the Plan | The proposal will meet the aims of the Sydney Regional Environmental Plan No 20 – Hawkesbury – Nepean River. |
| 6. Planning Policies and Recommended Strategies | |
| (1) Total catchment management | No issues have been identified in relation to the total catchment management of the area. |
| (2) Environmentally sensitive areas | The proposed site has no mapped environmental sensitive areas in accordance with the Hawkesbury Nepean River SREP. |
| (3) Water quality | No water quality issues have been identified with this proposal. |
| (4) Water quantity | Water quantity will be minimally increased with this proposal, as the proposal will increase the density of lots on the site. |
| (5) Cultural heritage | Not applicable |
| (6) Flora and fauna | The Environmental department have reviewed the proposal and have not identified any concerns in relation to Flora and Fauna |
| (7) Riverine scenic quality | Not applicable |
| (8) Agriculture/aquaculture and fishing | Not applicable |
| (9) Rural residential development | Not applicable |
| (10) Urban development | Not applicable |
| (11) Recreation and tourism | Not applicable |
| (12) Metropolitan strategy | Not applicable |

Wollondilly Local Environmental Plan 2011

| Clause 1.2 Aims of Plan | |
|---|---|
| Objective | Comment |
| (a) to provide for the management of natural resources and the protection of the natural landscape character, | No natural resources and or natural landscape character will be affected with this proposal. |
| (b) to protect, conserve and enhance the built, landscape and Aboriginal cultural heritage | No heritage items have been identified on this site or any surrounding sites. |
| (c) to protect water quality in land that is situated within water supply catchments, | The proposal is located within the Hawkesbury Nepean Catchment area. No concerns have been identified in relation to protection of water quality. |

| Clause 1.2 Aims of Plan | |
|---|---|
| (d) to encourage development that provides for an integrated transport and infrastructure system and adequate facilities and service provision for future growth, | This proposal will not affect any integrated transport and or infrastructure systems. |
| (e) to recognise, manage and protect rural resource lands for sustainable agriculture and extractive industry practices, | The proposal will not affect the protection of rural resource lands and or the extractive industry practices. |
| (f) to maintain the separation between towns and villages to retain their unique character and rural and natural settings. | This proposal is part of a rezoning of the land, this proposal will not increase the existing township. |
| Clause 1.9A Suspension of covenants, agreements and instruments | |
| For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose. | No Suspension of covenants, agreements and instruments are required. |

Characterisation: (please note this must come from the definition in the Wollondilly Local Environmental Plan):

Zone of land: Subdivision
R5 Large Lot Residential

Permissibility: This information must come from the land use table within the Wollondilly Local Environmental Plan:

Permitted with consent

Zone R5 objectives:

| Objective | Comment |
|--|--|
| R5 | |
| • To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality. | The proposal will allow further residential housing in the existing rural setting. |
| • To ensure that large residential allotments do not hinder the proper and orderly development of urban areas in the future. | The proposal will not hinder the ordinary development of urban areas. |

| | |
|--|---|
| <ul style="list-style-type: none"> To ensure that development in the area does not unreasonably increase the demand for public services or public facilities. | This proposal will not unreasonably increase the demand for public services or public facilities. |
| <ul style="list-style-type: none"> To minimise conflict between land uses within the zone and land uses within adjoining zones. | No conflicts have been identified on this site. |

LEP CLAUSES

| Clause | | Comment |
|---|--|--|
| Part 2 Permitted or prohibited development | | |
| 2.4 | Unzoned land | Land is zoned R5 Large Lot Residential |
| 2.5 | Additional permitted uses for particular land | Not applicable |
| 2.6 | Subdivision—consent requirements | The minimum lot size for this lot is 4000 square metres. The smallest lot size proposed is 4000 square metres, complies. |
| 2.7 | Demolition requires consent | Not applicable |
| 2.8 | Temporary use of land | Not applicable |
| Part 4 Principal development standards | | |
| 4.1 | Minimum subdivision lot size | Minimum lot size is 4000 square metres, complies. |
| 4.1A | Minimum lot size for dual occupancies in residential zones | Not applicable |
| 4.1B | Subdivision of certain land in Zone E4 Environmental Living | Not applicable |
| 4.2 | Rural subdivision | Not applicable |
| 4.2A | Erection of dwelling houses on land in certain residential, rural and environmental protection zones | Not applicable |
| 4.3 | Height of buildings | Not applicable |
| 4.4 | Floor space ratio | Not adopted |
| 4.5 | Calculation of floor space ratio and site area | Not adopted |
| 4.6 | Exceptions to development standards | Not applicable |
| Part 5 Miscellaneous provisions | | |
| 5.1 | Relevant acquisition authority | Not applicable |
| 5.1A | Development on land intended to be acquired for public purposes | Not applicable |
| 5.2 | Classification and reclassification of public land | Not applicable |
| 5.3 | Development near zone boundaries | Not applicable |

| Clause | | Comment |
|------------------------------------|---|---|
| 5.4 | Controls relating to miscellaneous permissible uses | Not applicable |
| 5.5 | Development within the coastal zone | NA |
| 5.6 | Architectural roof features | No buildings are proposed as part of this application. |
| 5.7 | Development below mean high water mark | NA |
| 5.8 | Conversion of fire alarms | Not applicable |
| 5.10 | Heritage conservation | Not located within a heritage conservation area. |
| 5.11 | Bush fire hazard reduction | NA |
| 5.12 | Infrastructure development and use of existing buildings of the Crown | Not applicable |
| 5.13 | Eco Tourist Facilities | NA |
| Part 6 Urban release areas | | |
| 6.1 | Arrangements for designated State public infrastructure | 18.12.17 Satisfactory arrangements have been received. |
| 6.2 | Public utility infrastructure | |
| 6.3 | Development control plan | |
| 6.4 | Relationship between Part and remainder of Plan | |
| Part 7 Additional local provisions | | |
| 7.1 | Essential services | Essential services in relation to telecommunications, water and electricity are existing on the site. Sewage shall be disposed of onsite via a wastewater disposal system. |
| 7.2 | Biodiversity protection | Biodiversity is identified on this site. This has been reviewed by the environmental department and no concerns have been raised. |
| 7.3 | Water protection | Water protection has been identified on the site however no works are proposed within the 40 metres of the creek, complies. The same creek is located in the south east corner of the property and is situated on 60 Thirlmere Way. |
| 7.4 | Flood planning | Not applicable |
| 7.5 | Earthworks | Not applicable |
| 7.6 | Development within a designated buffer area the land use table within the Wollondilly Local Environmental Plan. | Not applicable |

1.3.2 PROVISIONS OF RELEVANT DRAFT ENVIRONMENTAL PLANNING INSTRUMENT

Nil.

