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STATEMENT OF ENVIRONMENTAL EFFECTS BINGARA GORGE: SUBDIVISION OF LOT 5 DP270536

This Statement of Environmental Effects (SEE) is submitted to Wollondilly Shire Council in support of a Development Application (DA) for subdivision of Lot 5 DP270536 at the Bingara Gorge residential development, Wilton. The subdivision is required to enable the transfer of Additional Conservation Lands (ACL) to be managed and protected in perpetuity. The transfer of Additional Conservation Lands is required to give effect to conditions of consent issued by the Land and Environment Court in relation to a determination of the Court in 2016 (158921).

This SEE has been prepared by Ethos Urban on behalf of Lendlease Communities (Wilton) Ltd. This report describes the site, its environs, the proposed development, and provides an assessment of the proposal in terms of the matters for consideration under Section 79C(1) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.

It should be read in conjunction with the following supporting documentation appended to the report:

- Plan of Subdivision of Lot 5 DP270536 by RPS (**Attachment A**); and
- Court Order Terms by the Land & Environment Court (**Attachment B**).

1.0 Background

1.1 Existing Development Consent

The existing development consent 010.2015.00000283.001 as approved by the Land and Environment Court (case 158921 of 2016) provides for:

- the removal of vegetation within development precincts 1 Rural, 2 Fairways West, 3 Fairways East, 7 Bushland and 8 Golf Town;
- the construction of pedestrian paths, cycle ways and fire trails within the EP&R Lands and the associated removal of a maximum of 1.2 hectares of vegetation; and
- concept approval for up to 827 residential allotments within development precincts 1 Rural, 2 Fairways West, 3 Fairways East, 7 Bushland and 8 Golf Town, Wilton resulting in a maximum of 1,800 residential allotments.

This development consent includes conditions requiring the transfer of ACL (Condition 6) including the ongoing management and maintenance of that land in perpetuity.

1.2 Masterplan Staged Development Consent

Council granted development consent ID993-05 on 8 November 2005 for the development of a new residential community at Bingara Gorge including 1,165 lots, a golf course, community facilities, infrastructure, open space and associated non-residential land uses including retail and education.

The Land & Environment Court subsequently granted consent 010.2015.00000283.001 on 28 September 2016 to an amending DA for up to 1,800 residential allotments.

It is noted that consideration of issues related to the suitability of the site for development have been resolved during the rezoning and Stage 1 Masterplan DA process. Again, this DA proposes no physical works.

1.3 New Wilton Town and Wilton West

Wilton New Town was first formally identified as part of an urban investigation area within the Greater Macarthur Land Release Investigation Preliminary Strategy and Action Plan. It has since been declared a Priority Growth Area under *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*.

The Bingara Gorge development is identified for urban development as part of the Wilton New Town Priority Growth Area. Wilton New Town also includes other land owned by Bradcorp known as Wilton West, located north to the site opposite the Hume Highway, which has capacity for approximately 5,000 residential lots together with various land uses and facilities.

2.0 Site description

The site is located in the Wollondilly Local Government Area (LGA) within the Bingara Gorge development and is known as 80 Condell Park Road, Wilton as shown in Figure 1. Wilton is located 80km south-west of Sydney CBD. The site is located immediately west of the Wilton Urban Release area under the Wollondilly Local Environmental Plan 2011 (WLEP). The land comprising Lot 5 is 66.9ha area and irregular in shape.



