



Our Reference: **7178 kc:kc**

Mr Peter Goth
Regional Director Sydney West
Department of Planning & Infrastructure
GPO Box 39
SYDNEY NSW 2001



6 February 2012

Dear Mr Goth,

THIRLMERE WAY PLANNING PROPOSAL – 90 THIRLMERE WAY, TAHMOOR BEING LOT 2 DP 737056

At its Ordinary Council Meeting held on Monday 17 December 2012 Wollondilly Shire Council resolved as follows:

285/2012 Resolved on the Motion of Crs M Banasik and Hannan:

1. That Council support the Thirlmere Way Planning Proposal to rezone land located at 90 Thirlmere Way, Tahmoor (Lot 2 DP 737056) to amend the provisions of WLEP 2011 as follows:

- **change the Land Zoning Map from RU4 Primary Production Small Lots to R2 Low Density Residential**
- **change the Lot Size Map from a 2 hectare minimum to a minimum lot size of 700m²**
- **change the Height of Buildings Map from no height limit to a maximum height of 9 metres.**

2. That the planning proposal be forwarded to the Minister for Planning & Infrastructure for a Gateway Determination.

3. That the persons who made submissions regarding the planning proposal be notified of Council's decision.

On being put to the meeting the motion was declared CARRIED

Vote: Crs M Banasik, Mitchell, Amato, B Banasik, Terry, Law, Landow, Hannan and Gibbs

Wollondilly Shire Council requests the Minister for Planning & Infrastructure's Gateway Determination on the Planning Proposal in accordance with section 56 of the *Environmental Planning and Assessment Act 1979*.

Please find attached the following three documents:

1. Council's **Planning Proposal** for the subject land - including CD of attached studies
2. The **Report to Council** on the proposal.
3. Council's **Resolution** to forward the proposal to the Department.

The attached planning proposal has been prepared in accordance with section 55 of the *Environmental Planning and Assessment Act 1979* and the Department of Planning and Infrastructure's 'A guide to preparing a planning proposal' and 'A guide to preparing local environmental plans'.

For further enquiries in relation to this matter, please contact Kitty Carter on 4677 8230 or email kitty.carter@wollondilly.nsw.gov.au

Yours sincerely,

Kitty Carter
Strategic Planner
STRATEGIC PLANNING SERVICES

PE5

Planning Proposal - Thirlmere Way, Tahmoor
JSEL249

TRIM 7178

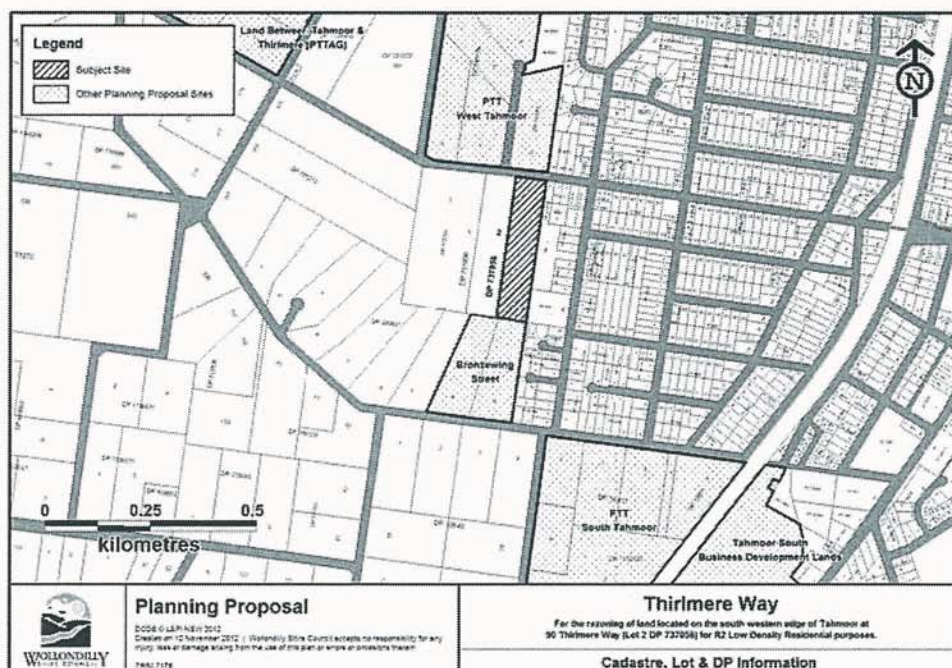
APPLICANT:

E G Property Pty Ltd

OWNER:

Mr M Rimac

REPORT



EXECUTIVE SUMMARY

- Council has received a planning proposal for 90 Thirlmere Way, Tahmoor (Lot 2 DP 737056) for the rezoning of land from *RU4 Primary Production Small Lots* to *R2 Low Density Residential*.
- The subject site is directly to the north of the Bronzewing Street Planning Proposal which was considered at the November Meeting of Council and is directly to the south of the PTT West Tahmoor Precinct.
- A preliminary assessment of the proposal against the Growth Management Strategy indicates that it is generally consistent with the key policy directions, structure plan and assessment criteria.
- Accordingly this report recommends:
 - That Council support the Thirlmere Way Planning Proposal to rezone land located at 90 Thirlmere Way, Tahmoor (Lot 2 DP 737056);
 - That the planning proposal be forwarded to the Minister for Planning & Infrastructure for a Gateway Determination; and
 - That the persons who made submissions regarding the planning proposal be notified of Council's decision.

