

PE8

**Draft Planning Proposal – Land at Avon Dam Road and Hawthorne Road,
Bargo**

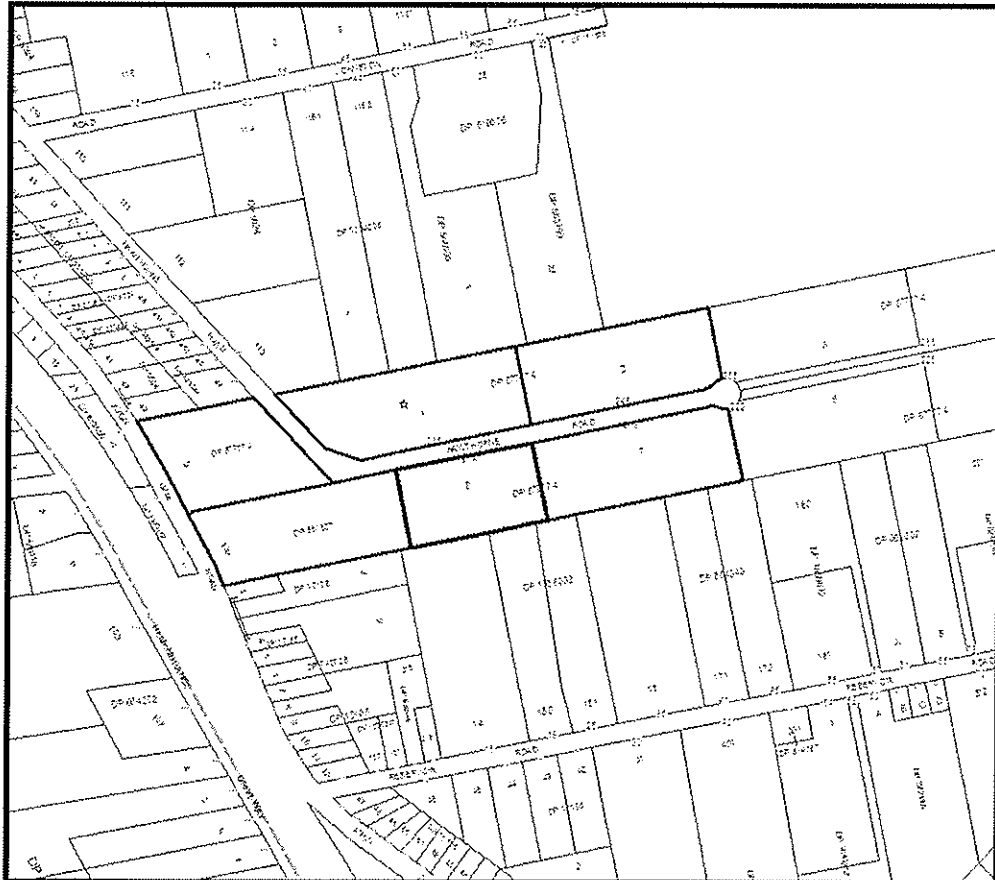
41KCAR

TRIM 6117

Applicant:
Owner:

SMEC Urban
Multiple Landowners

Planning &
Economy



REPORT

EXECUTIVE SUMMARY

- Council has received a planning proposal which was first submitted in 2007 and deferred pending the outcomes of the Growth Management Strategy.
- A number of issues with the planning proposal have been identified but are considered capable of being resolved through further investigation.
- The report recommends that:
- There have not been any disclosures of political donations made in regard to this application.
 - Council support an amended planning proposal which:
 - includes additional land in the R2 low density zone to improve the potential future lot layout and;

- removes the proposal for septic pump out for 700m2 lots as this is not permitted under Wollondilly LEP 2011.
- That the amended planning proposal be submitted to the Department of Planning for a Gateway determination.
- That those persons who made a submission be notified of Council's determination.

BACKGROUND

Site Description

The proposal includes 6 parcels of land located south of the Bargo town centre and adjoins land currently zoned low density residential. The property details are listed below:

Lot & DP	Area
Lot 1 DP 877774	2.242ha
Lot 2 DP 877774	2.002ha
Lot 7 DP 877774	2.000ha
Lot 8 DP 877774	1.394ha
Lot 132 DP 851807	2.000ha
Lot 9 DP 877774	1.674ha

The site is currently zoned RU4 Rural Small Holdings and has a minimum lot size of 2 hectares which means that the land cannot be further subdivided.