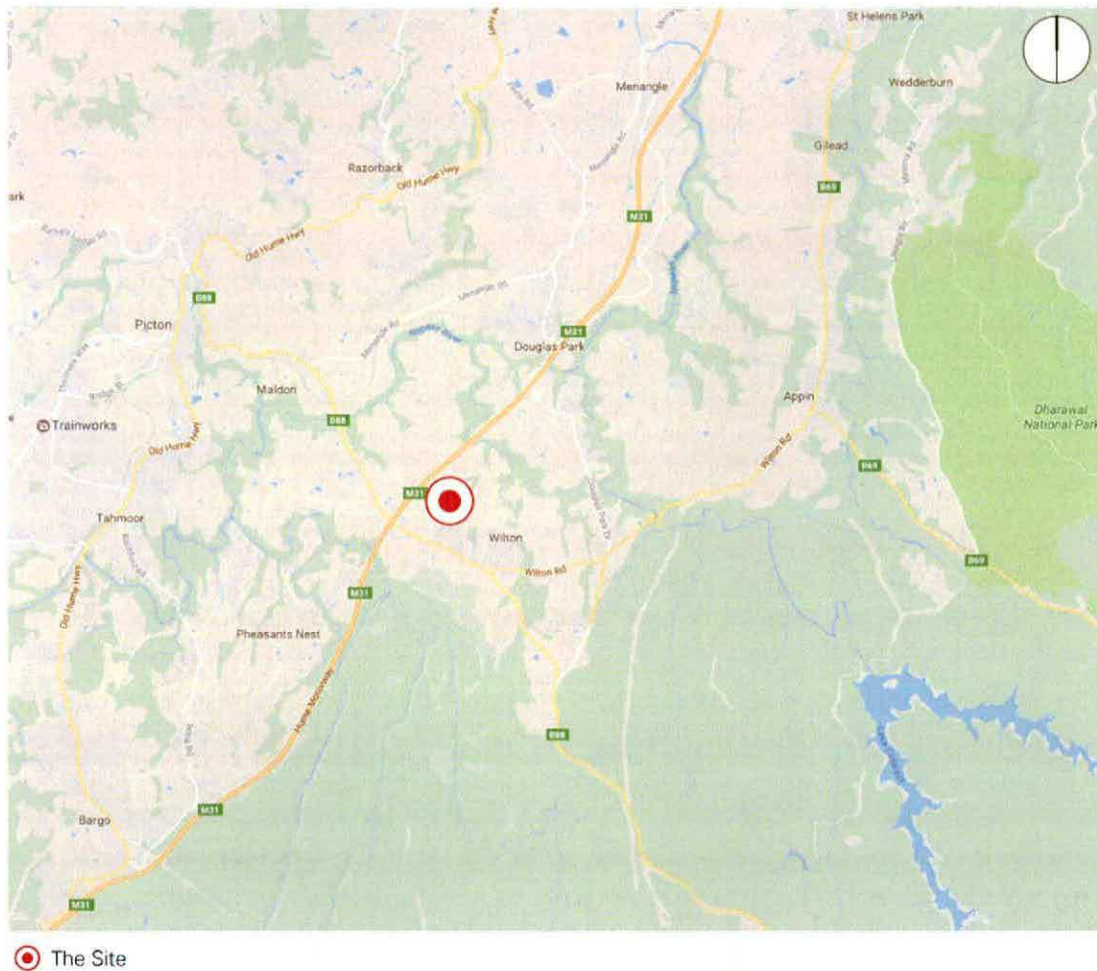
Figure 1 – Aerial photograph of the site and surrounds

Source: NearMap

The regional context of the site is illustrated in **Figure 2**.

The site is legally described as Lot 5 DP207536 and is located on land zoned as R2 Low Density Residential under Wollondilly LEP. The owner of the site is Bradcorp.

The site is covered by scattered groups of trees with groundcover and grasses. It is not identified as a heritage item however is surrounded by Pt. Lot 1 DP270563, recognised in the LEP 2011 as an item of Aboriginal archaeology with Aboriginal shelter sites throughout.



● The Site

Figure 2 – The proposed site is located in Wilton

2.0 Description of the proposed development

The Bingara Gorge development area is subject to a Community Title subdivision scheme. This DA seeks approval for subdivision of Part of Lot 5, to create two new lots in the Bingara Gorge Community Title Scheme. Lot 34 will be a residue lot, and Lot 35 (the ACL) will consist of four parts. The four parts reflect the agreed areas of ecologically significant flora communities and buffer areas determined by the court. Following approval of the application, Lot 35 (ACL) will be amalgamated with Lot 1 and become Association Property. The land will be managed by Bingara Gorge Environmental. Bingara Gorge Environmental is a fully funded entity with responsibility for the long-term management and conservation of the Environment Protection and Recreation Lands that are part of the Bingara Gorge community. The subdivision of the ACL (Lot 35) and subsequent amalgamation with Lot 1 will satisfy Condition 6 of LEC Determination 158921.