BACKGROUND

Site Description

The subject site is a rural lot located on the south western edge of the urban area of Tahmoor at 90 Thirlmere Way (Lot 2 DP 737056). It has an area of 2.45 hectares and is currently vacant. There are no known areas of contamination on site.

The site's only street frontage is along its northern edge for a distance of 71.34 metres on Thirlmere Way. Topographically, the site falls slightly from RL 289 in the south to RL 281 in the north.

There is the capacity for electricity; telecommunications, gas, water and sewer are available to be connected to the site.

A man-made channel runs parallel to the southern side of Thirlmere Way and a swale runs parallel to the western boundary. The drainage connection point for the site is in Thirlmere Way, connecting to a box culvert which runs beneath the road. This channel connects with Council's pipe drainage system and eventually discharges into Myrtle Creek approximately 500 metres to the north of the site.

A stormwater and flooding report included with the planning proposal indicates that the site is not naturally flood prone, but has been affected by localised flooding on Thirlmere Way due to limited capacity or blockage of the box culvert.

The site contains no listed European heritage items of local, state or national heritage significance. The Aboriginal Heritage Information Management System does not identify the site as containing any Aboriginal relics, sites or places of cultural significance.

Part of the site is located within the Bargo Mine Subsidence District which is currently subject to some mining from Tahmoor mines. Further discussion with the Mine Subsidence Board will be required as part of the Gateway Determination to ensure that the proposed development does not impact on sub-surface mining activities in the area.

The vegetation on site is described as woodland vegetation with a moist healthy understorey however it is largely regrowth. There is one identified Endangered Ecological Community on site, being Shale-Sandstone Transition Forest which is recognised under the *Threatened Species Conservation Act 1995 (TSC, Act 1995)* and *Environment Protection and Biodiversity Conservation Act 1999 (EPBC, Act 1999)*. There are also young Eucalypt species emerging within the northern portion of the site. The Ecological Constraints Report prepared by Travers Environmental and Bushfire notes that the loss of the Endangered Ecological Community is not expected to be significant.

The site contains no threatened fauna species or flora species, nor does it contain any threatened marine or aquatic species given that the site does not contain any watercourses.

Council's Bushfire Prone Land mapping shows that approximately 12.5 percent of the site is bushfire prone, this is in the south western corner. Any future development will require the incorporation of Asset Protection Zones (APZ) around this area.

By road the site is approximately 1km from Tahmoor Railway Station and around 1.1km from the Tahmoor commercial area. It adjoins developed urban residential land on its eastern boundary with Tahmoor Sportsground situated immediately to the west.

The West Tahmoor precinct of the PTT Planning Proposal is directly adjacent to the north site and to the south is the Bronzewing Street Planning Proposal site, both are for *R2 Low Density Residential* land.

Description of Planning Proposal

The planning proposal seeks to amend the provisions of Wollondilly Local Environmental Plan (WLEP) 2011 as they apply to the subject site in the following:

- change the Land Zoning Map from RU4 Primary Production Small Lots to R2 Low Density Residential; and
- change the Lot Size Map from a 2 hectare minimum to a minimum lot size of 700m²; and
- change the Height of Buildings Map from no height limit to a maximum height of 9 metres.

CONSULTATION

Consultation with Council Managers and Specialist Staff

Comments on the application were sought from the following Managers and Specialist staff within Council:

- Manager Community Services
- Manager Infrastructure Planning
- Manager Environmental Services
- Manager Development Assessment and Strategic Planning
- Manager Facilities and Recreation
- Design Engineer

This site is directly to the north of the Bronzewing Street Planning Proposal site and many of the issues requiring further investigation are the same as with that planning proposal, these include:

Ecology

A flora and fauna study should be commissioned to determine the biodiversity value of the limited remnant vegetation on the site and if required methods for its protection.

Drainage and Stormwater

A hydrology report that deals with drainage and stormwater in relation to water quality and water sensitive urban design options should be undertaken. This assessment should also include consideration of the potential stormwater requirements from the Bronzewing Street Planning Proposal site (which was reported to the 19 November 2012 Council Meeting).