1.3.3 PROVISIONS OF RELEVANT DEVELOPMENT CONTROL PLANS

| DCP Volume | Relevance |
|--------------------------------|------------------|
| Volume 1 – General | X |
| Volume 3 – Subdivision of Land | X |

| Volume 1 – General | | |
|---|--|--|
| Relevant Provisions | | Comment |
| Part 1 - Preliminary | | |
| 1.2 Objectives of the Plan | | |
| 1 | To assist in the realisation of the aims of Wollondilly Local Environmental Plan, 2011. | The proposal will meet the aims of the Wollondilly Development Control Plan. |
| 2 | The specific controls and volumes of this plan each have objectives as detailed throughout this plan. | |
| 1.4 | <u>Application of the volumes of this plan</u> If there is an inconsistency between the volumes of this plan then the earlier volume shall prevail over the later volume. For example, if there is an inconsistency between Volumes 2 and 5, Volume 2 would prevail because it is found earlier in this plan. | |
| Part 2 - General considerations for all development | | |
| 2.1 Objectives | | |
| 1 | To ensure that developments are undertaken with due regard to human safety. | |
| 2 | To ensure that developments do not unreasonably impact on their surrounds. | |
| 3 | To ensure that developments achieve a satisfactory level of social equity. | |
| 2.2 Controls | | |
| 1 | The consent authority shall consider the following safety and human health risks in assessing a development application under this volume: | |
| a) | Road and traffic hazards; | No road or traffic hazards have been identified on this site. |
| b) | Bushfire threat; | The RFS have provided GTA's in relation to this proposal. |

| Volume 1 – General | | |
|---|--|--|
| Relevant Provisions | | Comment |
| c) | Flood risk; | The proposed site is not flood prone. |
| d) | Noise, vibration, pollution, odour, radiation or waste from surrounding land uses; | No issues have been identified from surrounding land uses. |
| e) | Exposure to electricity transmission systems; | Not applicable |
| f) | Exposure to radiation from telecommunications infrastructure; | Not applicable |
| g) | Potential exposure to children of material (including signage) from any nearby restricted premises and/or sex services premises; | Not applicable |
| h) | Hazards from vehicles within car parking areas; and | No issues have been identified from existing parking areas for the principal dwelling. |
| i) | Hazard from potential contamination of the land. | The land is not identified as having any contamination. |
| Part 3 - Variation | | |
| There may be situations where the strict application of the controls in this plan is inappropriate. In such cases Council may vary the controls in the plan. The controls in this part apply where a development application proposes to vary a control in this plan. | | |
| 3.1 Controls | | |
| 1. | In cases where a variation to a control in this plan is sought, the applicant (or person acting on behalf of the applicant) must include in the development application a written request for Council to consider a variation to that control. The written request to vary a control in this plan must: <ul style="list-style-type: none"> Identify the control being varied Outline the non-compliance with the relevant control Include reasons and justification for the non-compliance Outline why compliance with the control is unreasonable or unnecessary in the case of their development | No variations are required for this proposal. |
| 2. | Council must be satisfied that the variation meets at least one of the following principles before issuing consent for the development: | |

| Volume 1 – General | | |
|---|---|---|
| Relevant Provisions | | Comment |
| a) | The objectives of the standard are achieved notwithstanding non-compliance with the standard; | |
| b) | The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary; | |
| c) | The underlying object or purpose of the control would be defeated or thwarted if compliance was required and therefore compliance is unreasonable; | |
| d) | The development standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary or unreasonable; | |
| e) | The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. | |
| Part 4 – Community Engagement | | |
| The purpose of this part is to ensure that members of the public potentially affected by a proposed development have input into the assessment process before a final decision is made on a development application. It outlines Council’s notification and advertising procedure for development applications. | | |
| 4.2 Requirements for notification | | |
| | | This proposal has been notified in accordance with the requirements of the DCP2016. |
| Part 5 - Colonial Heritage | | |
| 5.1 Objectives | | |
| a) | To establish good design principles to guide development to and around heritage items, | |
| b) | To ensure development is sympathetic to the overall heritage values and characteristics of the area, | |
| c) | To identify local heritage character and heritage elements of the built environment, and | |
| d) | To ensure the retention and management of heritage values identified for each conservation area and specific precinct. | |
| 5.2 General Controls (refer to DCP for further details of controls) | | |

| Volume 1 – General | | |
|---|--|--|
| Relevant Provisions | | Comment |
| 1. | Development of heritage items and development on land within heritage conservation areas shall demonstrate consistency with the NSW Guidelines for Development in Conservation Areas ‘Design in Context’. In particular the impact of the following aspects of a development should be considered: | No heritage items have been identified on this site or any adjoining sites. |
| Part 6 – Heritage (Specific Locations) | | |
| 6.1 Objectives | | |
| a) | To provide specific guidance and controls for development of key conservation areas in Wollondilly. | |
| 6.2 Application (refer to DCP for further details of controls) | | |
| | These controls apply in addition to the controls contained in Part 6 of this volume. Where there is an inconsistency between Parts 5 and 6 of this volume Part 6 shall prevail to the extent of the inconsistency. | The proposal is not located within any heritage conservation areas. |
| 6.5 Heritage Conservation Area – Thirlmere (refer to DCP for further details of controls) | | |
| | | The proposal is not located within the Thirlmere heritage conservation area. |
| Part 7 – Aboriginal Heritage | | |
| 7.1 Objectives | | |
| a) | To achieve appropriate means of conservation, management and protection for archaeological sites, Aboriginal objects and Aboriginal places of heritage significance. | |
| b) | To achieve compliance with the requirements of the National Parks and Wildlife Act, 1974 and associated Regulations and guidelines with respect to Aboriginal objects and Aboriginal places of heritage significance. | |
| c) | To consider and manage Aboriginal objects and Aboriginal places of heritage significance at the earliest practical stages in the land development process. | |
| 7.2 Controls | | |
| 1. | There is impact or disturbance to the content, or within the immediate vicinity (100 metres) of a known Aboriginal object or Aboriginal place of heritage significance; | No aboriginal heritage have been identified on this site. All heritage was reviewed as part of the rezoning of this area as was satisfied as part of the rezoning. |
| 2. | There is impact or disturbance to, or within the immediate vicinity (100 metres) of a previously recorded or known Aboriginal object or Aboriginal place of heritage | |

| Volume 1 – General | | |
|--------------------|---|---------|
| | Relevant Provisions | Comment |
| | significance and can include a cultural landscape, an existing or former ceremonial ground, a burial ground or cemetery, a story place or mythological site, a former Aboriginal reserve or historic encampment, or an archaeological site of high significance; | |
| 3. | <p>A proposal (including subdivision) which affects primarily undeveloped land (irrespective of land size) and has the following site features:</p> <ul style="list-style-type: none"> ▪ river frontage ▪ creek line ▪ sandstone exposures at ground level larger than 5m² ▪ sandstone cliff line or isolated boulder higher than 2m ▪ disturbance to the roots, trunk, branches, of old growth trees, which are native to the Wollondilly Shire and greater than 150 years of age. | |
| 4. | Ensure that all works cease in the vicinity of any previously unidentified Aboriginal objects or places identified during excavation and construction and that the following be notified | |
| a) | The Office of Environment and Heritage NSW (OEH) | |
| b) | A qualified archaeologist | |
| c) | Aboriginal stakeholders. | |
| 5. | Ensure that should human skeletal remains be discovered that the following process will be undertaken: | |
| a) | The remains will be reported to the police and the state coroner. | |
| b) | Wollondilly Shire Council and the land owner will be notified of the find. | |
| c) | Aboriginal stakeholders will be notified of the find. | |
| d) | OEH NSW will be notified. | |
| 6. | If the skeletal remains are of Aboriginal ancestral origin an appropriate management strategy will be developed in consultation with the Aboriginal stakeholders. | |

