

WOLLONDILLY SHIRE COUNCIL

Report of Wollondilly Shire and its Planning and Economy to the Ordinary Meeting of Council held on Monday 15 August 2011

WOLLONDILLY SHIRE AND ITS PLANNING & ECONOMY

PE1

Draft Planning Proposal - Land between Tahmoor and Thirlmere (PTTAG Application)

55MCOO

TRIM 5400

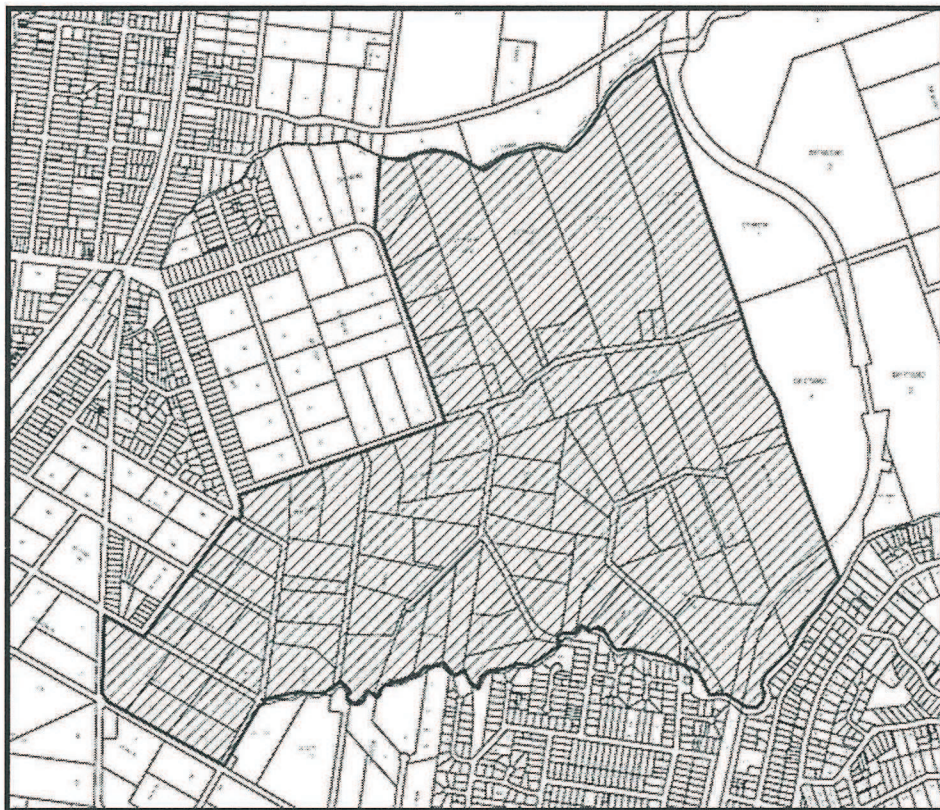
Applicant:

Rein Warry & Co on behalf of the Picton Tahmoor Thirlmere Action Group (PTTAG)

Owner:

Multiple Landowners

Planning &
Economy



REPORT

EXECUTIVE SUMMARY

- Council has received a draft Planning Proposal that proposes to rezone rural land between the townships of Tahmoor and Thirlmere to allow for rural residential development.
- The application was first reported to Council in March 2007 where Council resolved to commence the rezoning process and prepare Draft Amendment No. 74 to the former Wollondilly Local Environmental Plan (LEP) 1991.

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- Legislative changes to the Environmental Planning & Assessment Act 1979 (EP&A Act) required the draft plan to be converted into the new 'Gateway' part 3 plan making process by 1 January 2011.
- Council recommended that the Department of Planning covert the draft LEP to allow for the plan to proceed under the 'Gateway' system.
- The Department of Planning determined that the Draft LEP should lapse and that a new proposal be submitted to Council for consideration.
- Accordingly this report recommends:
 1. That Council support the draft planning proposal to rezone eighty seven (87) allotments of land between the towns of Tahmoor and Thirlmere.
 2. That the draft planning proposal be forwarded to the Minister for Planning for a Gateway determination; and
 3. That the persons who made submissions regarding the original rezoning application be notified of Council's decision.
- There have not been any disclosures of political donations made in regard to this application.