Bushfire Hazard

The land is partially bushfire prone in the south western part of the site and an assessment in accordance with the requirements of *Planning for Bushfire Protection 2006* is required to determine the need for any Asset Protection Zones, fire trails, evacuation routes and standards of future dwelling construction and also in relation to protection of native vegetation and threatened species.

Traffic and Transport

As this proposal fronts Thirlmere Way, which is a busy local through road, and may require the creation of a new road connection to Bronzewing Street, it would be prudent to undertake traffic modelling for the area. Potential road and shared pathway linkages from Thirlmere Way to Bronzewing Street and Council's Tahmoor Sportsground should be considered in terms of providing an effective traffic and shared pathway network to service future development on the subject site and potentially development on additional properties adjoining to the north.

Contaminated Land Investigation

Under State Environmental Planning Policy No 55 – Remediation of land, planning authorities are required to consider the potential for contamination to adversely affect the suitability of a site for its proposed use. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed. In the past this land may have been used for agriculture which is a potentially contaminating activity. Accordingly a preliminary Stage 1 contaminated land investigation should be undertaken prior to rezoning for residential purposes to determine whether the land is contaminated and requires remediation.

Heritage

There is a cottage which is listed as a local heritage item under WLEP 2011 which is located on land to the south east of the site. A heritage assessment should be undertaken to determine the impact of the planning proposal on this cottage.

Community Consultation

In accordance with Council's notification policy, preliminary notification period was undertaken in October and November 2012. A letter was sent to residents on Wednesday 17 October 2012 with a written submission period of 4 weeks ending on from 19 October to 16 November 2012. During this time the planning proposal was available on Council's website. One submission was received during this time, it is summarised below.

The submission raised concerns over the possible impacts that development on the site, following rezoning, would have on the Myrtle Creek watercourse. The site provides filtration for the watercourse and the aquifers beneath it also provides habitat for native fauna and may contain flora specific to the area. The submission suggests that a detailed environmental study should be undertaken. Also needing consideration is the potential for bushfire risk and flooding.

Consultation with Government Departments

If endorsed by Council, consultation on the planning proposal will be required with DP&I and other government agencies. Should the proposal be supported the Gateway Determination will outline the further consultation requirements with the DP&I and any other relevant government agencies. Government agencies that should be consulted would include the following:

- Office of Environment and Heritage
- Sydney Water
- Rural Fire Service
- Mine Subsidence Board.

Further community consultation

If this planning proposal progresses, further community consultation opportunities will occur as part of the preparation and exhibition of a draft local environmental plan amendment in accordance with the new Gateway process. Council has the opportunity to recommend the engagement process and other consultation appropriate for this proposal.

RELEVANCE TO COMMUNITY STRATEGIC PLAN OUTCOMES

All planning proposals are assessed against the key themes and directions of Council's Community Strategic Plan (CSP). It is considered that this proposal in principle is capable of delivering outcomes consistent with the CSP, particularly the following:

Community

The safety, health and well being of the Wollondilly community is improved (CO-1)

The provision of additional housing in a convenient location in relation to public transport and local centres will assist the well being and quality of life of future residents.

Environment

The natural environment is protected and conserved and Wollondilly has a healthy, sustainable, and resilient environment with a rural character (EO-1).

A flora and fauna study will be undertaken to determine the quality of the remnant bushland and options for ensuring that any EEC's will be conserved. Any new drainage must follow the principles of Water Sensitive Urban Design. Opportunities for alternatives to private car use will be encouraged.

Provision of Infrastructure

The growing vibrancy and liveability of the Shire's town and villages enhances their strong sense of local identity and place (IO-1).

The availability of additional land to provide housing which is well located in relation to existing facilities and services will improve sustainable outcomes for the community and contribute to the viability of the local economy.

POLICIES & LEGISLATION

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2000
- State Environmental Planning Policy 55 – Remediation of Land

RELEVANT CONSIDERATIONS

Wollondilly Growth Management Strategy (GMS)

The Wollondilly Growth Management Strategy was adopted by Council in February 2011. Applications for planning proposals are required to be assessed against the GMS to determine whether they should or should not proceed.

The GMS sets directions for accommodating growth in the Shire for the next 25 years. The GMS contains Key Policy Directions which form the overarching growth strategy for Wollondilly. This site is included on the structure plan for Tahmoor and adjoins established urban land.

The following table summarises how the proposal addresses the Key Policy Directions of the GMS:

Assessment Against the Key Policy Directions in the GMS

Key Policy Direction	Comment
General Policies	
P1 All land use proposals need to be consistent with the key Policy Directions and Assessment Criteria contained within the GMS in order to be supported by Council.	The proposal, as noted throughout this table, satisfies this Key Policy Direction.