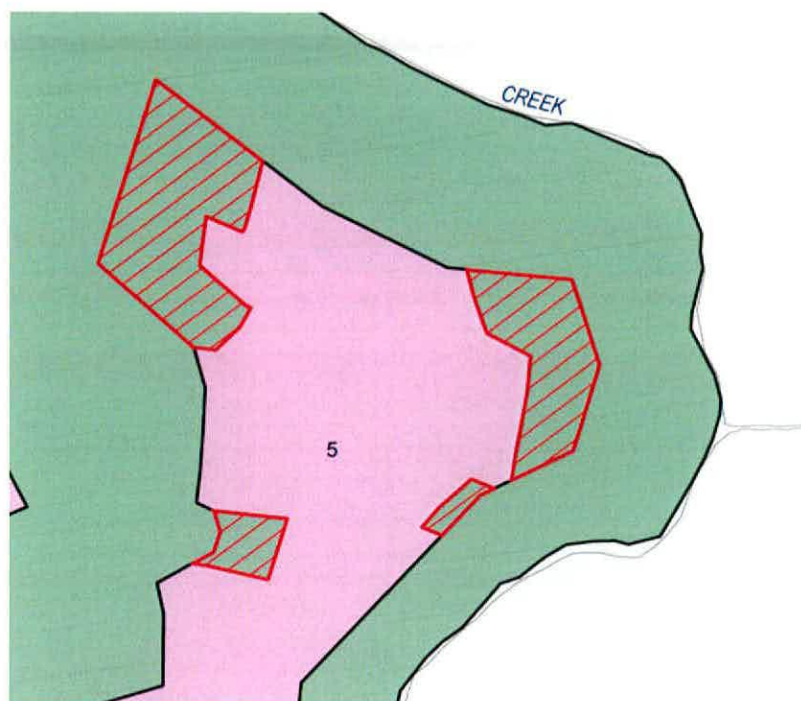


Figure 3 Proposed area of subdivision

Source: RPS

2.1 Further Approvals

Subdivision plans prepared by RPS are attached at **Attachment A**.

The DA is an 'Integrated Development' for the purposes of the Section 91 of the *Environmental Planning and Assessment Act 1979*. Under S15 of the *Mine Subsidence Compensation Act 1961*, development consent is required for "approval to alter or erect improvements within a mine subsidence district or to subdivide land therein". As the land is within a mine subsidence district, the Mines Subsidence Board's approval is required in respect of the subdivision. An approval letter from the Mines Subsidence Board will be submitted under separate cover. Any future development will require an approval from the Mines Subsidence Board.

3.0 Assessment of planning issues

The following is our assessment of the environmental effects of the proposed development. The assessment includes only those matters under section 79C(1) of the EP&A Act that are relevant to the proposal.

The following demonstrates that the proposed subdivision will not create any environmental impacts beyond those considered during the assessment and approval of 010.2015.00000283.001 by the Court. The key considerations are summarised below. Further assessment of relevant matters is provided where necessary:

- The proposed subdivision does not alter the development's compliance with the statutory requirements of the following:
 - *Water Management Act 2000*;
 - *Rural Fires Act 1997*;
 - State Environmental Planning Policy 55 – Remediation of Land;
 - Wollondilly Local Environmental Plan 2011; and the
 - Wollondilly Development Control Plan 2016.
- The proposed modifications are consistent the provisions of the local planning agreement for Bingara Gorge.
- The development is consistent with relevant conditions of the previous determination by the Land and Environment Court.
- The proposed subdivision will not create any environmental impacts beyond those already considered by Council and the Land and Environment Court with regard to the following:
 - Flora and fauna;
 - Cultural Heritage & Aboriginal Archaeology;
 - Traffic;
 - Dust management; and
 - Waste management.
- The environmental impacts of the subdivision will be positive because they will facilitate the long term conservation and management of environmental values on the land.

3.1 Compliance with Environmental Planning Instruments

The relevant Planning instrument applying to the site is the *Wollondilly Local Environmental Plan 2011* and *Wollondilly Shire Council Development Control Plan 2016*. The DA's compliance with the relevant planning controls is discussed below. While the Growth Centres SEPP also applies to the Bingara Gorge Precinct, clause 7A of the SEPP specifies that the provisions of Wollondilly Local Environmental Plan still apply to the Precinct. No further consideration of the provisions of the Growth Centres SEPP is required.

Wollondilly Local Environmental Plan (WLEP)

Clause 2.6 Subdivision-consent requirements & 4.1 Minimum subdivision lot size

Under WLEP 2011 subdivision is permissible with consent. The proposed subdivision complies with Clause 2.6 and 4.1 of the WLEP, and does not result in a lot below the minimum lot size of 1,500m².

