

WOLLONDILLY SHIRE COUNCIL

Minutes of the Ordinary Meeting of Wollondilly Shire Council held in the Council Chamber, 62-64 Menangle Street, Picton, on Monday 20 February 2012, commencing at 6.30pm

Wollondilly Shire and Its Planning and Economy

PE5 Planning Proposal - 136-154 Menangle Street, Picton
41KCAR

TRIM 6589

17/2012 Resolved on the motion of Crs M Banasik and Khan:

1. That Council support the draft Planning Proposal for Lot 12 DP 1126525 at 136-154 Menangle Street, Picton.
2. That the draft Planning Proposal be forwarded to the Minister for Planning & Infrastructure for a Gateway Determination.
3. That the persons who made submissions regarding the draft Planning Proposal be notified of Council's decision.
4. *That if and when approved the subdivision layout on page 222, Council staff to note the flood control bank from proposed lot 14 to behind the Imperial Hotel Picton requires modification to control rainwater flows in medium to high rainfall periods.*

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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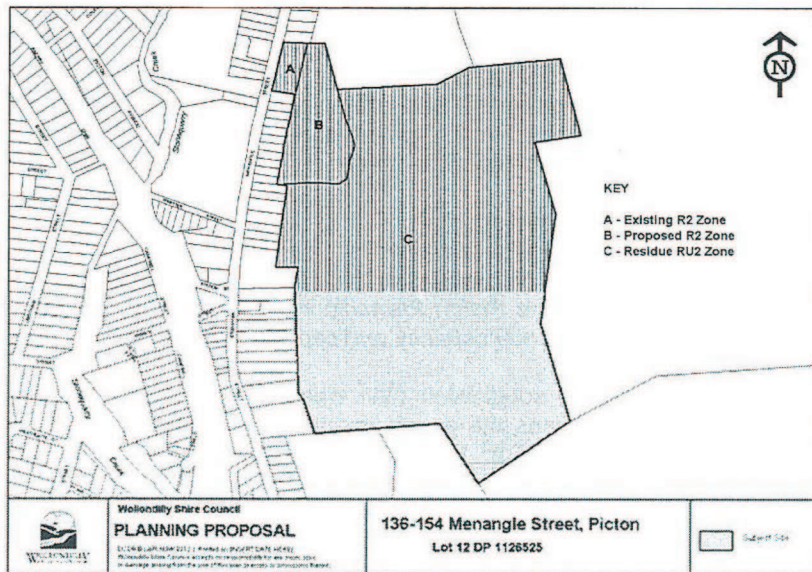
Report of Wollondilly Shire and its Planning and Economy to the Ordinary Meeting of Council held on Monday 20 February 2012

PE5

Planning Proposal - 136-154 Menangle Street, Picton 41KCAR

TRIM 6589

REPORT



OWNER:
APPLICANT:

Mazuran & Mr T Perich & Stevon D & D Pty Ltd
Graham Pascoe

EXECUTIVE SUMMARY

- Council has received a draft Planning Proposal to rezone a portion of rural land located at Lot 12 DP 1126525 – 136-154 Menangle Street, Picton to allow for approximately 17 low density residential allotments.
- A preliminary assessment of the proposal against the Growth Management Strategy indicates that the draft Planning Proposal is consistent with the key policy directions.
- There have not been any disclosures of political donations made in regard to this application.
- Accordingly this report recommends:
 - That Council support the draft Planning Proposal for Lot 12 DP 1126525, 136-154 Menangle Street, Picton.
 - That the draft Planning Proposal be forwarded to the Minister for Planning & Infrastructure for a Gateway Determination; and
 - That the persons who made submissions regarding the draft Planning Proposal be notified of Council's decision.

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BACKGROUND

Site Description

The site is at 136-154 Menangle Street being Lot 12 DP 1126525 and is located south of the Picton Township. The lot has a total area of 34.84ha and the site comprises a 2.32ha portion. Currently the lot is partly zoned R2 Low Density Residential along the portion of the land fronting Menangle Street and the remainder is zoned RU2 Rural Landscape.

The 2.32 ha portion of land proposed to be rezoned directly adjoins the existing vacant residentially zoned land and the rear of other properties along the eastern side of Menangle Street.