History of Draft Proposal

A history of the proposal is outlined below:

- This planning proposal was originally submitted to Council in 2007 as a rezoning application.
- Council at its Ordinary Council Meeting held on 15 December 2008 resolved that a report on all Council's current outstanding rezoning applications be presented to a Council meeting in early 2009.
- A report was subsequently presented to the 16th February 2009 Council meeting and it was resolved that the five outstanding rezoning applications listed in the report be deferred pending the findings and outcomes of the Growth Management Strategy (GMS).
- The GMS was adopted by Council on 21 February 2011.
- A report to Council on 18 April 2011 indicated that initial assessment of this application against the GMS indicates it to be potentially consistent with the structure plans, key policy directions and assessment criteria. The report advised that for the application to proceed it would need to be resubmitted to Council as a Planning Proposal.

At the April 2011 meeting Council resolved:

1. *That each of the outstanding rezoning applicants below:*

- West Appin – Macquariedale Road Area – Walker Corporation
- Bronzewing Street, Tahmoor – Rhodes Haskew
- Avon Dam Road, Hawthorne Road, Bargo – Lean and Hayward
- Land to the west and northwest of Thirlmere – West Thirlmere Progress Association
- 60 West Parade, Thirlmere – William Campbell and Associates

be notified and given the option of either:

- a) *pursuing their application by resubmitting it in the current required planning proposal format, or*
- b) *withdrawing their application in which case they would receive a refund of their initial fee paid.*

2. That Council Workshop these new applications when received.

Subsequent to this meeting, the current planning proposal was submitted to Council on the 25 August 2011 and then after some minor revisions was resubmitted on the 5 September 2011. The planning proposal was discussed at a Council workshop held on the 26 September 2011.

Description of Draft Proposal

It is proposed to:

- Rezone a portion of land fronting Avon Dam Road R2 Low Density Residential with a minimum lot size of 700m².
- Rezone land fronting Hawthorne Road R5 Large Lot Residential with a minimum lot size of 4,000m².

After the rezoning the land could be subdivided into approximately 30 lots.

The land zoned R2 is proposed to be serviced by reticulated sewer when Bargo is connected to the STP. Construction of the sewage connection is planned to commence in 2015. In the interim period the planning proposal suggests using septic pump out for the 700m² lots. The land zoned R5 would be serviced by individual on-site wastewater management facilities as Sydney Water has advised that they would not allow connection of the R5 zoned land to the STP in the future. The planning proposal included a Wastewater Management Assessment for the proposed R5 land and a Flora and Fauna Assessment for the whole site.

CONSULTATION**Preliminary Community Consultation**

In accordance with Council's notification policy, preliminary consultation with adjoining and potentially affected residents in the vicinity of the proposal was undertaken from the 19 September until the 28 October 2011 for the initial draft planning proposal to ascertain the views and opinions of the community. As a result of this notification a total of three submissions were received.

Submission No.	Comments
1.	- Fully supports the proposal - Would create more employment opportunities - May encourage the development of infrastructure - Proximity to the freeway is advantageous
2.	ARTC – requesting a rail noise and vibration assessment
3.	- Inghams objects to the rezoning of Lots 2 & 7 DP 877774 due to potential land use conflicts with their turkey farm which adjoins the site. - No mention of potential conflicts in terms of odour and noise in the planning proposal. - Probable that new residents unused to rural living would complain. - Council should enforce the DCP control Volume 2, 2.5.3 Siting and Setbacks control relating to a minimum separation distance between poultry farms and all residential zones of 500m.

A submission was received from the Australian Rail Track Corporation and their concern related to the potential impact of rail noise and vibration on new residents. They have requested that an acoustic assessment be undertaken for those areas likely to be impacted by the railway line.

One submission was received in support of the proposal. This submission noted the positive effects for Bargo in terms of employment and investment in infrastructure and the proximity of the site to the Hume Highway.

The submission from Inghams highlights the potential for land use conflict with the existing turkey farm and new residents.

Advice from other departments within Council

Some of the issues raised from departments within Council for the initial draft proposal related to:

Sewerage services

The planning proposal states that the 700m² R2 Low Density Residential lots would use pump-out services prior to being connected to sewer. A reticulated sewerage service is planned to commence construction in Bargo by 2014/15. Under Wollondilly LEP 2011 Clause 4.1(5) R2 Low Density Residential lots are required to be a minimum of 975m² if they are not connected to a reticulated sewerage scheme. Therefore 700m² lots would be unable to be developed prior to completion of the sewerage works and connection to reticulated sewer.

