



# Local Planning Panel

## MINUTES

Thursday 28 June 2018

The meeting commenced at 5.36pm and was held in the Council Chamber  
62-64 Menangle Street, Picton NSW 2571.

<b>RECORDING OF MEETING</b> .....	<b>3</b>
<b>WEBCAST NOTICE</b> .....	<b>3</b>
<b>PRESENT</b> .....	<b>3</b>
<b>ALSO PRESENT WERE</b> .....	<b>3</b>
<b>ACKNOWLEDGEMENT OF COUNTRY</b> .....	<b>4</b>
<b>APOLOGIES AND LEAVE OF ABSENCE REQUESTS</b> .....	<b>4</b>
<b>DECLARATION OF INTEREST</b> .....	<b>4</b>
<b>LOCAL PLANNING PANEL REPORTS - SUSTAINABLE AND BALANCED GROWTH ....</b>	<b>5</b>
1. Development Application No. 010.2018.00000087.001 – 104 Merlin St, The Oaks – Historical Display Area .....	5
2. Development Application No. 010.2015.00000213.002 – Lot 5 Greenbridge Drive, Wilton – Proposed Modification to a Development Consent .....	7
3. Development Application No. 010.2014.00000588.003 – 165, 175, 185 & 195 River Road, Tahmoor – Modify Conditions of Consent granted by NSW Land & Environment Court.....	9
4. Development Application No 010.2015.00000731.001 – 25 Dennis Street Thirlmere .....	12
5. Delegation of Determinations .....	15
6. Draft Planning Proposal - Amend Wollondilly Local Environment Plan 2011 to introduce a minimum lot size for the construction of a Dual Occupancy .....	16
<b>CLOSING</b> .....	<b>18</b>
<b>ATTACHMENT</b> .....	<b>19</b>

## **RECORDING OF MEETING**

The Chair stated that private electronic recording of the Local Planning Panel meeting and the use of electronic media during the proceedings is not permitted. This includes devices such as laptops, mobile phones, tape recorders and video cameras.

## **WEBCAST NOTICE**

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## **PRESENT**

Panel Members: Ian Reynolds, Chair; Vincent Hardy, Planning Expert; Stella Whittaker, Environment Expert; David Smith, Community Representative.

## **ALSO PRESENT WERE**

Director Planning, Manager Development Services, Development Assessment Team Leader, Development Assessment Planner and one Administration Officer.

## **ACKNOWLEDGEMENT OF COUNTRY**

The Chair acknowledged the traditional Custodians of the Land:

I would like to pay my respect and acknowledge the traditional custodians of the land on which this meeting takes place, and also pay respect to Elders both past and present.

## **APOLOGIES AND LEAVE OF ABSENCE REQUESTS**

There were no apologies noted for this meeting.

## **DECLARATION OF INTEREST**

TRIM 10495

David Smith declared a Pecuniary Conflict of Interest in relation to Report 6 – Draft Planning Proposal – Amend Wollondilly Local Environmental Plan 2011 to introduce a minimum lot size for the construction of a Dual Occupancy. The reason being that he is the owner of land within the R2 Zone. David will remove himself from any deliberations on this matter.

Ian Reynolds declared a Non-Pecuniary Conflict of Interest in relation to Report 3 - Development Application No. 010.2014.00000588.003 – 165, 175, 185 & 195 River Road, Tahmoor – Modify Conditions of Consent granted by NSW Land & Environment Court. The reason being that he is acquainted with one of the speakers arising from the fact that both have worked in the planning industry over a number of years.

## **CONFIRMATION OF MINUTES**

That the Minutes of the Local Planning Panel Meeting held on Thursday 31 May 2018, as circulated, be adopted as true and correct.