Description of Draft Proposal

The Draft Planning Proposal aim is:

To facilitate the comprehensive subdivision for residential purposes of land contiguous with the Picton township in an integrated manner in accordance with its environmental capacity and capitalising on existing infrastructure.

- A concept subdivision plan which incorporates the vacant residential land proposes the development of 21 residential allotments ranging in size from 707m² to 3067m² (including 4 lots on the existing vacant residentially zoned land).
- A road accessing the site is proposed from Menangle Street.
- It is proposed to amend the Wollondilly Local Environmental Plan 2011 and associated maps to permit the proposed residential development.

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 9 December 2011 until the 13 January 2012 for the initial draft planning proposal to ascertain the views and opinions of the community. As a result of this notification a total of two (2) submissions were received.

Table 1 – Submissions from residents and Comments

No	Concerns	Comment
1	Does not object to the proposal but has the following concerns.	
2.	Notification -Housing tenants were not notified	Notification - The Argyle Community Housing Trust was notified but no submissions were received.
3.	Drainage – ▪ Issues with flooding from dam and run-off from hill at rear. ▪ Measures required ensuring drainage adequately addresses	Drainage – A flood and drainage assessment will be undertaken to determine what measures are required to adequately address this

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No	Concerns	Comment
4.	run-off and flooding. Traffic – - Menangle Street is a main access route into Picton and traffic speeds at this point. - Proximity of Victoria Park with high levels of traffic from its use. - Access lanes and traffic controls – lower speeds, lights at Argyle St intersection and more police patrols are suggested.	issue. Traffic – A traffic study will assess the issues and measures outlined.
5.	Privacy – - The slopes steeply from Menangle Street and there will be a lack of privacy for the rear yard of properties fronting Menangle Street. - A one-storey height limit is suggested.	Privacy – This will be investigated and measures proposed to ensure privacy of existing residences are maintained.
6.	Development – What type of residential development is allowed?	The R2 Low Density Zone will allow for single dwellings and dual occupancies but not medium density development such as villas, townhouses or multi-storey units.

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- Advice from other departments within Council**

Some of the issues raised from departments within Council for the initial draft proposal related to the following matters.
- Flooding and drainage**

A small part of the lot is prone to flooding from Stonequarry Creek and there are drainage issues at the rear of properties fronting Menangle Street.

A hydrology study addressing flooding and drainage issues identified by Council staff and residents is recommended.
- Services**

The development should be connected to reticulated sewage and water. As the land is zoned rural it is located outside Sydney Water's servicing boundary but there are plans to amend the boundary being considered by the Department of Planning. Investigations will be undertaken with Sydney Water to determine whether there is capacity within current infrastructure. Similarly other service providers will be contacted to determine service availability.

- **Geotechnical**

Some of the land proposed for rezoning is steeply sloping and it is considered that parts of the land unsuitable for building should not be contained in the proposed residential lots but instead should be part of the residue lot.

A geotechnical and engineering report is required to evaluate the suitability of the land for residential purposes and to assess the suitability of the proposed subdivision layout and road construction.

- **Traffic**

Menangle Street provides the main access route into Picton from the east and is classified as a State Road. A new road is proposed into the site to service the proposed new residential land and the residue lot. An assessment of traffic volumes to ensure suitable performance and safety of the new intersection and an evaluation of the traffic concerns and measures identified by residents is recommended.

- **Heritage**

The current residential portion of the site fronting Menangle Street is located within the Picton Conservation Area. The site contains an old dairy which has some heritage value.

A heritage assessment is recommended for both the European and Aboriginal cultural background.

- **Ecology**

The site includes Cumberland Plain Woodland an endangered ecological community. The area proposed to be rezoned for residential purposes is a small portion of the site near Menangle Street and is largely cleared. Any mature remnant Cumberland Plain Woodland mature trees within a future subdivision should be retained. The site is not included within the priority conservation lands detailed in the State Government's *Cumberland Plain Recovery Plan*. There are areas of African Olive, a woody weed, on site which impact on the ability of remnant Cumberland Plain Woodland throughout the site to regenerate. Accordingly a weed/vegetation management plan should be prepared to assist woodland regeneration.