A wastewater management report was submitted with the proposal which indicated locations for on-site wastewater disposal for the proposed R5 land.

Lot production

More efficient lot sizes and lot layout could be achieved by extending the R2 zone onto land fronting Hawthorne Road and including the whole of Lot 9 DP 877774 in this zone. This land is considered suitable for development as low density residential rather than the proposed R5. It would add approximately 12 x 700m² lots which are considered a small number of additional lots that would have minimal impact on local amenity. (So this would increase the potential lot yield from the approximate 30 proposed to an approximate 42).

Flora and Fauna

Most of the site is cleared but contains some mature species of Cumberland Plain Woodland, an endangered ecological community. A Flora and Fauna report was submitted with the planning proposal which recommended that these mature trees should be retained. These trees may also provide some koala habitat. Tree preservation clauses within Wollondilly LEP 2011 would protect these mature trees and would be considered in a development application for any future subdivision. Further investigation into Flora and Fauna is not considered necessary given the relatively degraded nature of the vegetation on-site. However future landscaping should use local native provenance plants and ensure weeds are controlled. Landscaping and weed controls are included within Wollondilly DCP 2011.

Drainage

A watercourse runs through two lots proposed to be zoned R5 and a 40m buffer will be required from effluent disposal services. These buffers are indicated on the wastewater management plan. Treatment of this drainage line and drainage throughout the site should be investigated and a concept drainage plan prepared including 1:100 yr. overland flow paths.

Odour

The site adjoins Inghams turkey hatchery which is an established business that plays an important role in the local economy. Controls in Wollondilly DCP 2011 require that residential land should be located a minimum of 500m from poultry sheds. Two lots on Hawthorne Road within the proposed R5 land fall within this 500m buffer. This buffer is to both protect residents from the impacts from odours and to protect businesses from constant complaints from residents impacted by the odours.

Council records indicate that the turkey hatchery historically has had few complaints from local residents and none are recorded from Hawthorne Road. Two dwellings in the subject site on Hawthorne Road are located approximately 400m from the nearest poultry sheds and no future dwellings would be any closer. However, under the proposed R5 zone there is the potential to create up to five 4000m² lots within the 500m buffer from the poultry sheds and therefore an odour report is considered advisable as any future new residents impacted by odour may create problems for the ongoing operation of the turkey hatchery. An odour report should be completed prior to any other studies after a Gateway determination as an adjustment to the planning proposal boundaries may be required.

Noise

Noise from the turkey hatchery is another issue requiring investigation. In addition as previously noted ARTC is seeking a rail noise and rail vibration assessment.

Traffic and Transport

A Traffic Impact Assessment report should consider any effect of the additional traffic at the intersections of Johnson Road/Hawthorne Road and Johnson Road/ Avon Dam Road. Avon Dam Road is a B Double route and the impact of future increases in truck traffic should be examined.

The Traffic assessment should also examine a proposal to modify the section of Hawthorne Road within the land area (east-west direction) to access directly onto Avon Dam Road and terminate the existing Hawthorne Road (north-south direction) with a cul-de-sac at south of No.225. The aim of this would be to spread the future traffic evenly as more development is realised. Shared pathway/cycleway development through the site and links to proposed routes detailed in the Wollondilly Shared Cycleway Plan should be investigated.

Fencing and Privacy

Ensuring that the development maintains the existing rural style streetscape and that open rural style fencing does not impact on the privacy of residents is important. These matters may be addressed by incorporating suitable controls into the Wollondilly Development Control Plan.

Consultation with Government Departments and Organisations

If this draft proposal progresses, the Gateway determination would outline requirements for consultation with other Government Departments and agencies and relevant local organisations. The Australian Rail Track Corporation received a letter during the community consultation as they own land nearby and have requested that a rail noise and vibration assessment be undertaken.

Further community consultation

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

RELEVANCE TO COMMUNITY STRATEGIC PLAN OUTCOMES

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

- Wollondilly has an economic base which is broader, more competitive, flexible and resistant to cyclical economic swings, is diversified and improves the Shire's economic life, while minimising its ecological footprint (EO-1).
- The natural environment is protected and conserved and Wollondilly has a healthy, sustainable, resilient environment with a rural character (EO-1).