**LOCAL PLANNING PANEL REPORTS - SUSTAINABLE AND BALANCED GROWTH**

**1. Development Application No. 010.2018.00000087.001 – 104 Merlin St, The Oaks – Historical Display Area**

**DEVELOPMENT INFORMATION**

<b>Reason for LPP referral</b>	Conflict of interest - the applicant and land owner is Wollondilly Shire Council
<b>DA No:</b>	010.2018.00000087.001
<b>Subject Site</b>	104 Merlin Street, The Oaks
<b>Proposal</b>	Ancillary Structure (Blacksmith Shed & Display Area)
<b>Zoning</b>	RE1 Public Recreation
<b>Permissibility</b>	Permissible with Consent
<b>Cost of development</b>	\$12,500
<b>Applicant:</b>	Wollondilly Shire Council
<b>Owner:</b>	Wollondilly Shire Council
<b>Notification</b>	Notification to adjoining owners 28 February 2018
<b>Submissions</b>	Nil
<b>Variations</b>	Nil
<b>Site Inspection</b>	4 May 2018, no issues identified
<b>Recommendation</b>	Approval subject to attached conditions

**EXECUTIVE SUMMARY**

- The application seeks approval for the construction of an ancillary structure for the purpose of a historical display area in an existing heritage centre.
- The land owner is Wollondilly Shire Council. Therefore the development application is referred to the Panel in accordance with the Ministerial direction for developments to be determined by local planning panel.
- Under Section 10.4 Disclosure of political donations and gifts of the *Environmental Planning & Assessment Act 1979* (EP&A Act), 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.
- The proposal complies with the Wollondilly Local Environmental Plan 2011 (WLEP) and Wollondilly Development Control Plan 2016 (DCP). Council did not receive any submissions objecting to the proposal.
- It is recommended that the application be approved subject to conditions.

Minutes of the Wollondilly Shire Local Planning Panel held in the Council Chamber, 62-64 Menangle Street, Picton, on Thursday 28 June 2018

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Sustainable and Balanced GROWTH Reports

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**Public Submissions**

There were no submitters for this item.

**Panel Commentary**

On Thursday 28 June 2018, the Panel inspected the subject site, 104 Merlin Street, The Oaks.

**Decision**

The Panel determined Application No. 010.2018.00000087.001 for 104 Merlin Street, The Oaks by way of approval for the following reasons:

1. An inspection of the subject site confirmed that it is suitable for the intended use.
2. The proposed development is substantially compliant with the relevant planning instruments, Council's Development Control Plan, Engineering Standards and Policies.
3. The proposal is in the public interest.

**Voting**

The Panel voted 4/0

Sustainable and Balanced GROWTH Reports

**2. Development Application No.010.2015.00000213.002 – Lot 5 Greenbridge Drive, Wilton – Proposed Modification to a Development Consent**

**DEVELOPMENT INFORMATION**

<b>Reason for LPP referral</b>	The Bingara Gorge Precinct has a Voluntary Planning Agreement entered into between the developer and Council.
<b>DA No:</b>	DD010.2015.00000213.002
<b>Subject Site</b>	Lot 5 DP 270536, Greenbridge Drive Wilton
<b>Proposal</b>	To increase the Environment Protection and Riparian Land, modify the location of the APZ, increase the lot yield from 77 to 79 lots, change the lot numbers to reflect the increased yield and change the internal road alignment.
<b>Zoning</b>	R2 Low Density Residential
<b>Permissibility</b>	Permissible with consent
<b>Cost of development</b>	The original cost of the development (application for a 77 lot subdivision and associated works) is \$4, 235, 000.
<b>Applicant:</b>	Lendlease Communities (Wilton)
<b>Owner:</b>	Bradcorp Wilton Park Pty Ltd
<b>Notification</b>	Notified to adjoining landowners
<b>Submissions</b>	Nil
<b>Variations</b>	None
<b>Recommendation</b>	Approval subject to conditions

**EXECUTIVE SUMMARY**

- The purpose of this report is to assess an application to modify a development consent lodged under Section 4.55(1A) of the *Environmental Planning & Assessment Act 1979* (EP&A Act) and other relevant planning instruments.
- The development originally consented to, involves a Voluntary Planning Agreement and therefore the proposed modification to the consent is referred to the Panel in accordance with the Ministerial direction for developments to be determined by local planning panel.
- Under Section 10.4 Disclosure of political donations and gifts of the EP&A Act, 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.
- Is it recommended that the proposed modification be approved.

Minutes of the Wollondilly Shire Local Planning Panel held in the Council Chamber, 62-64 Menangle Street, Picton, on Thursday 28 June 2018

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**Public Submissions**

There were no submitters for this item.