- **Bushfire Hazard**

The land is subject to bushfire hazard and will require an assessment under the provisions of Planning for Bushfire Protection 2006.

- **Privacy**

Maintaining privacy for properties along Menangle Street is important and site-specific measures identified will be incorporated into Wollondilly Development Control Plan.

- **Residue land**
The draft planning proposal indicates that there are no proposals to develop this residue land at present. Some consideration of its continued use for agricultural purposes and potential for development should be given in the studies particularly with regard to soil stability, weeds/vegetation management, access, traffic generation and land use conflict.
- **Consultation with Government Departments**
Consultation is needed with the Department of Planning & Infrastructure (DoPI) and the Office of Environment & Heritage (OEH) on the Planning Proposal. It is considered that should the proposal be supported the Gateway Determination will outline further consultation requirements with the DoPI, OEH and any other relevant government agencies.
- **Further community consultation**
If this draft proposal progresses, further community consultation opportunities will 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 this proposal in principle is capable of delivering outcomes consistent with the CSP, particularly the following:

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

The impact of existing and new development on the environment is reduced in turn reducing the Shire's ecological footprint (EO-2).

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 & Infrastructure 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 & 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 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 one (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);

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- 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 & Infrastructure or delegated to Council.

The Planning Proposal and supporting studies are placed on public exhibition for community and government consultation. 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

Under the provisions of Wollondilly LEP 2011 the site currently has a split zoning being part R2 Low Density Residential (R2) and part RU2 Rural Landscape (RU2). It is proposed to rezone a 2.32ha portion of the RU2 land to R2 and to reduce the minimum lot size for this land to 700m².

An LEP amendment is required to allow the current and proposed R2 land to be subdivided as the minimum lot size for subdivision of the RU2 land is 100ha and Lot 12 has a total area of only 34.84ha with around 32ha proposed to be left in the residue RU2 lot. Consequently although the minimum lot size for subdivision of the current R2 and proposed R2 zone is 700m², subdivision would not be allowed as it would result in an undersized RU2 lot. Accordingly a lower minimum lot size is recommended for the residue RU2 land which would allow the R2 land to be subdivided but not allow further subdivision of the residue RU2 land.

For the proposed rezoning to proceed, the following amendments to Wollondilly LEP 2011 are required:

- The Land Zoning Map (LZN) would be amended to include an R2 Low Density Residential Zone adjoining the existing R2 zone on the north-western end of the site.
- The Lot Size Map (LSZ) would be amended to allow for a minimum lot size of 700m² for the area proposed to be zoned R2 and a lower minimum lot size to be determined after further assessment for the residue RU2 Rural Landscape zone.
- The Height of Buildings Map (HOB) would be amended to allow for a maximum height of 9m in the proposed R2 zone and with no height limit to remain for the residue RU2 zone.

State Environmental Planning Policy 55 - Remediation of Land (SEPP55)

Under State Environmental Planning Policy No 55 – Remediation of land (SEPP 55), 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. The land was used for agricultural purposes and contains an old dairy. Agriculture is a potentially contaminating activity and accordingly a preliminary contaminated land investigation should be undertaken prior to rezoning for residential purposes to determine whether the land is contaminated and requires remediation.

Site Specific Development Control Plan Provisions

Site specific provisions within the Wollondilly Development Control Plan may be required for the subject land which would include specific site objectives and development controls for the future development of the site. Site specific provisions would be expected to include a range of design and built form controls, including (but not limited to):

- Building envelopes
- Building setbacks based on the environmental features of the site
- Site landscaping
- Public domain treatments
- Bushfire asset protection zones
- Treatment of the urban / environmental protection interface
- Urban sensitive water design

The range of site-specific provisions included would be informed by specialist studies undertaken to support the proposal. The draft Site Specific provisions would be reported to Council after they are prepared should they be required.

RELEVANT CONSIDERATIONS

Wollondilly Growth Management Strategy (GMS)

Council's GMS was adopted by Council in February 2011. 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. The subject draft planning proposal site was identified on the Picton Structure Plan as being suitable for future urban growth as it is located adjacent to a residential area.