POLICIES & LEGISLATION

Planning Proposals

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

The draft 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 draft planning proposal and to forward it to the Minister for Planning 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 draft 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 two (2) 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 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 Panel Assessment Commission or other specified person or body is required;
- The timeframes for the various stages of the procedure to make the draft amendment;
- Whether the function of making the LEP is to be exercised by the Minister for Planning or delegated to Council.

Under the new plan making procedures, the planning proposal and supporting studies are placed on public exhibition. The written draft local environmental plan amendment (the draft LEP) is prepared by Parliamentary Counsel when the planning proposal is finalised, immediately 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.

Wollondilly Local Environmental Plan 2011

The site is currently zoned RU4 Rural Landscape under WLEP 2011. The minimum lot size for this area is currently 2 hectares. The site is made up of 6 existing lots, none of which would have subdivision potential under the current LEP provisions.

It is proposed to rezone the site to partly R2 Low Density Residential on the western portion of the site along Avon Dam Road with a minimum lot size of 700m² and partly R5 Large Lot Residential on the eastern portion of the site along Hawthorne Road with a minimum lot size of 4000sqm.

Site Specific Development Control Plan (DCP)

At this stage a site specific DCP is not considered necessary but this will be considered further after the Gateway determination and studies are completed.

RELEVANT CONSIDERATIONS**Wollondilly Growth Management Strategy (GMS)**

Council's GMS has recently been adopted by Council. Planning Proposals are required to be assessed against the GMS to determine whether they should proceed or not. 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. The general location of this site was included as a potential residential growth area on the structure plan for Bargo. The following table sets out the relevant Key Policy Directions within the GMS along with comments relating to the draft proposal:

Key Policy Directions	Comments
<i>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.</i>	The draft proposal appears to be consistent with Key Policy Directions and Assessment Criteria and Council support is recommended.
<i>P2 All land use proposals need to be compatible with the concept and vision of "Rural Living" (defined in Chapter 2 of the GMS)</i>	The draft proposal appears to be consistent with the concept and vision of 'Rural Living'. The characteristics of rural living, as defined in the GMS, are listed below with relevant comments relating to the draft proposal:
<i>P2-1. Rural Living: Rural Setting and Character The rural setting is obvious, with farmland and natural areas located between separate towns and villages connected by rural-type roads.</i>	This proposal is substantially an infill type of development within an existing residential area. Larger residential lots will provide a transition to rural land.
<i>P2-2 Rural Living: Viable Agriculture Agriculture and associated industries continue to be productive, sustainable and visible part of our economy, our community and our landscape.</i>	The proposed R5 large lot residential land falls within the 500m buffer from poultry farms and residentially zoned land required under Wollondilly DCP 2011. An odour report is recommended to investigate the potential impact on new residents.

WOLLONDILLY SHIRE COUNCIL

Report of Wollondilly Shire and its Planning and Economy to the Ordinary Meeting of Council held on Monday 12 December 2011

Key Policy Directions	Comments
<i>P2-3 Rural Living: Lifestyle Residents experience and value living within a rural setting irrespective of where and how they live – i.e. whether or not they live in a town, a village, on a rural-residential holding or on a farm for example.</i>	The land to the north east of the site is a productive farming enterprise which will continue into the foreseeable future to provide a rural outlook for local residents.
<i>P2-5 Rural Living: Environment and Heritage The Shire's natural and manmade settings have environmental and cultural heritage significance for our communities – these elements include its waterways and catchments, natural areas, aboriginal heritage, agricultural landscapes, rural heritage, and its towns and villages.</i>	The proposed development will have a minimal impact on the local rural environment as the site does not contain any significant waterways or natural areas. Mature remnant Cumberland Plain Woodland trees should be retained and the future subdivision layout should aim to provide sufficient area in each allotment to allow these trees to be retained. This may mean that some R2 lots will be larger than the proposed minimum.
<i>P2-7 Rural Living: Buildings and Development New development aims to be sympathetic to the existing form and traditional character of our built environment which is an integral part of our townscapes, rural landscapes and cultural heritage.</i>	The proposed low density residential zone adjoins residential land where existing lots are around 1000m ² due mainly to the need to have a minimum lot size of at least 975m ² for unsewered land. However the minimum lot size for this residential land is 700m ² which means it will be able to be subdivided when a reticulated sewerage service is available. Consequently the subdivision pattern on the surrounding land is likely to change when reticulated sewer is available and therefore the proposed minimum lot size of 700m ² for the new R2 land should not result in the streetscape being out of character in the longer term. It is proposed to increase the amount of R2 low density land to include land along Hawthorne Road. The land proposed to be zoned R5 will have minimal impact on the rural landscape as surrounding lots are narrow and varied in size..
<i>P2-8 Rural Living: Roads and Transport Residents understand the factors which contribute to the Shire's overall high car dependence but nevertheless seek opportunities to reduce car reliance and to use alternative modes of transport.</i>	Pedestrian links and shared pathways through the site and to routes proposed in the Wollondilly Shared Cycleway Plan should be investigated.
<i>P2-9 Rural Living: Infrastructure and Services Residents understand that despite the benefits of rural living, it can also mean having to deal with lower levels of service and infrastructure.</i>	The relatively small number of lots proposed is unlikely to require additional infrastructure. The pump-out for the proposed 700m ² lots is not permissible under the Wollondilly LEP.