WOLLONDILLY SHIRE COUNCIL

Report of Wollondilly Shire and its Planning and Economy to the Ordinary Meeting of Council held on Monday 17 December 2012

Key Policy Direction	Comment
P2 All land use proposals need to be compatible with the concept and vision of "Rural Living" (defined in Chapter 2 of the GMS)	The proposal is generally consistent with the concept and vision of 'Rural Living'. It provides for low density housing directly adjoining an existing town which reduces the likelihood of the further fragmentation of rural lands.
P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.	One (1) submission was received regarding this proposal. The submission raised concerns with the possible impact of development on the watercourse across the site and on the native flora and fauna found the site and suggested that a study should be undertaken. It is very likely that such a study would be required by the Gateway determination for the proposal. Even if a flora and fauna study is not required by the Gateway it would be prudent to undertake one regardless.
P4 The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.	There have been no such representations regarding this proposal and therefore this Key Policy Direction has been satisfied.
P5 Council is committed to the principle of appropriate growth for each of our towns and villages. Each of our settlements has differing characteristics and differing capacities to accommodate different levels and types of growth (due to locational attributes, infrastructure limitations, geophysical constraints, market forces etc.).	The proposal represents a logical rezoning of the subject site for low density purposes in keeping with land adjoining the site to the east. The site is also directly between two (2) low density residential planning proposals to its north and south. Within the constraints of the site the proposal is considered appropriate as it will facilitate the orderly development of housing. Conservation and enhancement of natural systems is intended. Existing infrastructure is to be utilised and embellished.
Housing Policies	
P6 Council will plan for adequate housing to accommodate the Shire's natural growth forecast.	The proposal contributes toward Council's dwelling target for Tahmoor outlined in the GMS but should not result in this target being exceeded. The Structure Plan for Tahmoor & Thirlmere identifies the subject land as a 'potential residential growth area'.
P8 Council will support the delivery of a mix of housing types to assist housing diversity and affordability so that Wollondilly can better accommodate the housing needs of its different community	The proposal aims to provide for R2 Low Density Residential land with a minimum lot size of 700m ² . This could allow for a range of housing types including affordable housing. Adjoining residential land generally has a larger size reflecting its development prior to reticulated

WOLLONDILLY SHIRE COUNCIL

Report of Wollondilly Shire and its Planning and Economy to the Ordinary Meeting of Council held on Monday 17 December 2012

Key Policy Direction	Comment
<i>members and household types.</i>	sewerage services being available. There may be a need for some larger lots to conserve any native vegetation remaining on the site.
P9 <i>Dwelling densities, where possible and environmentally acceptable, should be higher in proximity to centres and lower on the edges of towns (on the "rural fringe").</i>	The proposed density will be similar to that adjoining the site to the east and proposed rezonings to the north and south.
P10 <i>Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.</i>	The land is located immediately to the west of the existing urbanised area of Tahmoor.
Macarthur South Policies	
<i>Key Policy Directions P11, P12, P13 and P14 are not applicable to this planning proposal. The subject land is not with the Macarthur South area</i>	Not applicable.
Employment Policies	
P15 <i>Council will plan for new employment lands and other employment generating initiatives in order to deliver positive local and regional employment outcomes</i>	Although there are no employment lands proposed, there will be short-term employment opportunities through the construction jobs associated with the civil and building works. The proposal will also provide stimulus to the local economy by boosting population.
P16 <i>Council will plan for different types of employment lands to be in different locations in recognition of the need to create employment opportunities in different sectors of the economy in appropriate areas.</i>	The site is not proposed to be zoned to facilitate further employment opportunities. Modest opportunities may exist for home business and tradesman residency.
Integrating Growth and Infrastructure	
P17 <i>Council will not support residential and employment lands growth unless increased infrastructure and servicing demands can be clearly demonstrated as being able to be delivered in a timely manner without imposing unsustainable burdens on Council or the Shire's existing and future community.</i>	Assessment will aim to determine that the addition of residential allotments in the locality shall not adversely burden Council as infrastructure requirements should be readily able to be financed by the developers or through Council's development contributions scheme.

Report of Wollondilly Shire and its Planning and Economy to the Ordinary Meeting of Council held on Monday 17 December 2012