The following table sets out the relevant Key Policy Directions within the GMS along with comments relating to the draft proposal:

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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.
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 draft proposal is generally consistent with the concept and vision of 'Rural Living'. The draft planning proposal will augment the existing residential area while maintaining the rural landscape character.
P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.	Two submissions were received which raised concerns regarding flooding, drainage, traffic, privacy and the type of residential development.
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 draft 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 draft proposal represents a logical rezoning of the subject site for low density residential purposes in keeping with adjoining land uses. Within the constraints of the site the proposal is considered appropriate as it will facilitate the consolidation of the residential area. 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 draft proposal contributes toward Council's dwelling target for Picton outlined in the GMS. The Structure Plan for Picton includes 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 members and household types.	The indicative plan of the proposed subdivision provided with the proposal proposes lot sizes from 707m ² to 3067m ² which will allow for a mix of housing types.
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").	It is proposed to have low density residential development comprising mainly single dwellings which will be in keeping with the surrounding housing.
P10 Council will focus on the majority of new housing being located within or immediately	This draft planning proposal complies with this policy direction as it is infill development being within the existing town.

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Key Policy Direction	Comment
<i>adjacent to its existing towns and villages.</i>	
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>	The proposal will create short-term employment opportunities through the construction jobs associated with the civil and building works, and will 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 zoned to facilitate further employment opportunities.
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>	It is considered that additional residential allotments in the locality are not likely to burden Council. Developer contributions payable at the development application stage will fund the necessary local infrastructure required to support any future development. Likely state and regional infrastructure demands will be assessed by relevant agencies post Gateway Determination.
P18 <i>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 planning proposal is located approximately 550m from Picton town centre. The site requires construction of an access road.
P19 <i>Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.</i>	The draft proposal does not contribute toward dispersed population growth; it proposes urban growth adjacent to the Picton urban area.
P20 <i>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</i>	This is an area identified as a being a potential residential growth area on the Picton Structure Plan in the GMS. The draft proposal contributes toward Council's dwelling target for Picton identified in the GMS.

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Key Policy Direction	Comment
<i>other towns.</i>	
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.	The proposal will have minimal impact on the agricultural capacity of the land as most of the land will remain within a rural zone. The proposal will not result in any adverse environmental impacts
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 possibly practicable, existing dwelling and subdivision entitlements in rural areas.	Key Policy Direction P22 is not applicable to the draft proposal.

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FINANCIAL IMPLICATIONS

As noted previously in this report, 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 any required studies are to be borne by the applicant.

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

CONCLUSION

The Draft Planning Proposal aim is:

To facilitate the comprehensive subdivision for residential purposes of land contiguous with the Picton Township in an integrated manner in accordance with its environmental capacity and capitalising on existing infrastructure.

Details of the planning proposal are outlined below:

- A concept subdivision plan which incorporates the vacant residential land proposes the development of 21 residential allotments ranging in size from 707m² to 3067m² (including 4 lots on existing vacant residentially zoned land).
- A road accessing the site is proposed from Menangle Street.
- The Land Zoning Map (LZN) will be amended to include an R2 Low Density Residential Zone adjoining the existing R2 zone on the north-western end of the site.

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- The Lot Size Map (LSZ) will be amended to allow for a minimum lot size of 700m² for the area zoned R2 Low Density Residential and a lower minimum lot size than the current 100ha for the residue RU2 Rural Landscape zone to be determined after further assessment.
- The Height of Buildings Map (HOB) will be amended to allow for a maximum height of 9m in the proposed R2 Low Density Residential zone and with no height limit to remain for the residue RU2 Rural Landscape zone.