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| Relevant Provisions | | Comment |
| 7. | The find will be recorded in accordance with the National Parks and Wildlife Act 1974 (NSW) and the NSW NPWS Aboriginal Cultural Heritage Standards and Guidelines Kit. | |
| 8. | The findings will be incorporated into any proposed Aboriginal Heritage Plan’s management regime. | |
| Part 8 – Flooding | | |
| 8.1 Objectives | | |
| | To reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone property, and to reduce private and public losses resulting from floods, utilising ecologically positive methods wherever possible. | |
| 8.2 Controls (refer to DCP for further details of controls) | | |
| | There are a number of areas in Wollondilly Shire which are subject to inundation by flooding or overland stormwater flows. If Council has any doubts as to whether an area is flood prone or subject to stormwater inundation it will require a report as to the extent of flooding from a suitably qualified Engineer or Surveyor. Controls for flood affected land are identified in Table C and applied based on the combination of land use category (refer to Table A) and flood risk precinct for the site (refer table B or further information may be available from Council via an application for flood information). Table C and the associated Key provides development controls which apply to flood affected land including overland flow flooding unless a Current Floodplain Risk Management Plan provides site specific controls. | Site is not flood prone. |
| Part 9 – Environmental protection | | |
| 9.1 Objectives | | |
| 1. | To improve and maintain environmental outcomes for the areas mapped as natural resources biodiversity and natural resources water under Wollondilly Local Environmental Plan, 2011. | |
| 2. | To improve and maintain environmental outcomes for unmapped areas of biodiversity and/or riparian value. | |

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| Relevant Provisions | | Comment |
| 3. | To maintain links between identified environmentally sensitive land and provide habitat and riparian corridors and appropriate buffer zones to these areas. | |
| 9.2 Interpretation (refer to DCP for further details) | | |
| 9.3 Controls | | |
| 1. | Development carried out on areas mapped as 'sensitive land' on the Natural Resources – Biodiversity Map and the Natural Resources Water Map under Wollondilly Local Environmental Plan, 2011 shall occur so as to either avoid, minimise or mitigate any adverse impact as detailed in Clause 7.2 and 7.3 of Wollondilly Local Environmental Plan 2011. | The site has been considered by the environmental department as the proposal contains Natural Resources Water map and natural resources biodiversity. No issues, concerns or conditions have been identified by the Environmental department. |
| 2. | If a development is not able to avoid, minimise or mitigate an adverse impact on sensitive land mapped on the Natural Resources Biodiversity Map, the vegetation shall not be cleared or otherwise disturbed unless the impacts are offset through biobanking or a similar conservation arrangement. | |
| 3. | The consent authority shall not grant consent to any development that would result in the clearing or other disturbance of an environmental asset unless it is satisfied that any adverse impacts will be offset through bio banking or a similar environmental conservation arrangement. | |
| 4. | Any development application on a site that includes sensitive land mapped on the Natural Resources – Water map under Wollondilly Local Environmental Plan, 2011 with a riparian buffer distance, must include an accurate survey of riparian buffer distances to determine the exact location of the buffer which is to be measured from the top of bank of each side of the watercourse. It should be noted that the LEP maps are indicative and based on watercourse centre lines. These maps do not identify the location of | |

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| | Relevant Provisions | Comment |
| | the top of banks of watercourses as it is not the intent of the map to show this and the position of watercourse centre lines shown is only approximate. The map seeks to identify what buffer distance is to be applied to each watercourse and not the extent of that buffer on the ground. | |
| 5. | All stormwater generated from any development shall be treated to an acceptable standard to maintain water quality. In determining the “acceptable standard” the consent authority shall be mindful of the relevant guidelines of the State and Federal Governments. This treatment must be undertaken outside any areas mapped as sensitive land in the Natural Resources – Water map under Wollondilly Local Environmental Plan, 2011. | |
| 6. | Nothing in this section prevents minor works on environmental land for the purposes of providing infrastructure. | |
| 7. | Where a development is proposed on sites which do not contain areas mapped on the Natural Resources Water or Natural Resources Biodiversity maps and contain native vegetation, the development shall be located in accordance with the following (in order of preference): | |
| i) | on cleared parts of the site wherever possible; or | |
| ii) | in locations where the least amount of vegetation removal would be required (e.g. close to roads) if the development is not able to be located wholly in a cleared area; or | |
| iii) | If the development is not able to be located wholly in a cleared area, then the development should be located on parts of the site in which the vegetation is determined as being of the least significance and recovery potential. | |

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| Relevant Provisions | | Comment |
| | This includes consideration of vegetation removal for any main buildings, ancillary buildings, asset protection zones, effluent disposal areas and access driveways that may be required for the development. | |
| 8. | In cases where native vegetation removal is required a flora and fauna report from an appropriately qualified ecologist may be required to satisfy compliance with any of the controls listed above. | |
| Note: Compliance with the above controls does not guarantee that consent would be granted for the development; the requirements of the Threatened Species Act, 1995, Native Vegetation Act, 2003 and the Environmental Protection and Biodiversity Conservation Act, 1999 would need to be satisfied if approval is required under those acts of legislation. | | |
| Part 10 – Tree Removal | | |
| 10.1 Objectives | | |
| 1. | Identify trees and other native vegetation for the purpose of clause 5.9(3) of Wollondilly Local Environmental Plan 2011 which states the following: “(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by: (a) development consent; or (b) a permit granted by the Council” | |
| 2. | Identify trees and other native vegetation that: ▪ may be removed without a permit or development consent ▪ may be removed with a permit may be removed only with development consent | |
| 10.2 Interpretation (refer to DCP for further details of controls) | | |
| | | |
| 10.3 Trees/other native vegetation that may be removed without consent and without a permit (i.e. exempt) (refer to DCP for further details of controls) | | |
| | | No trees are proposed to be removed as part of this proposal. |
| 10.4 Trees/other native vegetation that may be removed without development consent but require a permit (refer to DCP for further details of controls) | | |

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| Relevant Provisions | | Comment |
| | | No trees are proposed to be removed as part of this proposal. |
| 10.5 Trees/other native vegetation that may be removed only with development consent (refer to DCP for further details of controls) | | |
| | | No trees are proposed to be removed as part of this proposal. |
| Part 11 – Landscaping | | |
| 11.1 Objectives | | |
| 1. | To encourage the planting of endemic species in landscaping. | |
| 2. | To reduce the impact of landscaping on the environment, infrastructure and human safety. | |
| 3. | To create a landscape character that is defined by native vegetation and not introduced species. | |
| 11.2 Recommended Species (refer to DCP for further details of controls) | | |
| | | No landscaping is required for this proposal. |
| 11.3 Banned Species | | |
| | The following species are not to be used in landscaping within Wollondilly: <ul style="list-style-type: none">▪ Conifers,▪ Species specified in Clause 10.3(1)(a) of this volume,▪ Species identified as Noxious Weeds under the Noxious Weeds Act,▪ Species identified as a weed under any adopted policy of Council. | Noted, however no landscaping is part of this proposal. |
| 11.4 Street Trees | | |
| | Street tree planting must comply with the Council's Tree Risk Management Plan. | No additional streets are to form part of this proposal and therefore no trees are required as part of the DCP2016. |
| Part 12 – Signage | | |
| 12.1 Objectives | | |
| 1. | To provide controls for the implementation of the Advertising structures in commercial or industrial zones section of Schedule 2 of Wollondilly Local Environmental Plan, 2011. | |
| 2. | To ensure signage that is exempt development does not have adverse impacts on traffic safety and pedestrian amenity. | |
| 3. | To ensure signage that is carried out as exempt development does not significantly detract from the amenity of the commercial and industrial built environments. | |
| 12.2 Signage as exempt development | | |
| 1. | To be an exempt advertising structures under Schedule 2 of | No signage is proposed as part of this proposal. |