Key Policy Direction	Comment
P18 Council will encourage sustainable growth which supports our existing towns and villages, and makes the provision of services and infrastructure more efficient and viable – this means a greater emphasis on concentrating new housing in and around our existing population centres.	The site is located around 1.2km from Tahmoor town centre and is near Tahmoor Sportsground to its west. The site will require construction of roads and drainage infrastructure and extension of existing utilities.
P19 Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.	The proposal does not contribute toward dispersed population growth; it proposes urban growth directly to the west of the Tahmoor urban area.
P20 The focus for population growth will be in two key growth centres, being the Picton/Thirlmere/Tahmoor Area (PTT) area and the Bargo Area. Appropriate smaller growth opportunities are identified for other towns.	This is an area identified as a being a potential residential growth area on the Tahmoor Structure Plan in the GMS. The proposal contributes toward Council's dwelling target for Tahmoor identified in the GMS.
Rural and Resource Lands	
P21 Council acknowledges and seeks to protect the special economic, environmental and cultural values of the Shire's lands which comprise waterways, drinking water catchments, biodiversity, mineral resources, agricultural lands, aboriginal heritage and European rural landscapes.	Existing sewerage systems should have the capacity to cater for the additional growth forecast through this and other proposals in the area. Applying the principles of Water Sensitive Urban Design to future development will ensure sustainability and water quality objectives are met. It is proposed to maintain and improve native vegetation and habitat to protect biodiversity.
P22 Council does not support incremental growth involving increased dwelling entitlements and/or rural lands fragmentation in dispersed rural areas. Council is however committed to maintaining where possible practicable, existing dwelling and subdivision entitlements in rural areas.	Key Policy Direction P22 is not applicable to the proposal.

Planning Proposals

The planning proposal has been prepared in accordance with section 55 of the *Environmental Planning and Assessment Act 1979* and relevant DP&I guidelines including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*. The planning proposal addresses the matters required by the Director-General to be addressed in all planning proposals.

The planning proposal that has been submitted is requesting the rezoning of the subject land. If Council wishes to proceed with the proposal to rezone the land, Council must resolve to support the planning proposal and to forward it to the Minister for Planning & Infrastructure for a Gateway Determination.

Council's Options/Role

In deciding whether to forward the planning proposal on to the Minister for Planning & Infrastructure for a Gateway Determination, Council is effectively endorsing the planning proposal in principle and from that point on the planning proposal is deemed to be *Council's* planning proposal - no longer the applicant's planning proposal. Despite the planning proposal becoming Council's at that point, the costs of any required studies are to be borne by the applicant.

Council's options are:

1. Resolve to support the application for the planning proposal as submitted. This option means that the existing planning proposal from then on becomes *Council's* planning proposal. Council then sends it to the Minister for a Gateway Determination. Unresolved matters are assumed to be capable of resolution through future studies as determined by the Gateway process.
2. Resolve that the planning proposal needs to be amended before it can receive Council support and be forwarded to the Minister for a Gateway Determination. As is the case with option 1 above, the planning proposal becomes *Council's* and unresolved matters are assumed to be capable of resolution through future studies as determined by the Gateway process.
3. Resolve not to support the planning proposal. The applicant could choose to revise/amend their proposal and submit a new application. (Note that there are no appeal rights through the Land and Environment Court against Council's refusal to support a planning proposal).

Option 1 is the recommendation of this report

Gateway Determination

When a planning proposal has been endorsed by Council, it is then forwarded to the Minister for Planning & Infrastructure for a Gateway Determination. The Gateway Determination is a checkpoint for planning proposals before significant resources are committed to carrying out technical studies and investigations. It enables planning proposals that are not credible or well founded or not in the public interest to be stopped early in the process before resources are committed to detailed studies and investigations, and before government agencies are asked to commit their own resources to carrying out assessments.

At the Gateway Determination, the Minister will decide:

- Whether the proposal is justified on planning grounds;
- Whether the planning proposal should proceed (with or without variation);
- Whether the planning proposal should be resubmitted for any reason (including for further studies or other information, or for the revision of the planning proposal);
- The community consultation required;
- Any consultation required with State or Commonwealth agencies;
- Whether a public hearing by the Planning Assessment Commission or other specified person or body is required;
- The timeframes for the various stages of the procedure to make the draft LEP amendment;
- Whether the function of making the amended LEP is to be exercised by the Minister for Planning & Infrastructure or delegated to Council.

Under the DP&I plan making procedures, the planning proposal and supporting studies are placed on public exhibition. The process to legislate the planning proposal is commenced with a written draft local environmental plan amendment (the draft LEP) being prepared by Parliamentary Counsel, before it is made by the Minister or delegate. The LEP takes effect when it is published on the NSW Legislation website.

The ultimate development of the land would then require further approvals through detailed development applications.

FINANCIAL IMPLICATIONS

As noted previously in this report, the planning proposal is deemed to be *Council's* planning proposal once endorsed by Council and forwarded to the Minister. Despite the planning proposal becoming Council's at that point, the costs of any required studies are to be borne by the applicant.

As the planning proposal proceeds, investigations into contributions towards infrastructure provision through planning agreements and section 94 contributions would be undertaken.

CONCLUSION

The planning proposal seeks to amend the provisions of WLEP 2011 as they apply to the subject site to:

- change the Land Zoning Map from RU4 Primary Production Small Lots to R2 Low Density Residential; and
- change the Lot Size Map from a 2 hectare minimum to a minimum lot size of 700m² and;
- change the Height of Buildings Map from no height limit to a maximum height of 9 metres.