The draft proposal is consistent in principle with Council's recently 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. Current Zones Map
2. Aerial Photo showing Planning Proposal
3. Subdivision layout concept

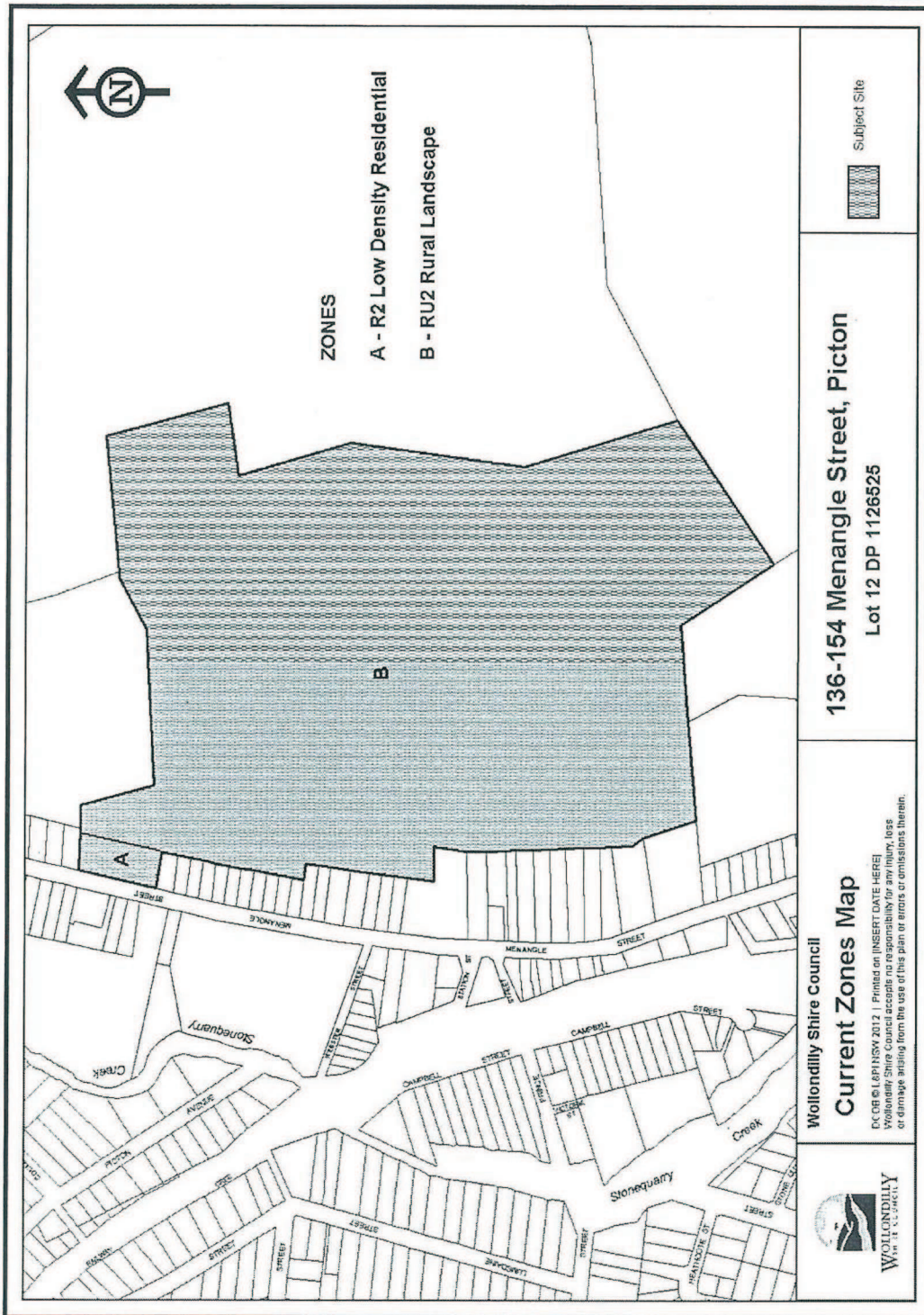
RECOMMENDATION

1. That Council support the draft Planning Proposal for Lot 12 DP 1126525 at 136-154 Menangle Street, Picton.
2. That the draft Planning Proposal be forwarded to the Minister for Planning & Infrastructure for a Gateway Determination.
3. That the persons who made submissions regarding the draft Planning Proposal be notified of Council's decision.

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ATTACHMENT 1 - 6589 - 20 FEBRUARY 2012



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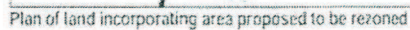
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ATTACHMENT 2 - 6589 – 20 FEBRUARY 2012



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ATTACHMENT 3 - 6589 - 20 FEBRUARY 2012

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