BACKGROUND

Site Description

The subject site comprises eighty seven (87) allotments of land between the townships of Tahmoor and Thirlmere. The site is generally bounded by Redbank Creek, Myrtle Creek and the Main Southern Rail Line.

The area of the site is approximately 232 hectares.

Specifically, the proposal covers the following allotments of land:

Hilton Park Road - Tahmoor

- Lots 1, 2 and 3 in Deposited Plan 599811 (No. 95, 99 and 100);
- Lots 20 and 21 in Deposited Plan 806833 (No. 90 and 84);
- Lots 31 and 32 in Deposited Plan 614455 (No. 80 and 74);
- Lots 41 and 42 in Deposited Plan 786808 (No. 50 and 70);
- Lots 1, 5, 10, 11 and 13 in Deposited Plan 11938 (No. 10, 20, 75, and 85);
- Lots 11, 12 and 13 in Deposited Plan 716677 (No. 65, 55, and 49);
- Lots 10 and 11 in Deposited Plan 792784 (No. 45 and 35);
- Lot 2 in Deposited Plan 556946 (No. 25);
- Lots 31 and 32 in Deposited Plan 793108 (No. 4 and 15).

Brundah Road –Tahmoor/Thirlmere

- Lots 17, 18 and 19 in Deposited Plan 746882 (No. 115, 135 and 139);
- Lots 14, 15 and 16 in Deposited Plan 730970 (No. 65, 101 and 109);
- Lots 20 and 21 in Deposited Plan 776161 (No. 130 and 150);
- Lots 1, 2, 3, 4 and 5 in Deposited Plan 244682 (No. 40, 60, 80, 100 and 110);
- Lot 191 in Deposited Plan 618071 (No. 85).
- Lots 1, 2 and 3 in Deposited Plan 709428 (No. 10, 20 and 30);

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Land between Myrtle Creek and Main Southern Railway Line

- Lot 31 in Deposited Plan 253459.

Glenanne Place - Thirlmere

- Lots 1, 2, 3, 4, 5, 6, 7 and 8 in Deposited Plan 245495 (No. 5, 10, 15, 16, 20, 25, 30 and 35).

Rita Street, Thirlmere

- Lots 13, 14, 15, 16, 17 and 18 in Deposited Plan 245153 (No. 69, 77, 85, 95, 105 and 115);
- Being land on the eastern side of Rita Street, south of Redbank Creek.

Tickle Drive, Thirlmere

- Lot 22 in Deposited Plan 245153 (No. 5);
- Lots 210 and 211 in Deposited Plan 716676 (No. 9 and 19);
- Lots 201 and 202 in Deposited Plan 850429 (No. 25 and 35);
- Lots 101, 102, 103 and 104 in Deposited Plan 613474 (No. 45, 55, 59 and 65);
- Being land between Tickle Drive and Redbank Creek.
- Lot 192 in Deposited Plan 618071 (No. 30);
- Lot 3 in Deposited Plan 606962 (No. 60);
- Lot 2 in Deposited Plan 920876 (No. 70);
- Being land on the southern side of Tickle Drive.

Denmead Street, Thirlmere

- Lots A, C and D in Deposited Plan 365658 (No. 3, 9 and 35);
- Lots 1 and 2 in Deposited Plan 734881 (No. 15 and 25);
- Lots 143, 155, 158 and 173 in Deposited Plan 751270 (No. 30, 40, 41 and 60);

Bell Street, Thirlmere

- Lots 140 and 141 in Deposited Plan 751270 (No. 5 and 15);
- Being land on the southern side of Bell Street between Dennis and Denmead Streets.

Dennis Street, Thirlmere

- Lots 142, 153 and 156 in Deposited Plan 751270 (No. 15, 25 and 35);
- Being land on the eastern side of Dennis Street.

Jarvis Street, Thirlmere

- Lot 100 in Deposited Plan 1030976 and Lot 154 in Deposited Plan 751270 (No. 15).

Leonard Street, Thirlmere

- Lots 170, 169 and 157 in Deposited Plan 751270 (No. 5, 25 and Lot 157).