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| | Relevant Provisions | Comment |
| | Wollondilly Local Environmental Plan, 2011, the structure must: | |
| a) | Not be located within a road reserve; and | |
| b) | Be a fixed sign; and | |
| c) | In the case of a sign attached to a building have no part of the sign higher than the part of the building on which it is attached; and | |
| d) | Not be located within 100m of a heritage item or a heritage conservation area | |
| e) | No be located within 100m of a classified road; and | |
| f) | Be designed and installed in accordance with the requirements of a professional engineer; and | |
| g) | Not be used for the promotion or advertising of any product or business other than a business operation from the site on which the structure is located; and | |
| h) | Not be used for the promotion or advertising of any sex services premises, brothel or restricted premises; and | |
| i) | Must not be illuminated; and | |
| j) | Be the one and only advertising structure on the lot constructed as exempt development under this schedule. | |

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| | Relevant Provisions | Comment |
| Part 2 – General Requirements for all Development | | |
| 2.1 Traffic and Transport | | |
| Objectives | | |
| 1. | To ensure that new allotments created by the subdivision of land are provided with adequate public roads. | |
| 2. | To ensure that the subdivision of land is only undertaken in locations where the road network is able to provide, or be made capable of providing adequate servicing. | |
| 3. | To ensure new roads are safe and efficient. | |
| 4. | To ensure access points for rural subdivisions are located at safe locations within the road network. | |

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| | Relevant Provisions | Comment |
| 5. | To ensure pedestrian and cycle paths are provided where required to maximise the uptake of healthy and sustainable transport options. | |
| 6. | To ensure splay corners are dedicated at intersections so that intersections can be maintained to maximise sight distances and to maximise flexibility to upgrade intersections in the long term. | |
| Controls | | |
| 1. | All new public roads must comply with Council's design specifications including kerb and guttering, drainage pedestrian paths and street lighting. | No new public road is proposed. |
| 2. | All access handles must comply with the following minimum widths: (refer to the DCP for further details) | A single access handle has been proposed which is 10.087 metres wide, complies. |
| 3. | In the case of an access handle servicing one allotment the access handle must wholly be part of the allotment it is servicing. | Complies |
| 4. | In the case of an access handle servicing more than one allotment the access handle must be part of each of the allotments it is servicing with reciprocal rights of carriageway provided. | Not applicable |
| 5. | Road infrastructure enhancement shall be provided to existing roads in accordance with the following table unless the improvements are already present: (see DCP for further details) | No kerb and or guttering is required for this proposal. |
| 6. | All intersections and new vehicular access points to public and/or private roads must have the relevant safe intersection sight distance for the relevant speed environment. | Not applicable |
| 7. | New street lighting must use only LED type lights. | Noted |
| 8. | Access handles servicing more than 1 allotment in a rural, residential or environmental zone must be provided with a streetlight within a reasonable proximity (to be determined by Council and imposed as a condition of development consent) to the point where the access handle connects to the public road. Where existing street lighting in the vicinity of the site is deemed to be adequate by Council this condition does not apply. | Not applicable |
| 9. | Splay corners shall be provided for newly created corner lots with the following sizes: (see DCP for further details) | Not applicable |
| 2.2 Wastewater | | |

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| | Relevant Provisions | Comment |
| Objectives | | |
| 1. | To ensure wastewater generated by development can be managed without harm to the natural environment or human health. | |
| 2. | To encourage sustainability in wastewater disposal by preventing the use of pump out systems which require significant energy inputs for the transport of waste. | |
| 3. | To ensure development within the Sydney Drinking Water Catchment has a neutral or beneficial effect on water quality. | |
| Controls | | |
| 1. | All lots created must have access to one or more of the following: | <p>The lot has no connection to sewage, however all lots have the correct size and characteristics to install AWTS.</p> <p>The proposal has been reviewed by the Health Officer and all waste water systems shall be assessed under separate applications for dwellings, no conditions are required as part of this.</p> |
| a) | A reticulated sewage scheme operated by the relevant statutory sewage authority; or | |
| b) | A private reticulated sewage scheme operated by person licensed under relevant legislation; or | |
| c) | Sufficient land with the correct physical and chemical characteristics to allow for the wastewater to be treated and disposed of within the boundaries of the lot. | |
| 2. | A “pump out” system is not a satisfactory method of wastewater disposal for the purposes of Control 1. | |
| 3. | Any subdivision that is carried out on unsewered land (i.e. carried out under control 1(c) above) must meet the requirements of Council’s “On-site Sewage Management System and Grey Water re-use Policy”. | |
| 2.3 Stormwater | | |
| Objectives | | |
| 1. | To ensure stormwater is appropriately managed to prevent environmental harm and to reduce the risk of damage to property and human life. | |
| 2. | To ensure stormwater is appropriately managed to minimise long term flooding impacts on and from developments. | |
| 3. | To ensure that development within the Sydney drinking water catchment has a neutral or beneficial effect on water quality. | |
| Controls | | |
| 1. | Development involving the subdivision of land must demonstrate that stormwater management arrangements will allow for drainage to be directed to either a natural water body or a constructed stormwater management system without causing significant environmental harm or risks to human health and safety. | All stormwater shall be managed in accordance with the DCP2016, this has been reviewed by the Engineers and complies. |

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| | Relevant Provisions | Comment |
| 2. | Medium and Large subdivisions must include provision of integrated stormwater management systems to achieve Water Sensitive Urban Design outcomes. These shall be detailed in an assessment report (a Water Cycle Management Study or Similar) to be submitted with the development application which must include modelling of both water quantity and quality and must also include a short and long term maintenance management plan. | |
| 2.4 Lot Size and Shape | | |
| Objectives | | |
| 1. | To ensure regular and practical allotments that will encourage the orderly and economic use of land. | |
| Controls | | |
| 1. | Lots (other than lots in residential zones) shall have the following minimum dimensions: (See the DCP for further details) | Not applicable |
| 2. | Lots in residential zones shall have the following minimum dimensions: (See the DCP for further details) | The proposed lots meet all minimum lot size requirements of the area. |
| 3. | These controls do not apply to subdivision that places each dwelling on its own allotment in the following cases: a. The subdivision of a dual occupancy or medium density development that is existing and lawful; or b. The subdivision of a proposed dual occupancy or medium density development that complies with all other relevant controls in Wollondilly Development Control Plan, 2015. | Not applicable |
| 4. | These controls do not apply to land to be dedicated to Council for roads, environmental reserves or for public open space. | Not applicable |
| 5. | Lots that are irregularly shaped because of their location in the road network and/or because of constraints of the site may proceed in spite of a non-compliance with controls 1 and 2 if the consent authority is satisfied that the lots, when developed, will be capable of supporting: | Not applicable |
| i) | a dwelling with a footprint of at least 150m ² ; and | Not applicable |