WOLLONDILLY SHIRE COUNCIL

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Key Policy Directions	Comments
<i>P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.</i>	The community in general appears to be supportive of the planning proposal. However ensuring that the existing agricultural enterprise remains economically viable is also an important consideration.
<i>P4 The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.</i>	No such representations have been made regarding this draft proposal and therefore this Key Policy Direction has been satisfied.
<i>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.)</i>	The site has relatively few constraints being serviced by existing roads and services and having a relatively flat topography.
<i>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 members and household types.</i>	The draft proposal provides for both smaller and larger residential lots to accommodate a range of housing needs and affordability.
<i>P9 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 site is located towards the outer urban edge of Bargo and the proposed larger lot size on the rural edge is consistent with this direction.
<i>P10 Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.</i>	The site is located between existing low density residential development and the large lot residential land will be immediately adjacent.
<i>P17 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>	The site is able to be serviced by existing infrastructure in terms of roads for example and given the small number of lots it is unlikely to impose an unsustainable burden on Council.
<i>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.</i>	The draft proposal is located approximately 1km from Bargo shopping centre. Residential development on the site may stimulate to a small degree demand for services within the existing Bargo centre and strengthen the local economy.

Planning & Economy

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Key Policy Directions	Comments
<i>P19 Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.</i>	The site adjoins the existing population centre of Bargo..
<i>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.</i>	This is an area identified as a focus for population growth. It is acknowledge that growth is needed and is identified for this general location on the Bargo Structure Plan within the GMS.
<i>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.</i>	Further consultation with government agencies and other organisations will determine what protection may be required for this site in terms of those characteristics highlighted in this key direction.
<i>P22 Council does not support incremental growth involving increased dwelling entitlements and/or rural lands fragmentation in dispread rural areas. Council is, however, committed to maintaining where possible practicable, existing dwelling and subdivision entitlements in rural areas.</i>	The proposed is consistent with this direction as the R5 zone adjoins the R2 zone and existing urban land.

FINANCIAL IMPLICATIONS

The draft 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 progressing the planning proposal will need to be borne by the applicants (ie. study costs etc). The applicants are aware of this and have indicated that they are willing and able to fund the cost of the required studies.

As the planning proposal proceeds further investigations into contributions towards infrastructure provision through planning agreements and section 94 will need to occur.

CONCLUSION

The draft planning proposal for the site at Avon Dam Road and Hawthorne Road Bargo proposes to rezone land to allow for approximately 30 residential lots on the south-eastern side of Bargo. It is considered that it would be more effective to expand the R2 zone to include additional land in Hawthorne Road which could potentially add another twelve lots. Other key issues raised by Council staff will be further assessed throughout the Gateway process and through subsequent studies. The draft proposal is consistent in principle with Council's recently adopted Growth Management Strategy and it is therefore recommended that an amended planning proposal be forwarded to the Minister for Planning for a Gateway determination.

ATTACHMENTS

1. Map showing site
2. Proposed Draft Zoning and Lot Size Map
3. Proposed Amended Draft Zoning and Lot Size Map

RECOMMENDATION

1. That the draft planning proposal be amended in the following way:
 - to increase the area of R2 Low Density Land to incorporate the whole of Lot 9 DP 877774 and;
 - to remove the proposal for septic pump-out for the 700m² lots because this is not permitted under Wollondilly LEP 2011 and;
2. That Council support the amended draft planning proposal to rezone land to R2 Low Density Residential and R5 Large Lot Residential for Lot 1 DP 877774, Lot 2 DP 877774, Lot 7 DP 877774, Lot 8 DP 877774, Lot 9 DP 877774 and Lot 132 DP 851807 and;
3. That the amended planning proposal be forwarded to the Minister for Planning for a Gateway determination; and
4. That the persons who made submissions regarding this matter be notified of Council's decision.