Thirlmere Way, Thirlmere

- Lots 172 and 167 in Deposited Plan 751270 (No. 195 and 235).

Description of Draft Proposal

The applicant has stated the objective of the draft proposal is to 'rezone the subject site from Zone RU4 Rural Small Holdings to an appropriate rural/residential zone and standards pursuant to the Wollondilly Principal Local Environmental Plan 2011'.

To achieve this objective, the applicant has stated that 'the proposed amendment to the Principal LEP 2011 will ensure that appropriate development standards apply to the land zoned for rural residential purposes in light of studies which will determine land capability. The manner of rural residential development will also seek to minimise conflict between land uses within the zone and land uses within adjoining zones and other mining activities.

Following completion of relevant studies the draft proposal will be revised to provide more specific instructions regarding potential provisions for:

- The zone to be applied to the land.
- The lot sizes and other standards to be incorporated into associated maps.
- Any site specific clauses that may need to apply to the land'.

CONSULTATION

Consultation with Government Agencies

Consultation with government agencies was undertaken in accordance with the former section 62 provisions of the Environmental Planning and Assessment Act to determine study requirements to support the proposal. The responses received from agencies are reflected in the Specialist Study requirements outlined in Appendix 2 of the draft proposal.

Further Community and Government Agency Consultation

The notification undertaken to date represents the first round of community and government agency consultation. Further opportunities for consultation and input into the rezoning will be provided further on in the process after the Gateway determination. This will include statutory advertising and public exhibition of the draft local environmental plan seeking input and comment from the community and government agencies.

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:

- Support the economic viability of our towns by encouraging appropriate residential development in and around those towns (EC-7).
- Maintain a range of functional, highly sustainable, attractive built environments in sympathy with the nearby natural and built environment and the Shire's rural character and heritage values (ES-6).

- Support and facilitate the building of the Shire's capacity to foster a sustainable and diversified economy (EcS-3).

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.

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 part RU4 Primary Production Small Lots and part RU2 Rural Landscape under Wollondilly LEP 2011. The minimum lot size for this area is currently 2 & 16 hectares respectively. The site is made up of eighty seven (87) existing lots, none of which would have subdivision potential under the current LEP provisions.

Site Specific Development Control Plan (DCP)

Dependent upon the outcome of specialist studies and consultation with government agencies, a Site Specific Development Control Plan (DCP) may need to be prepared for the subject site. Alternatively, Volume 3 – Residential and Tourist uses of the Wollondilly Development Control Plan may be applied to the subject site.

If a Site Specific DCP was required it would include specific site objectives and development controls for the future development of the site, addressing a range of design and built form controls, including (but not limited to):

- Building envelopes
- Bushfire asset protection
- Treatment of the rural residential / environmental protection interface
- Management of riparian corridors
- Urban sensitive water design
- On-site wastewater treatment

As noted above, the range of provisions included in the Site Specific DCP will be informed by specialist studies undertaken to support the proposal. If a Site Specific DCP is required it will be reported to Council when it is prepared.

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.

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CONCLUSION

A draft planning proposal has been submitted for 232 hectares of rural land located between the towns of Tahmoor and Thirlmere. The objective of the draft proposal is to rezone the subject site from Zone RU4 Rural Small Holdings to an appropriate rural/residential zone and standards pursuant to the Wollondilly Principal Local Environmental Plan 2011.

Council originally resolved to support the rezoning application in March 2007 and prepare Draft Amendment No. 74 to the former Wollondilly Local Environmental Plan 1991.

In response to Council's request to convert the draft plan into the new part 3 plan making process of the Environmental and Assessment Act, the DoP determined that the rezoning application should lapse as of 1 January 2011. Furthermore, it was recommended that a fresh planning proposal be submitted to Council.

It is recommended that the draft proposal be supported and forwarded to the Minister for Planning for a Gateway determination.