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| | Relevant Provisions | Comment |
| ii) | Any required asset protection zone wholly within the proposed lot boundaries | Not applicable |
| iii) | If the subdivision occurs on unsewered land that the site can adequately accommodate any effluent disposal area that is required; and the resulting character of that development would be consistent with the character of the area. | Not applicable |
| | Council may require the submission of specialist studies to justify development carried out under this control. | Not applicable |
| 6. | For the purposes of calculating minimum lot size for land within an R1, R2 or R3 zone, the area of the battle-axe handle is not included in the calculation of the area of a lot which it services. This is shown in the diagram below: (see DCP for further details) | Not applicable |
| 7. | Proposed lots which face onto a cul-de-sac head shall achieve a minimum “chord” width of 10 metres. The area considered to be the chord of the cul-de-sac is demonstrated in the diagram below. (see DCP for further details) The width of any lot at the front building line shall be in accordance with the table above in control 2. | Not applicable |
| 2.5 Landscape and Character | | |
| Objectives | | |
| 1. | To ensure subdivisions are designed in a way that maintains or enhances the landscape character of the surrounding area. | |
| Controls | | |
| 1. | The subdivision of land in environmental and rural zones must demonstrate, to the satisfaction of the consent authority that the location of all building envelopes and access driveways will not result in degradation of the landscape character of the surrounding area. | The proposal will meet the landscape character of the area. |
| 2. | The subdivision of land in residential zones must ensure that there are no two access handles along the same property boundary. | |
| 3. | Access handles to lots in residential zones (excluding R5 Large Lot Residential zones) must be provided with landscaping between the edge of the driveway pavement and the property boundary. The minimum width of such landscaping shall be 1m at all points. Formal landscaping is not required for those parts of access handles where driveways | |

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| | Relevant Provisions | Comment |
| | connect the access handle to vehicle parking or manoeuvring areas. | |
| 4. | Landscaping required by control 2.5(3) shall be provided with: | |
| a) | An automatic watering system; and | |
| b) | A mix of ground covers and shrubs that are appropriate for the width of the handle; and | |
| c) | A mulched or rocked garden bed with permanent edging. | |
| 5. | Landscaping for access handles shall not obscure the buildings at the rear of the handle. | |
| 6. | The subdivision of land that proposes the opening of a new public road must include embellishment of the new road verges in accordance with Council's Street Tree Risk Plan. | |
| 2.6 Corner Allotments | | |
| Objectives | | |
| 1. | To plan corner allotments at the subdivision stage to ensure safe vehicular access and maximum amenity for the streetscape. | |
| Controls | | |
| 1. | Corner allotments in residential zones shall be provided with a building envelope to identify the primary and secondary setbacks. | Not applicable |
| 2. | Corner allotments in residential zones shall nominate a vehicular access point to allow the safety of the access point to be assessed with reference to any nearby intersection. | |
| 3. | These controls do not apply to proposed corner allotments on which a dwelling is already constructed. | |
| 2.7 Building Envelopes | | |
| Objectives | | |
| 1. | To identify the constraints on rural and environmental land at the subdivision stage. | |
| 2. | To ensure integrated housing lots are provided with adequate covenants for a future zero lot line. | |
| Controls | | |
| 1. | Each lot created by subdivision of land within rural and environmental zones shall be provided within a building envelope that includes all developable land and excludes the following land: | Building envelopes have been provided on all lots proposed to be created that do not have an existing dwelling, complies. |
| a) | Land that is moderate or higher risk of geotechnical instability; and | |

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| | Relevant Provisions | Comment |
| b) | Land that is within a setback identified in Volume 4 of this DCP; and | |
| c) | Land that is within 40 metres of the top of bank of a watercourse; and | |
| d) | Land that contains significant native vegetation; and | |
| e) | Land that has been identified as being subject to the 1% AEP flood extent; and | |
| f) | Land that is required for an asset protection zone under a Bushfire Safety Authority; and | |
| g) | Land that is subject to a transmission line or other utility service easement; and | |
| h) | Land that is visually prominent or located upon a ridgeline and upon which the construction of a dwelling would degrade the landscape character of the area. | |
| 2. | Town Centre Residential Lots and residential small lots may be created where a building envelope allows for one boundary as a zero lot line boundary. If such a boundary is to be created then satisfactory easements must be provided on the adjoining lot for eave overhang, drainage, maintenance and any other relevant matter. The subject easement must be registered as a restriction on the title of the burdened lot prior to the issue of any Subdivision Certificate for the land. | |
| 2.8 Environmental Protection | | |
| Objectives | | |
| 1. | To ensure significant native vegetation and other environmental assets are not lost in the provision of asset protection zones. | |
| Controls | | |
| 1. | The subdivision of land that comprises significant stands of native vegetation must provide for asset protection zones for all future development outside of that vegetation. The allotment size and layout must facilitate this provision. | No issues have been identified in relation to environmental protection. As discussed previously, the proposal has been reviewed by the Environmental department. |
| 2. | The layout of any proposed subdivision must be designed to limit or avoid any adverse impacts on watercourses and vegetation and prevent future development occurring on steep and constrained lands. | |
| 2.9 Non-Residential Development | | |
| Objectives | | |
| 1. | To ensure that the subdivision of land is carried out with due regard to other forms of existing non-residential development in the locality. | |
| Controls | | |

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| | Relevant Provisions | Comment |
| 1. | When the subdivision of land is proposed in an area where an existing nearby non-residential use may impact on future residents, the consent authority must be satisfied that the new development would not restrict the ability of the existing development to meet amenity requirements in relation to issues such as noise, odour and the like in accordance with the principles established in the case of Inghams Enterprises vs Kira Holdings. | No issues have been identified with the location of this proposal to non-residential land. |
| 2.10 Agricultural Subdivision | | |
| Objectives | | |
| 1. | To ensure agricultural land is not fragmented and degraded by inappropriate subdivision. | |
| Controls | | |
| 1. | These controls relate to the subdivision of land carried out under Clause 4.2 of Wollondilly Local Environmental Plan, 2011. | Not applicable |
| 2. | Any development application for the subdivision of land under this clause must include a Total Farm Management Assessment which identifies the following: | |
| i) | Details of the most suitable agricultural uses for the site taking into account soil type, agricultural land classification, slope, pasture/grass type, drainage characteristics of the site, microclimate and proximity to dwellings on adjoining lands; and | |
| ii) | The agricultural use to be undertaken on each proposed lot; and | |
| iii) | The nomination of an agricultural envelope within each lot which demonstrates that sufficient land is available for the nominated agricultural use for that lot. The agricultural envelope shall exclude areas of the site required for boundary setbacks, services (including on-site wastewater disposal), drainage and other infrastructure and the like; and | |
| iv) | Provide evidence that the lots are large enough to prevent the onset of rural land use conflict by way of odour, spray drift etc from the proposed agricultural use; and | |
| v) | Indicate the source of water supply for the use; and | |

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| | Relevant Provisions | Comment |
| vi) | Provide an Economic Feasibility Assessment of the intended agricultural uses on each of the lots. | |
| vii) | That the use of the land, including storage of equipment, will be satisfactory from a security perspective if the lots do not have a dwelling to provide supervision. | |
| 3. | A restriction shall be placed on the title of each lot created under clause 4.2 of Wollondilly Local Environmental Plan stating that the lot shall only be used for the purposes identified in the Total Farm Management Assessment endorsed by Council and that the lot(s) shall no dwelling shall be erected on the lot burdened. | |

| PART 3 – Controls for Specific Locations | | |
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| 3.8 Land Between Picton, Tahmoor and Thirlmere (commonly known as PTTAG) | | |
| Objectives | | |
| 1. | To ensure future subdivision of the land has regard to the capacity of downstream stormwater infrastructure. | |
| 2. | To ensure aboriginal heritage is appropriately considered in the assessment of subdivisions in the PTTAG precinct. | |
| Controls | | |
| 1. | Prior to the grant of consent for any subdivision of land to which this clause applies must demonstrate that all downstream stormwater infrastructure, including culverts, are adequate for post development flows or can and will be upgraded to accommodate such flows. | Council has received satisfactory arrangements in relation to the proposal, complies. |

1.3.4 DRAFT AND/OR PLANNING AGREEMENTS ENTERED OR OFFERED TO ENTER INTO

No draft planning agreements have been entered into with Council as part of this proposal.