**Panel Commentary**

On Thursday 28 June 2018, the Panel inspected the subject site, Lot 5 Greenbridge Drive, Wilton.

As part of the closed deliberation of this item, the Panel sighted the Notice of Determination for Application No. 010.2015.00000213.002.

**Decision**

The Panel determined Application No. DD010.2015.00000213.002 for Lot 5 Greenbridge Drive Wilton by way of approval for the following reasons:

1. An inspection of the subject site confirmed that it is suitable for the intended use.
2. The proposed development is substantially compliant with the relevant planning instruments, Council's Development Control Plan, Engineering Standards and Policies.
3. The proposal is substantially the same as the original approved development noting the additional lots will not exceed the approved maximum residential allotments in the precinct.
4. The proposal causes no inconsistency with the reasons for approval granted as part of the original development consent.

**Voting**

The Panel voted 4/0



Minutes of the Wollondilly Shire Local Planning Panel held in the Council Chamber, 62-64 Menangle Street, Picton, on Thursday 28 June 2018

Sustainable and Balanced GROWTH Reports

**3. Development Application No. 010.2014.00000588.003 – 165, 175, 185 & 195 River Road, Tahmoor – Modify Conditions of Consent granted by NSW Land & Environment Court**

**DEVELOPMENT INFORMATION**

<b>Reason for LPP referral</b>	The original development approval for the subject site has a Voluntary Planning Agreement attached to it, entered into by the developer and Council.
<b>DA No:</b>	DD010.2014.00000588.003
<b>Subject Site</b>	Lot A DP 369710, Lot B DP 369710, Lot 85 DP 751270, Lot 1 DP 1210433, Lot 2 DP 1210433, 165 River Road Tahmoor, 185 River Road Tahmoor, 195 River Road Tahmoor, 175 River Road Tahmoor
<b>Proposal</b>	To modify condition 21(4)(b) of the development consent granted by NSW Land and Environment Court under s4.56 of the <i>Environmental Planning &amp; Assessment Act 1979 (EP&amp;A Act)</i>
<b>Zoning</b>	R5 Large Lot Residential and E2 Environmental Conservation
<b>Permissibility</b>	Permissible with consent
<b>Cost of development</b>	\$0
<b>Applicant:</b>	Trustee for River Roads Developments Unit Trust
<b>Owner:</b>	Mary Camilleri
<b>Notification</b>	Notified to previous objectors and adjoining landowners
<b>Submissions</b>	Four submissions
<b>Variations</b>	Nil
<b>Recommendation</b>	Approval subject to conditions

Sustainable and Balanced GROWTH Reports

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**EXECUTIVE SUMMARY**

- The purpose of this report is to assess the application to modify condition 21(4)(b) of the development consent for the 125-lot Torrens Title subdivision approved by the NSW Land and Environment Court on 14 December 2016.
- The development originally consented to, involves a Voluntary Planning Agreement and therefore the proposed modification to the consent is referred to the Panel in accordance with the Ministerial direction for developments to be determined by local planning panel
- Under Section 10.4 Disclosure of political donations and gifts of the EP&A Act, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extend to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application
- The proposed modification is recommended for approval subject to condition.

**Public Submissions**

The Panel was addressed by four submitters; two objecting to the application and two in support of the application.

Key issues raised by those objecting to the application related to a publicly owned buffer at the rear of lots closest to the Junction Pool.

Key issues raised by those supporting the application related to the technical aspects of fence installation on the escarpment with minimal impact to established vegetation.

**Panel Commentary**

On Thursday 28 June 2018, the Panel inspected the subject site, 165, 175, 185 & 195 River Road, Tahmoor.

As part of the closed deliberation of this item, the Panel sighted the Conditions of Consent attached to the final order made by the NSW Land and Environment Court for Application No 010.2014.00000588.003.