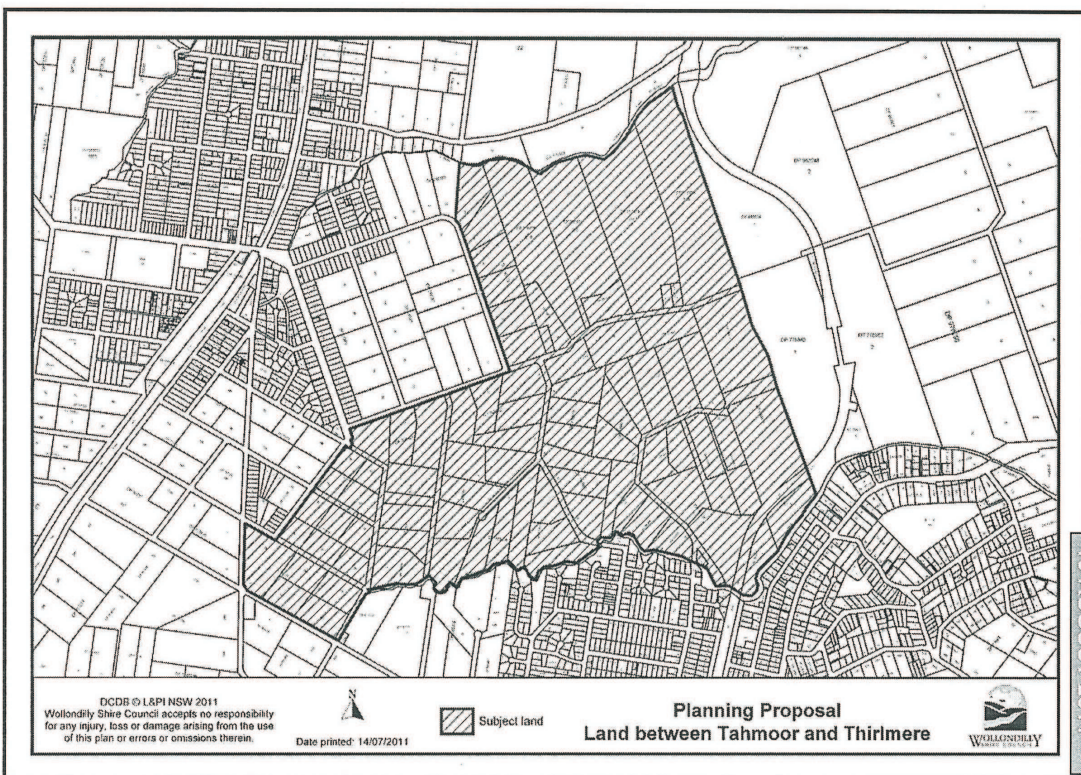
ATTACHMENTS

1. Location Map

RECOMMENDATION

1. That Council support the draft planning proposal to rezone eighty seven (87) allotments of land between the towns of Tahmoor and Thirlmere.
2. That the draft planning proposal be forwarded to the Minister for Planning for a Gateway determination.
3. That the persons who made submissions regarding the original rezoning application be notified of Council's decision.

ATTACHMENT 1
TRIM 5400
15 AUGUST 2011



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WOLLONDILLY SHIRE COUNCIL

Minutes of the Ordinary Meeting of Wollondilly Shire Council held in the Council Chamber, 62-64 Menangle Street, Picton, on Monday 15 August 2011, commencing at 6.30pm

Wollondilly Shire and Its Planning and Economy

WOLLONDILLY SHIRE AND ITS PLANNING AND ECONOMY REPORTS

PE1 **Draft Planning Proposal - Land between Tahmoor and Thirlmere (PTTAG Application)**
55MCOO TRIM 5400

Applicant: Rein Warry & Co on behalf of the Picton Tahmoor Thirlmere Action Group (PTTAG)
Owner: Multiple Landowners

169/2011 **Resolved** on the motion of Crs Hannan and Khan:

1. That Council support the draft planning proposal to rezone eighty seven (87) allotments of land between the towns of Tahmoor and Thirlmere.
2. That the draft planning proposal be forwarded to the Minister for Planning for a Gateway determination.
3. That the persons who made submissions regarding the original rezoning application be notified of Council's decision.

On being put to the meeting the motion was declared CARRIED.

Vote: Crs M Banasik, Vernon, Khan, B Banasik, Landow, Hannan and Mitchell

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