SITE MAP - DRAFT PLANNING PROPOSAL
AVON DAM AND HAWTHORNE ROADS, BARGO

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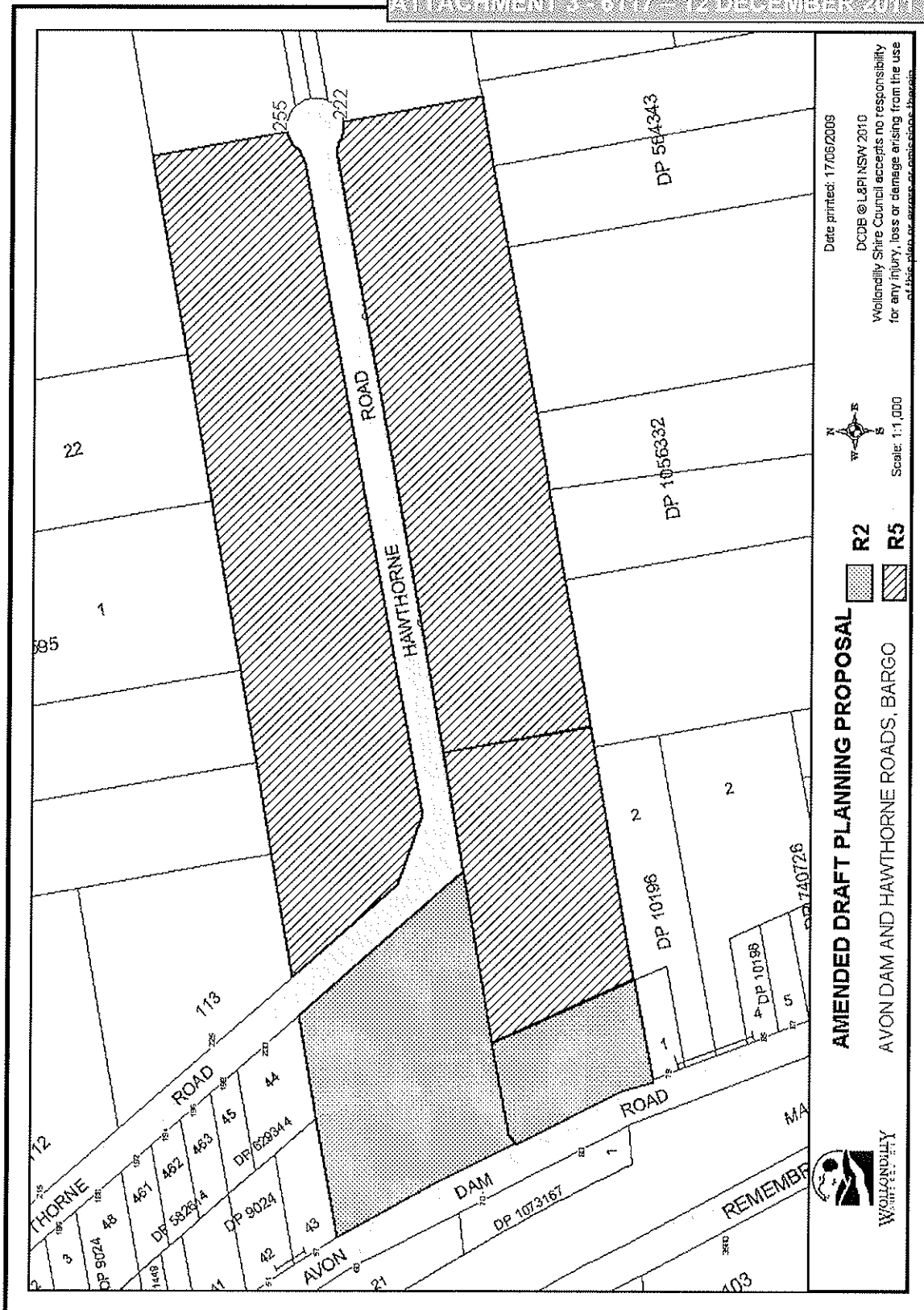
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ATTACHMENT 3 - 6117 - 12 DECEMBER 2011



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