1.4 IMPACT OF THE DEVELOPMENT

The proposal is considered to have minimal impact on the surrounding area and meet the desired density of the zone.

1.5 SUITABILITY OF THE SITE

The proposed site is considered to be suitable for the proposal with Satisfactory Arrangements with the State government for the installation of services in the locality.

1.6 SUBMISSIONS

No Submissions have been received in relation to this proposal.

1.7 THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

FINANCIAL IMPLICATIONS

The developer contributions payable are based on contribution rates for the March 2018 quarter:

| | |
|---|--------------------|
| (i) Open Space, Sport & Recreation (Shire) | \$816.00 |
| (ii) Open Space, Sport & Recreation (Precinct) | \$33,372.00 |
| (iii) Library & Community Facilities (Shire) | \$3,852.00 |
| (iv) Library & Community Facilities (Precinct) | \$4,971.00 |
| (v) Transport & Traffic (Roads & Intersections) | \$13,833.00 |
| (vi) Transport & Traffic (Cycleways) | \$201.00 |
| (vii) Bushfire Protection | \$96.00 |
| (viii) Plan Administration | \$2,859.00 |
| TOTAL | \$60,000.00 |

These figures are indexed quarterly in accordance with the provisions of the Contributions Plan and an updated figure must be obtained from Council at the time of payment.

ATTACHMENTS INCLUDED IN SEPARATE BOOKLET

1. Subsidence Advisory Approval
2. Rural Fire Service - General Terms of Approval
3. Department of Planning Satisfactory Arrangements
4. Site Plan, proposed subdivision plan.

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| RECOMMENDATION |
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That Development Application No. 010.2015.00000823.001 for a four lot subdivision of land at Lot 172 in DP 751270, No 195 Thirlmere Way, THIRLMERE be approved subject to the following conditions:

1. COMPLIANCE

These conditions are imposed to ensure that the development is carried out in accordance with statutory requirements, the conditions of consent and the approved plans to Council's satisfaction.

- (1) Development Consent is granted for four (4) lot subdivision at Lot: 172 DP: 751270, No. 195 Thirlmere Way THIRLMERE
- (2) Development shall take place in accordance with the submitted plans below, submitted in respect of Development Application No. 010.2015.00000823.001, except where varied by the following conditions:

| Plan Name | Drawn By | Drawing No | Date Submitted |
|---------------------|-----------------|------------|----------------|
| Proposed Allotments | Rein Warry & Co | 7343DA | 03.11.15 |

- (3) Where any work associated with this consent has the potential to disturb neighbours through the generation of noise, dust, odour, vibration or through deliveries to the site the person with control over the works shall advise the occupants of all adjoining and potentially affected properties of the timing and duration of such works. The land owner has the ultimate responsibility for ensuring that anybody undertaking works under this development consent on their behalf is aware of this requirement and completes the task required by this condition.

2. INTEGRATED DEVELOPMENT

These conditions have been imposed to ensure that the development is carried out in accordance with the requirements of other Approval Authorities:

- (1) The conditions of the attached General terms of Approval/Bushfire Safety Authority issued by the NSW Rural Fire Service are included as conditions of this consent.
- (2) The attached General Terms of Approval issued by the Mine Subsidence Board are included as conditions of this Consent.

3. CONSTRUCTION GENERAL

These conditions have been imposed to ensure that all construction work is undertaken to an approved standard and related approvals.

- (1) All construction and building work shall be restricted to between 7:00am and 6:00pm Mondays to Fridays (inclusive), 8.00am and 1.00pm Saturdays and prohibited on Sundays and Public Holidays unless written approval to vary the hours of work is granted by Council.
- (2) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. These facilities are to be provided prior to the commencement of any works and:
- (a) Must be a standard flushing toilet; and
- (b) Must be connected:
- (i) to a public sewer, or
- (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

Reports to the Local Planning Panel meeting held in the Council Chamber, 62-64 Menangle Street, Picton, on Thursday 31 May 2018

In this condition:

Accredited sewage management facility means a sewage management facility to which Division 4 of Part 2 of the Local Government (General) Regulation 2005 applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 41 of the Regulation.

Approved by the Council means the subject of an approval in force under Division 4 of Part 2 of the Local Government (General) Regulation 2005.

Sewage Management Facility has the same meaning as it has in the Local Government (General) Regulation 2005.

- (3) Any damage to the Council footway, road or other land shall be restored in accordance with Council's specifications prior to the issue of any Subdivision Certificate for the development.
- (4) An appropriate fence preventing public access to the site shall be erected for the duration of construction works.
- (5) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed. This receptacle must have a tight fitting lid and be suitable for the reception of food scraps, papers, etc.
- (6) A demolition/construction waste storage area (bins or bays) must be provided. This area shall separate demolition/construction waste into categories such as hard waste (e.g. bricks, concrete, tiles), soft waste (e.g. timber, gyprock, metal, glass) and light waste (e.g. paper, plastic, pods). The light waste storage area must be enclosed so as to prevent the material from escaping the enclosure.
- (7) Dust shall be controlled so that it will not leave the construction site.

4. ENGINEERING & CONSTRUCTION SPECIFICATIONS

These conditions have been imposed to ensure that developments within the Shire are of a standard which is both safe and acceptable to Council and members of the public.

- (1) All works are to be designed and carried out in accordance with Wollondilly Shire Council's adopted Design and Construction Specification.

- (2) Engineering design plans for road shoulder widening, access, storm water drainage and Shared pathway/Cycleway shall be submitted to Council or nominated accredited certifier for approval. The plans must be approved prior to the issue of a Construction Certificate for any civil works associated with this development. All levels are to be reduced to Australian Height Datum. Road design parameters shall comply with the requirements of Council's Design Specifications.
- (3) Where Council's Construction Specification require that density tests, beam tests or CBR tests be undertaken, the results shall be forwarded to Council or the nominated Accredited Certifier within 7 days. A NATA registered laboratory shall carry out the tests. When testing for density, the Standard Compaction testing method is to be used.

Failure to submit test results may result in Council refusing to issue completion certificates and hence may result in additional works being required.

- (4) A defects liability period of twelve (12) months will apply from the date of issue of the Certificate of Practical Completion by Council and for Public Roads the twelve (12) months is dated from the date of registration of the road as Public Road. A 10% maintenance bond, or a minimum of \$1,000, whichever is greater, is to be lodged in accordance with Council's Construction Specification for all work that is to become the property of Council.
- (5) A certified "Works as Executed" plan from a Chartered Professional Engineer or Registered Surveyor is to be submitted electronically for all road stormwater lines to the Principal Certifying Authority before the final inspection for the Certificate of Practical Completion. The "Works as Executed" details shall be shown on the approved plans and must certify that the works have been constructed in accordance with the approved drawings and to the levels specified.
- (6) A "Soil and Water Management Plan" (SWMP) that outlines the measures that will be taken to limit and contain sediment laden runoff during construction shall be submitted to Council. The measures shall be in accordance with Council's Construction Specification and the Department of Housing's "Blue Book". The plan is to be approved by Council or the Accredited Certifier with the Engineering Plans.
- (7) A "Traffic Management Plan" that details suitable safety measures that will be implemented whenever work is being undertaken in the public road reserve shall be submitted to Council or a nominated Accredited Certifier. The safety precautions are to be in accordance with the requirements of the "Traffic Control at Work Sites" manual (as published by the RMS). The plan is to be prepared and endorsed by a person with current NSW Roads and Maritime Services (RMS) certification and provided to Council or a nominated Accredited Certifier before the issue of a Construction Certificate for development.