Sustainable and Balanced GROWTH Reports

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**Decision**

The Panel approves Application No. DD010.2014.00000588.003 for 165, 175, 185 & 195 River Road, Tahmoor for the reasons outlined in the Council Assessment Report, subject to the following:

- 21(4)(b) first dot point be amended to read:
  - *Excluding side boundary fences that are three strand plain wire fences with the bottom strand at 400mm and the top strand at 1200mm with a third wire between. Post, stay and star pickets are to be of black steel material only*
- Additional clauses be included:
  - *21(4)(b)(1) Lots 209, 210, 211, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 520, 521, 508, 509 and 510 are permitted to install side and rear boundary fencing. Lots 511 and 606, 607, 608, 609, 610, 611, 612, 613, 614 and 615 are permitted to install side boundary fencing only.*
  - *21(4)(b)(2) Removal of trees and use of mechanical equipment for the installation of fencing is prohibited.*

The Panel determined Application No. DD010.2014.00000588.003 for 165, 175, 185 & 195 River Road, Tahmoor by way of approval subject to conditions for the following reasons:

1. An inspection of the subject site confirmed that it is suitable for the intended use.
2. The concerns raised in submissions have been addressed by the amended conditions including adoption of the agreed format for fencing and the exclusion of rear boundary fences on the identified lots together with requirements for environmentally sensitive construction.
3. The proposed development is substantially compliant with the relevant planning instruments, Council's Development Control Plan, Engineering Standards and Policies.
4. The comment / General Terms of Approval provided by the relevant State Agencies are noted and form part of the determination notice.
5. The proposal causes no inconsistency with the reasons for approval granted as part of the original development consent.

**Voting**

The Panel voted 4/0

Sustainable and Balanced GROWTH Reports

**4. Development Application No 010.2015.00000731.001 – 25 Dennis Street Thirlmere – Three Lot Subdivision**

**DEVELOPMENT INFORMATION**

<b>Reason for LPP referral</b>	The site is subject to Satisfactory Arrangements with the State Government as per clause 6.1 of the Wollondilly Local Environment Plan 2011.
<b>DA No:</b>	010.2015.00000731.001
<b>Subject Site</b>	Lot: 153 DP: 751270, 25 Dennis Street Thirlmere
<b>Proposal</b>	3 Lot Torrens Title Subdivision
<b>Zoning</b>	R5 Large Lot Residential
<b>Permissibility</b>	Permissible with consent
<b>Applicant:</b>	Rein Warry & Co. Pty. Limited
<b>Owner:</b>	M & R Muzevic
<b>Notification</b>	Notification to adjoining landowners
<b>Submissions</b>	No submissions were received
<b>Variations</b>	None
<b>Recommendation</b>	Approval subject to conditions

**EXECUTIVE SUMMARY**

- The purpose of this report is to present an assessment of the application for a proposed three lot Torrens title subdivision.
- The proposed subdivision is being reported to the Local Planning Panel (LPP) because the Development Application (DA) incorporates a planning agreement between the applicant and the NSW Department of Planning and Environment (DP&E) that has been executed to ensure satisfactory arrangements are in place for provision of State public infrastructure. and therefore is 'Sensitive Development' under 'Schedule 1' of the 'Local Planning Panels Direction-Development Applications'
- Under S10.4 Disclosure of political donations and gifts of the Environmental Planning & Assessment Act, 1979, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extend to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- The Phase 1 Environmental Site Assessment report submitted by the applicant recommended a Phase 2 detailed site investigation be carried out.
- To satisfy the requirements of Clause 7(1) of State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55), it is recommended that the application be determined by granting a deferred commencement consent.

Sustainable and Balanced GROWTH Reports

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**Public Submissions**

There were no submitters for this item.

**Panel Commentary**

On Thursday 28 June 2018, the Panel inspected the subject site, 25 Dennis Street Thirlmere.

**Decision**

The Panel approves a deferred commencement of Application No. 010.2015.00000731.001 for 25 Dennis Street Thirlmere subject to the conditions outlined in Council's Assessment Report and inclusion of the following additional condition:

Deferred Commencement Condition

- Where the phase two contamination report identifies that a remediation action plan is required, that remediation action plan shall be prepared and approved pursuant to State Environmental Planning Policy No. 55

Operational Consent Condition

- Amendment of Condition 6 (4) to read:
  - *A restriction shall be placed on the title of proposed lots 1532 and 1533 for the 20,000 litre tanks. The 20,000 litre tank for the existing dwelling shall be installed prior to the release of the subdivision certificate.*
- Other minor administrative grammatical changes

The Panel determined Application No. 010.2015.00000731.001 for 25 Dennis Street Thirlmere by way of approval for the following reasons:

1. An inspection of the subject site confirmed that it is suitable for the intended use.
2. The proposed development is substantially compliant with the relevant planning instruments, Council's Development Control Plan, Engineering Standards and Policies.
3. The comment / General Terms of Approval provided by the relevant State Agencies are noted and will form part of the determination notice.