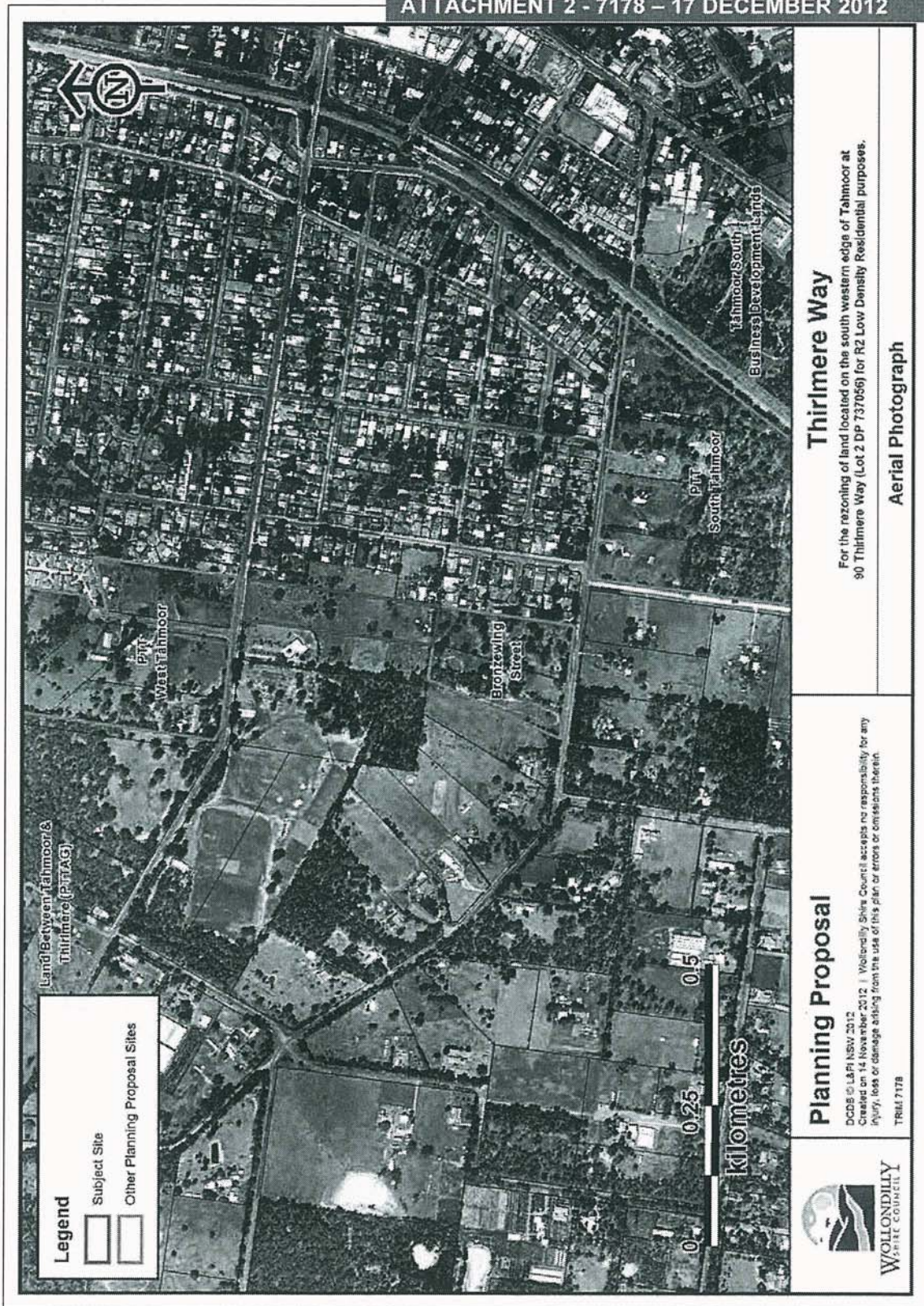
This planning proposal is considered to be consistent in principle with Council's adopted Growth Management Strategy and it is therefore recommended that the planning proposal be forwarded to the Minister for Planning & Infrastructure for a Gateway Determination.