5. DRAINAGE/STORMWATER

These conditions have been imposed to ensure drainage/stormwater is appropriately managed.

- (1) Stormwater runoff from and through the property is to be appropriately managed so as to control nuisance, damage and hazard during storm events.
- (2) Stormwater runoff from all impervious surfaces on the property shall be collected and conveyed to a point suitable for integration with either the natural or constructed stormwater drainage system. A piped drainage system shall be provided to convey runoff from storms up to the 5% AEP. Defined overland flow paths shall be provided to safely convey runoff from storm events up to the 1% AEP.
- (3) An interallotment drainage system shall be provided for those lots not able to discharge stormwater by gravity flow to the road gutter or suitable Council drainage system. This system shall be located within a drainage easement not less than 1.5 metres wide which confers appropriate drainage rights.
- (4) Stormwater management measures in accordance with Council's Design Specification shall be provided to ensure adequate control of water quality and water quantity from the site.

Stormwater control measures shall ensure that post development flow rates from the site are not more than pre development site discharge at each discharge point for all rainfall events up to 1 in 100 year ARI. The measures shall also consider cumulative impacts on critical points downstream. Treatment types could include vegetated swales, infiltration trenches and rain water tanks.

6. CARPARKING/LOADING/ACCESS

These conditions have been imposed to:

- (a) **Ensure that adequate provision is made for off street parking, appropriate to the volume and turnover of traffic generated by the development.**
 - (b) **Ensure that adequate manoeuvring space is provided for parking areas, loading bays and entry facilities.**
- (1) A concrete, asphaltic concrete or 2 coats sealed driveway shall be provided within the access handle that will facilitate vehicular access from Brundah Road to the proposed lot 1721. The carriageway shall be constructed and sealed 3.0 metres wide. A detailed design of the driveway including associated drainage shall be shown on the engineering plans for approval by the Council or the Nominated Accredited Certifier.

7. PUBLIC ROADS

These conditions have been imposed to ensure all public works required by the development are provided to an adequate standard.

- (1) In accordance with Section 138 of the Roads Act, a 138 Consent Certificate must be obtained from Council's Infrastructure Planning Section a minimum 7 days prior to commencement of work within the site or public road. A fee is payable for issue of this Consent Certificate.
- (2) The applicant shall provide a 2.0 metre wide sealed road shoulder with concrete edge strips for the full frontage in Thirlmere Way including swale drains. Details shall be included on the engineering plans for approval by the Council or the Nominated Accredited Certifier.
- (3) The person having the benefit of this consent shall undertake all reasonable efforts to protect the public road pavement from damage during the course of construction work. Restoration of any damaged road or footway shall be at the applicant's expense.
- (4) Provision of Vehicular Access to the proposed lots 1721, 1722, 1723 1724 through the concrete dish crossings from the bitumen edge in Thirlmere Way to the boundary in accordance with Council's Design & Construction Specifications. The crossings shall suit the swale shape. Also, the existing obsolete gravel access for lot 1721 shall be removed and revegetated.

Note: Any adjustment to services shall be at the expense of the applicant. Prior to the construction of the crossing, approval shall be obtained from Council's Infrastructure Planning Section.

- (5) Access gates to individual Lots must be set back no less than 5 metres inside the front boundary. A restriction to this effect shall be placed on the Title of each Lot.
- (6) The person having the benefit of this consent shall construct 2.0 wide shared pathway/Cycleway along the full frontage of the proposed development as per Council's Design Specification. Details shall be included on the engineering plans for approval by the Council or the Nominated Accredited Certifier.
- (7) Street lighting shall be provided at the frontage of the site in Thirlmere Way as determined with a Design Brief, using LED Lighting from an Endeavour Energy approved design consultant.

8. EROSION AND SEDIMENT CONTROL

These conditions have been imposed to minimise the impact of the development on the environment and on adjoining properties.

- (1) Erosion and sediment control devices are to be installed prior to any construction activity on the site. These devices are to be maintained for the full period of construction and beyond this period where necessary.
- (2) Vehicle access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site has been affected by wet weather.
- (3) Topsoil stripped from the construction site is to be stockpiled and protected from erosion until re-used during landscaping.
- (4) All disturbed areas are to be stabilised by turfing, mulching, paving or otherwise suitably stabilised within 30 days of completion.
- (5) Kikuyu will not be permitted to be used for turfing of any disturbed area.

9. EARTH FILL

These conditions have been imposed to ensure the safe disposal of fill.

- (1) All filling on the site, including footpath areas, shall be compacted to not less than 95% Standard Compaction.
- (2) A Cut/Fill plan shall be prepared and supplied with the Engineering design plans, showing the exact extent and depth of cut and filling on each lot prior to the issue of the Construction Certificate.
- (3) Only fill characterised as VENM or ENM under the guidelines of the NSW Environmental Protection Authority may be used in this development. Copies of validation reports for all fill used shall be retained and presented to Council on request.
- (4) There shall be no encroachment onto adjoining lands by fill placed near boundaries.
- (5) There shall be no loss of support or encroachment of fill onto adjoining lands as a result of excavation or filling within the site.
- (6) No landfilling or works shall be carried out within 40 metres of a watercourse, as defined by the Water Management Act, 2000 unless a controlled activity permit has been issued by the Department of Water & Energy.
- (7) Surface stormwater shall be controlled in such a manner that no significant alterations to existing flows onto adjoining properties occur.

10. INSPECTIONS

These conditions have been imposed to ensure that construction works are undertaken to an approved standard.

- (1) The engineering works shall be inspected by the Principal Certifying Authority at the following stages of construction to ensure they comply with Council's Construction Specification and associated approvals:
- Prior to commencement of any construction work on the site, after erosion and sediment control and traffic control measures are implemented.
When drainage lines have been laid, jointed and bedded, prior to backfilling.
 - Prior to pouring of the drainage pits, when the formwork and steel is in place.
 - Prior to pouring of the road drainage culverts, when the formwork and steel is in place.
 - When roadworks have been excavated to subgrade, prior to placing of pavement.
 - When subsoil drainage lines have been excavated and drainage pipe laid prior to placing filter material.
 - After shaping and prior to topsoil/turf placement of overland flow paths.
 - When part of the pavement depth (as indicated by Principal Certifying Authority) has been placed.
 - During the roller test, which is to be carried out using a three point roller or approved equivalent?
 - At sealing
 - At completion of the preparation of all concrete pipe culvert crossing.
 - Prior to pouring concrete to driveway, when formwork and steel is in place or prior to sealing pavement in place.
 - At practical completion of works.
 - At final completion of works

Note: It is the responsibility of the applicant or contractor to notify the Principal Certifying Authority when inspections are required. Failure to notify may lead to additional work being required prior to issue of inspection certificates. A minimum of 24 hours notice is required for inspections where Council is the Principal Certifying Authority.

11. SERVICES

These conditions have been imposed to ensure that an adequate level of services and infrastructure are provided for this development.

- (1) Electricity supply is to be made available to all proposed lots in accordance with the requirements of Endeavour Energy. In this regard, written confirmation from Endeavour Energy that suitable arrangements have been made shall be submitted to the Principal Certifying Authority prior to the release of the Subdivision Certificate.
- (2) Prior to the issue of the Subdivision or Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- (i) The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose. And
- (ii) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier. (Note real estate development project has the meanings given in section 372Q of the Telecommunications Act).
- (3) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Co-ordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of any Subdivision Certificate for the development.