The proposed Lot 35 will have a total area of 5.444ha (encompassing four separate parts of 3.008ha, 1.798ha, 0.4695ha and 0.1689ha respectively). This area will be converted to Association Lot 1. All parts of proposed lot 35 will have a minimum area that is larger than the minimum lot size.

Proposed Lot 34 will have an area of 66.9ha. This area will be managed as a residue lot.

Wollondilly Shire Council Development Control Plan (WDCP)**Volume 3 – Subdivision of Land**

Table 3 assesses the proposed subdivision against the relevant provisions in WDCP.

Table 1 – Assessment against the relevant controls of the WDCP

Provision	Comment	Compliance
2.1 Traffic and Transport	No roads are proposed as part of this application. This application seeks approval for subdivision only.	✓
2.2 Wastewater	No works are proposed as part of this application. The future Lot 35 is to be transferred into Association Lot 1 as part of the surrounding conservation area.	✓
2.3 Stormwater	No works are proposed as part of this application. The future Lot 35 is to be transferred into Association Lot 1 as an addition to the surrounding Environmental Protection Lands. It is not anticipated that this will have a bearing on the current stormwater management systems of the overall development.	
2.4 Lot Size and Shape	These controls do not apply to this land due to the future transfer into the Association Lot 1 and conservation land.	✓

3.2 Compliance with relevant conditions of the Land and Environment Court determination

Condition 6 of the determination by the Land and Environment Court (010.2015.00000283.001) is as follows:

(6). Protection and Management of Additional Conservation Lands

A mechanism(s) to be established providing for the ongoing management and maintenance of the Additional Conservation Lands in perpetuity.

Documentary evidence of the mechanism(s) and management obligations, including funding arrangements, is also to be provided with any development application affecting the ACL.

The management of Conservation Lands in the Bingara Gorge development is principally the responsibility of Bingara Gorge Environment Ltd (ACN 160 681 630). The Company Constitution, in combination with the State Development Agreement for Bingara Gorge, sets out arrangements for funding and management of Conservation Lands by Bingara Gorge Environment Ltd. Bingara Gorge Limited is a not for profit company and clause 2.2 (c) of the Constitution states that the income and property of the Company must be used and applied solely in the promotion of its objects, which include (among others):

- Providing environmental support service in accordance with the Environment Management Agreement to the Bingara Gorge Community Association.
- To protect and enhance the Environmental Lands and the environment at Bingara Gorge generally.
- To comply with relevant environment and heritage requirements of the State Development Agreement and the Development approval.

The State Development Agreement requires funding to be provided to the management of Environment Lands from the sale of each development lot in the Bingara Gorge development. Schedule 4 to the Planning Agreement specifies:

- 1% of the sale price of each lot is required to be contributed to the Bingara Gorge Environmental Protection Fund. The Bingara Gorge Environment Ltd constitution then specifies that the funding must be spent in accordance with the limitations in clause 2.2 (see above).
- The area of land and the timing of transfer of land to EPR Lands to Bingara Gorge Environment Ltd.
- Additional contributions from members of the Community Association to the Fund.

As at July 2017, the Environment Fund account had a total balance of \$1,867,040.

In combination, the determination of the Court, the State Development Agreement, the Community Association scheme and the Bingara Gorge Environment Ltd constitution provide for transfer of the Additional Conservation Lands, protection in perpetuity of the Environmental Protection and Community Recreation Land, and funding and management responsibilities for those lands, as required by condition 6 of the Court's consent.

3.3 Social and economic impacts

The DA proposes no physical works, and the proposal will facilitate the transfer of land for conservation purposes. The proposal will not result in any adverse social impacts.

3.4 Site suitability and the public interest

The proposal is permissible in the zone and is consistent with the relevant planning provisions, and will have no material impact to the physical site. The subdivision is suitable to allow future development of the site.

This application is in the public interest as it will permit transfer of ecologically important land into ACL land, allowing for its management and conservation in perpetuity.

4.0 Conclusion

The proposed development seeks approval for subdivision of Lot 5 DP207536 into two lots known as future Lot 35 and future Lot 34, with future Lot 35 split into parts due to the structure of the subdivision and to reflect the agreed outcomes of LEC Determination 158921. In light of the merits of the proposal and in the absence of any significant adverse environmental, social or economic impacts, we recommend that the application be approved subject to standard conditions of consent.

Yours sincerely,



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