Minutes of the Wollondilly Shire Local Planning Panel held in the  
Council Chamber, 62-64 Menangle Street, Picton, on Thursday 28 June 2018

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Sustainable and Balanced GROWTH Reports

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Note – Council may care to consider as part of future reviews of its Development Control Plan the number of street trees required across the street frontage as part of subdivisions depending on the width of the frontage of the lot.

**Voting**

The Panel voted 4/0

Sustainable and Balanced GROWTH Reports

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5. **Delegation of Determinations**

**EXECUTIVE SUMMARY**

- The introduction of the Local Planning Panels was accompanied by a Minister's Direction setting out the thresholds for referral of applications to the Panel for determination.
- Section 2.20(8) of the *Environmental Planning & Assessment Act 1979* permits the Local Planning Panel to delegate matters back to Council staff for determination.
- It is recommended that the Local Planning Panel endorse the draft Instrument of Delegation.

**Public Submissions**

There were no submitters for this item.

**Decision**

That the Instrument of Delegation attached within these minutes is endorsed by the Wollondilly Shire Local Planning Panel to permit determination by Council staff of certain matters.

**Voting**

The Panel voted 4/0

Sustainable and Balanced GROWTH Reports

**6. Draft Planning Proposal - Amend Wollondilly Local Environment Plan 2011 to introduce a minimum lot size for the construction of a Dual Occupancy**

**GENERAL INFORMATION**

<b>Reason for LPP referral</b>	To comply with the Minister's Direction for Planning Proposals
<b>Reference No:</b>	TRIM 10618
<b>Subject Site</b>	Various
<b>Proposal</b>	Draft Planning Proposal to introduce a minimum lot size for the construction of Dual Occupancies in R2 and R3 zoned land
<b>Zoning</b>	R2 Low Density Residential and R3 Medium Density Residential zoned land
<b>Permissibility</b>	Various
<b>Cost of Development</b>	N/A
<b>Applicant</b>	Wollondilly Shire Council
<b>Owner</b>	Various
<b>Notification</b>	To be completed upon receipt of a Gateway Determination from Department of Planning & Environment.
<b>Submissions</b>	N/A
<b>Variations</b>	N/A
<b>Site Inspection</b>	N/A
<b>Recommendation</b>	Referred for advice

David Smith removed himself from the Panel during deliberations on this matter, due to a previously declared Conflict of Interest.

**EXECUTIVE SUMMARY**

- The purpose of this report is to seek advice from the Local Planning Panel on a proposed Council initiated planning proposal to introduce a minimum lot size for the construction of a dual occupancy within R2 Low Density Residential and R3 Medium Density zones across the Shire.
- The Planning Proposal is required to minimise the impact associated with the introduction of the Low Rise Medium Density Housing Code, which will enable dual occupancies to be undertaken as Complying Development on lots as small as 400m<sup>2</sup>.
- This matter has been referred to the Panel for advice in accordance with Section 2.19 of the *Environmental Planning & Assessment Act 1979*.
- It is recommended that the Local Planning Panel support the Council Resolution from 18 June, 2018 in respect of this matter and provide any advice on the Draft Planning Proposal prior to submission for Gateway Determination.



Minutes of the Wollondilly Shire Local Planning Panel held in the  
Council Chamber, 62-64 Menangle Street, Picton, on Thursday 28 June 2018

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Sustainable and Balanced GROWTH Reports

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**Public Submissions**

There were no submitters for this item.

**Decision**

That Wollondilly Shire Local Planning Panel supports the proposal being presented for Gateway Determination, accompanied by relevant explanatory material, to enable public consultation to be undertaken in relation to the proposal.