ATTACHMENTS

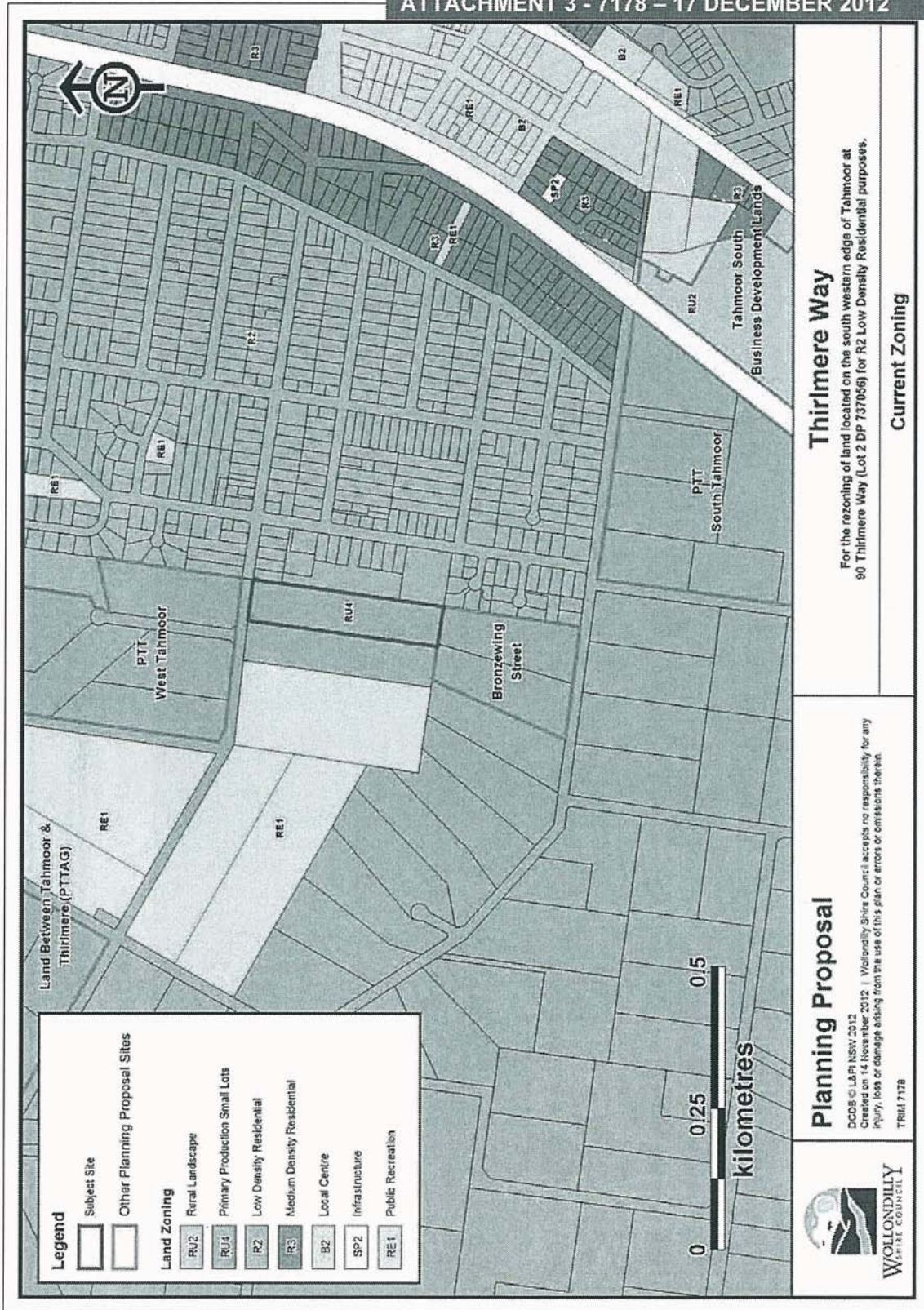
1. Map – Cadastre, Lot & DP Information
2. Map – Aerial Photograph
3. Map – Current Zoning
4. Map – Proposed Zoning.