- (4) Letter boxes shall be provided to each dwelling to the satisfaction of Australia Post.
- (5) All power and services provided to the development within the site shall be underground.

12. LANDSCAPING

These conditions have been imposed to reduce the impact of any development activity on the landscape/scenic quality through vegetation works and maintenance.

- (1) The development shall be undertaken in accordance with the provisions of Council's Tree Preservation Order. Under the Order a person shall not, except with the consent of Council, ringbark, cut down, top, lop or wilfully destroy any tree which:
 - (a) Is greater than 3m in height;
 - (b) Has a girth greater than 45cm at a height of 1m from the ground;
 - (c) Has a branch spread greater than 3m.

Any further clearing must be approved either through Council.

13. VEGETATION MANAGEMENT

These conditions have been imposed to protect significant vegetation that has been identified on the subject land.

- (1) No works are to be undertaken within 5m radius of the drip zone of the tree(s) or vegetation nominated for retention.
- (2) Precautions must be adequately adopted to minimise the impact around the identified significant vegetation. Soil is not to be built up around the drip zone around significant vegetation.
- (3) Effluent disposal shall not to be undertaken within 5 metres radius of the drip zone of significant vegetation.
- (4) Solid or liquid waste materials shall not be deposited in the designated conservation area.

No services or utilities are to be placed within the area nominated in the natural resources layer

14. WEED MANAGEMENT

These conditions have been imposed to ensure that noxious and environmental weeds on the subject land are appropriately managed.

- (1) All preliminary weed treatment measures identified in the weed eradication and management plan shall be carried out prior to the release of the consent the timing of when primary weed treatment measures are required, Subdivision Certificate.
- (2) All weeds environmental or noxious shall be removed from the area nominated significant vegetation and evidence of this weed reduction program be made available upon inspection or request.

15. TREE REMOVAL

These conditions are imposed to ensure that the removal of trees is undertaken in a safe and environmentally sensitive manner.

- (1) All trees greater than 3 metres in height or with a branch spread greater than 3 metres are to be clearly marked on the Engineering Plans.
- (2) Prior to the commencement of any work all mature trees shall be inspected by a qualified arborist/bush regenerator. Those trees that are considered are to be clearly marked and are to be inspected by a Council Officer prior to work commencing.

Trees and shrubs located in the Natural resources layer must be retained and placed on an 88B instrument on the title.

16. SECTION 94 CONTRIBUTIONS

These conditions have been imposed to ensure the adequate provision of public facilities required as a result of the development.

- (1) Payment of a Contribution for three (3) lots in accordance with the Wollondilly Section 94 Contribution Plan 2011, the cost of which will be determined and payable at the time of the release of the Subdivision Certificate.

The current amount payable is:

| | |
|---|--------------------|
| (i) Open Space, Sport & Recreation (Shire) | \$816.00 |
| (ii) Open Space, Sport & Recreation (Precinct) | \$33,372.00 |
| (iii) Library & Community Facilities (Shire) | \$3,852.00 |
| (iv) Library & Community Facilities (Precinct) | \$4,971.00 |
| (v) Transport & Traffic (Roads & Intersections) | \$13,833.00 |
| (vi) Transport & Traffic (Cycleways) | \$201.00 |
| (vii) Bushfire Protection | \$96.00 |
| (viii) Plan Administration | \$2,859.00 |
| TOTAL | \$60,000.00 |

These figures are reviewed quarterly in accordance with the provisions of the Contributions Plan and an updated figure must be obtained from Council at the time of payment.

17. STREET ADDRESSING

These conditions are imposed in order to ensure the development complies with the requirements of the New South Wales Address Policy as published by the Geographical Names Board of New South Wales.

- (1) Prior to the issue of a Construction Certificate for the subdivision an application for street addresses for all lots within the subdivision shall be submitted to Council in accordance with Section 5.2 of the NSW Address Policy.

18. SUBDIVISION PLANS

These conditions have been imposed:

- (a) **To ensure the submission of Subdivision Plans to the specifications of Land and Property Information for registration.**
- (b) **To submit the required documentation for the creation of property restrictions and easements as specified.**
- (1) A letter from a Registered Surveyor shall be submitted to Council certifying that no services of Public Utility or waste water disposal presently connected to existing buildings straddle proposed boundaries after subdivision.

- (2) Submission to Council of the Linen Plan of Subdivision together with three (3) copies suitable for certification by the General Manager and lodgement at Land and Property Information. A fee for the release of the Subdivision Certificate applies.
- (3) The development shall be completed in accordance with the relevant plans and conditions of consent prior to the release of the Subdivision Certificate.
- (4) Building envelopes shall be nominated and indicated on the Linen Plan for each lot. The building envelope is to be the area to accommodate construction of a dwelling and any ancillary buildings as well as the waste water irrigation area, landscaping and active recreation space. A Section 88B Instrument creating appropriate Restrictions as to User on the lots shall be submitted with the linen plan. The Section 88B Instrument shall contain a provision that it may not be extinguished or altered except with the Consent of Wollondilly Shire Council. Details of the Restriction as to User shall be indicated on the Subdivision Certificate and on the Certificate of Title for the land.
- (5) A Section 88B Instrument shall be prepared which provides for the following Restrictions on the subject land:
 - No pump out is permitted on approved lots.

19. PRESCRIBED CONDITIONS

These conditions are imposed as they are mandatory under the Act.

- (1) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA AND INSURANCE REQUIREMENTS UNDER THE HOME BUILDING ACT 1989
 - (a) For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:
 - (i) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
 - (ii) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
 - (b) For the purposes of section 80A (11) of the Act, it is prescribed as a condition of a development consent for a temporary structure that is used as an entertainment venue, that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the Building Code of Australia .

- (c) This clause does not apply:
 - (i) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
 - (ii) to the erection of a temporary building, other than a temporary structure to which subclause (b) applies.
- (d) In this clause, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application is made for the relevant:
 - (i) development consent, in the case of a temporary structure that is an entertainment venue, or
 - (ii) construction certificate, in every other case.

Note: There are no relevant provisions in the Building Code of Australia in respect of temporary structures that are not entertainment venues.

(2) ERECTION OF SIGNS

- (a) For the purposes of section 80A (11) of the Act, the requirements of subclauses (b) and (c) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (b) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
- (c) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (e) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.
- (f) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note. Principal Certifying Authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A of the Environmental Planning and Assessment Regulation 2000 which currently imposes a maximum penalty of \$1,100).

20. ADVICES

- (1) During the course of construction, care must be taken to prevent damage to any public utility or other service and the applicant will be held responsible for any damage caused by him or his agents, either directly or indirectly. Any mains, services, poles, surface fittings etc., which require alterations shall be altered at the applicants expense and to the satisfaction of Council and the authority concerned.
- (2) At all times work is being undertaken within the public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site with a minimum of disruption.
- (3) The developer and any contractor or sub-contractor used to carry out any work authorised by or out of this approval on Council owned or controlled land, is to carry the following insurance, copies of which are to be produced to Council upon request:
 - Motor Vehicle Insurance (comprehensive or property damage) for all self propelled plant, as well as valid registration or RMS permit (Including CTP insurance). Primary producer's registration is not registration for use on Public Road construction work.
 - Workers Compensation Insurance.
 - Twenty Million Dollar Public Liability Insurance.