**Voting**

The Panel voted 3/0

Minutes of the Wollondilly Shire Local Planning Panel held in the  
Council Chamber, 62-64 Menangle Street, Picton, on Thursday 28 June 2018

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Sustainable and Balanced GROWTH Reports

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**CLOSING**

There being no further business, the Chair declared the Wollondilly Shire Local Planning Panel Meeting closed at 6.30 pm.

This and the preceding 16 pages are the Minutes of the Wollondilly Shire Local Planning Panel Meeting held on Thursday 28 June 2018 and were confirmed in the subsequent meeting held on Thursday 26 July 2018.

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Chair

Minutes of the Wollondilly Shire Local Planning Panel held in the Council Chamber, 62-64 Menangle Street, Picton, on Thursday 28 June 2018

Attachment

**Report 5 Attachment – Delegation of Determinations**

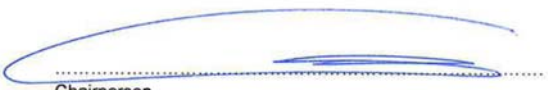
**WOLLONDILLY LOCAL PLANNING PANEL**

**INSTRUMENT OF DELEGATION**

**SECTION 2.20 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

Pursuant to a resolution passed on 28 June 2018 in accordance with section 2.20(8) of the *Environmental Planning and Assessment Act 1979* (**the Act**), the Wollondilly Shire Local Planning Panel (**the Panel**) delegates the Panel's functions listed in Schedule A to the persons for the time being holding the following positions within Wollondilly Shire Council (**the Council**):

- (1) the General Manager;
- (2) the Director Planning;
- (3) the Manager Development Services

  
Chairperson

28.6.18  
Date

Attachment

Schedule A

- (1) The determination of any application to modify a development consent made under section 4.55(1) (modifications involving minor error, misdescription or miscalculation) of the Act where the development consent was:
  - (a) granted by the Panel; or
  - (b) granted by the Council, but would have been granted by the Panel had section 4.8 of the Act been in force at the time the consent was granted.
- (2) The determination of any application to modify a development consent made under section 4.55(1A) (modifications involving minimal environmental impact) of the Act, where the development consent was:
  - (c) granted by the Panel; or
  - (d) granted by the Council, but would have been granted by the Panel had section 4.8 of the Act been in force at the time the consent was granted.
- (3) The determination of any application to modify a development consent which was granted by the Panel made under section 4.55(2) (other modifications) of the Act where:
  - (a) the modification does not result in an increase in the noncompliance of the proposal with a development standard in an environmental planning instrument; or
  - (b) the modification does not result in the development as modified failing to comply with a development standard in an environment planning instrument;
  - (c) the modification does not result in an increase in the noncompliance of the proposal with a provision of a Development Control Plan;
  - (d) any written objections received in response to the public notification of the modification application do not raise any issue not previously considered at the time of determination of the original development application and do not raise an issue arising from or relevant to the modification itself (having regard to the list of relevant considerations in s.4.15 of the Act).
- (4) The determination of any application to modify a development consent made under section 4.56 (modification by consent authorities of consents granted by the Court) of the Act which would be delegated to the Council under paragraph 1, 2 or 3 of this instrument had the application been determined by the Council or Local Planning Panel instead of by the Land and Environment Court of NSW.
- (5) The determination of any development application for which the developer has offered to enter into a planning agreement (within the meaning of section 7.4(1) of the Act):
  - (a) with the NSW State Government to satisfy the "satisfactory arrangements" requirements of clause 6.1 of the *Wollondilly Local Environmental Plan 2011 (the LEP)*; or
  - (b) with the Council where:
    - i. the planning agreement does not exclude the application of section 7.11 or 7.12 of the Act; and

Attachment

- ii. the quantum of any maintenance contribution is consistent with the Council's adopted Land Dedication Policy.
- (6) The determination of any application which includes an offer to vary the commitments contained in an existing planning agreement (within the meaning of section 7.4(1) of the Act):
  - (a) with the NSW State Government to satisfy the "satisfactory arrangements" requirements of clause 6.1 of the LEP; or
  - (b) with the Council where:
    - i. the planning agreement does not exclude the application of section 7.11 or 7.12 of the Act; and
    - ii. the quantum of any maintenance contribution is consistent with the Council's adopted Land Dedication Policy.