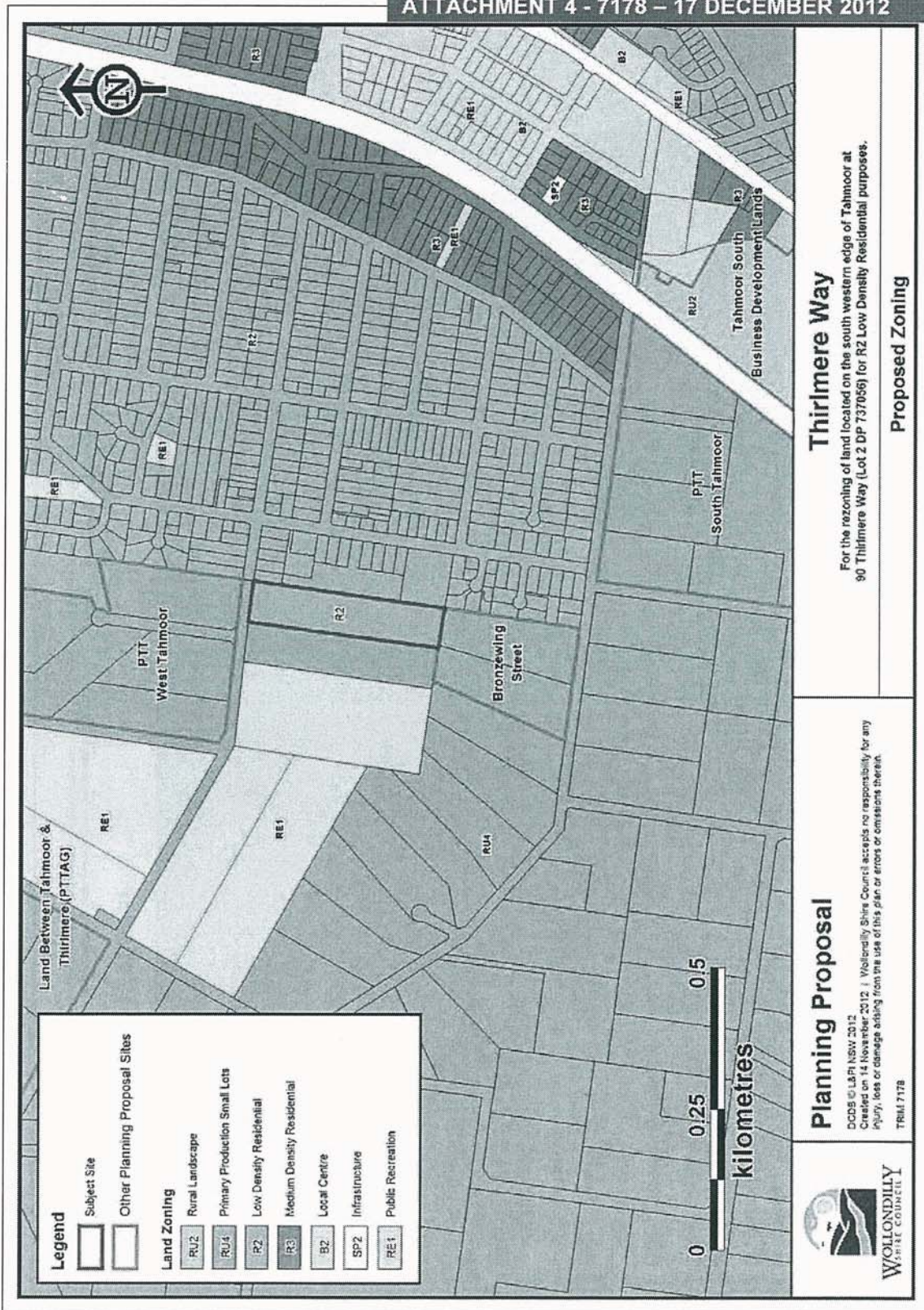
RECOMMENDATION

1. That Council support the Thirlmere Way Planning Proposal to rezone land located at 90 Thirlmere Way, Tahmoor (Lot 2 DP 737056) to amend the provisions of WLEP 2011 as follows:
 - change the Land Zoning Map from RU4 Primary Production Small Lots to R2 Low Density Residential
 - change the Lot Size Map from a 2 hectare minimum to a minimum lot size of 700m²
 - change the Height of Buildings Map from no height limit to a maximum height of 9 metres.
2. That the planning proposal be forwarded to the Minister for Planning & Infrastructure for a Gateway Determination.
3. That the persons who made submissions regarding the planning proposal be notified of Council's decision.



ATTACHMENT 3 - 7178 – 17 DECEMBER 2012





WOLLONDILLY SHIRE COUNCIL

Minutes of the Ordinary Meeting of Wollondilly Shire Council held in the Council Chamber, 62-64 Menangle Street, Picton, on Monday 17 December 2012, commencing at 6.32pm

Wollondilly Shire and Its Planning and Economy

PE5

Planning Proposal - Thirlmere Way, Tahmoor
249JSEL

TRIM 7178

285/2012

Resolved on the Motion of Crs M Banasik and Hannan:

1. That Council support the Thirlmere Way Planning Proposal to rezone land located at 90 Thirlmere Way, Tahmoor (Lot 2 DP 737056) to amend the provisions of WLEP 2011 as follows:
 - change the Land Zoning Map from RU4 Primary Production Small Lots to R2 Low Density Residential
 - change the Lot Size Map from a 2 hectare minimum to a minimum lot size of 700m²
 - change the Height of Buildings Map from no height limit to a maximum height of 9 metres.
2. That the planning proposal be forwarded to the Minister for Planning & Infrastructure for a Gateway Determination.
3. That the persons who made submissions regarding the planning proposal be notified of Council's decision.

On being put to the meeting the motion was declared CARRIED

Vote: Crs M Banasik, Mitchell, Amato, B Banasik, Terry, Law, Landow, Hannan and Gibbs

Planning and
Economy

