



Planning,  
Industry &  
Environment

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## Plan finalisation report – PP\_2013\_WOLLY\_002\_02

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Wollondilly Local Environmental Plan 2011 - 1735  
Remembrance Drive, 108-114 Menangle Street and  
116-118 Menangle Street, Picton (Picton East)

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# 1 Introduction

## 1.1 Overview

### 1.1.1 Name of draft LEP

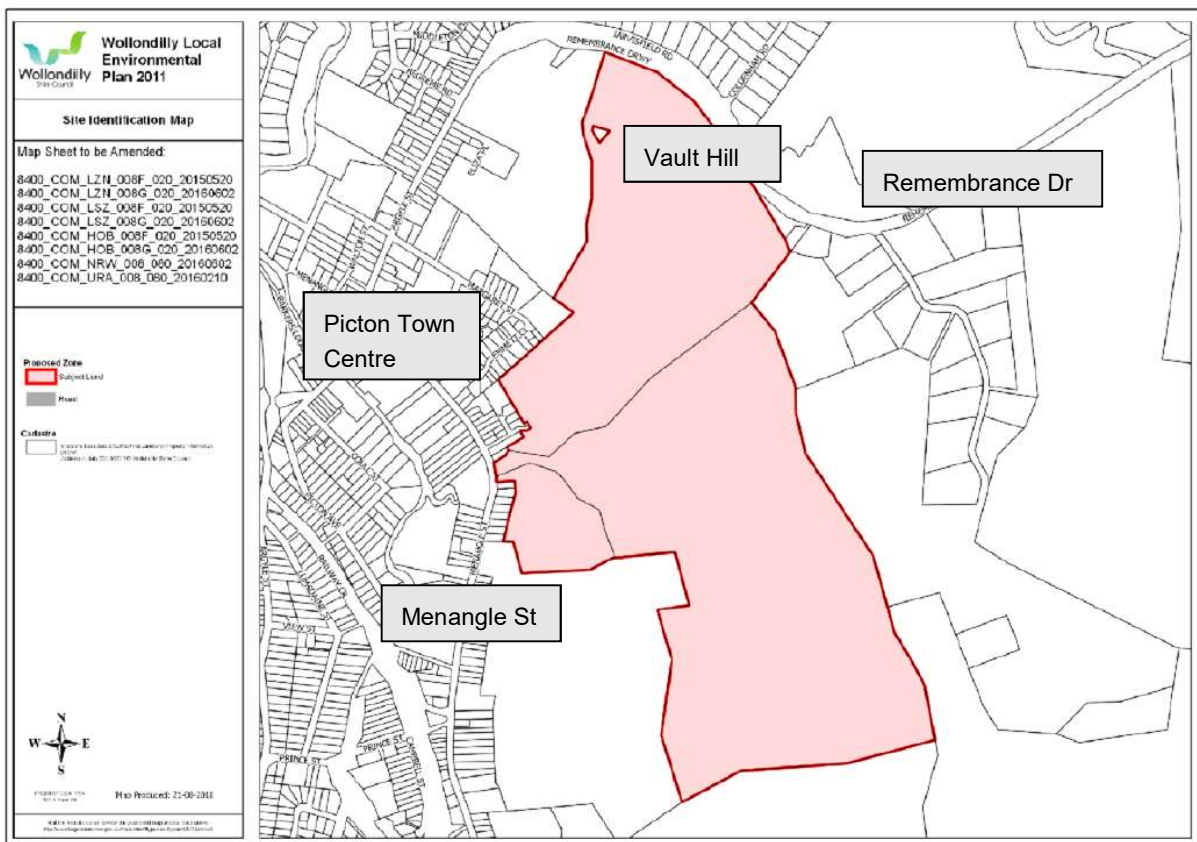
Wollondilly Local Environmental Plan 2011 .

### 1.1.2 Site description

**Table 1 Site description**

Site Description	Type	Council Name	LGA
The planning proposal ( <b>Attachment A</b> ) applies to land at 1735 Remembrance Drive (Part Lot 106 DP 1111043), 108-114 Menangle Street (Part Lot 2 DP 229679 and 116-118 Menangle Street (Lot 9 DP 23384), Picton.	Site	Wollondilly Shire Council	Wollondilly

The site (**Figure 1**) comprises of three lots located immediately east of Picton Town Centre. It is bordered by Remembrance Drive/Old Hume Highway to the north and Menangle Street to the west. Two roads lead into the site, Margaret Street and Baxter Lane. The site sits below the southern side of Vault Hill, a prominent local landmark. Reeves Creek and its tributaries run through the site and connect to Stonequarry Creek through a drainage culvert under Menangle Street. The land is generally cleared and is used for grazing.



**Figure 1 Subject site**

### 1.1.3 Purpose of plan

The planning proposal seeks to amend the Wollondilly Local Environmental Plan 2011(Wollondilly LEP 2011) to:

- Enable the development of the site for the purposes of housing for around 250 dwellings;
- Enable the conservation of environmentally sensitive land;
- Restrict residential development on areas that are potentially geotechnically unstable; and
- Limit impact on the rural landscape, scenic hills and nearby heritage character.

Table 2 below outlines the current and proposed controls for the LEP.

**Table 2 Current and proposed controls**

Control	Current	Proposed
Zone	RU2 Rural Landscape	R2 Low Density Residential, E4 Environmental Living and E2 Environmental Conservation.
Maximum height of the building	N/A	9m
Minimum lot size	100 ha	400m <sup>2</sup> , 450m <sup>2</sup> , 700m <sup>2</sup> and 1500m <sup>2</sup> for R2 land 1500m <sup>2</sup> for E4 land, 5 ha for E2 land and 20 ha for the residual RU2 land on Lot 106 DP111043, and 40 ha for the residual RU2 land on Lot 2 DP 229679 outside the rezoning site.
Number of dwellings	Unknown	Approximately 250
Natural Resources Water Map	Part 10m and 30m riparian buffers on site	Riparian buffers of 10m, 20m and 30m along Reeves Creek and its tributaries
Urban Release Area maps	N/A	Identify the land on the Urban Release Area maps under WLEP 2011.
Additional Local Provisions	N/A	Amend Part 7 Additional Local Provisions to include a clause entitled "Landslide Risk", with an accompanying map detailing areas of landslide risk on the site that would require further investigation at the development application stage.

### 1.1.4 State electorate and local member

The site falls within the Wollondilly State electorate. Mr Nathaniel Smith MP is the State Member.

The site falls within the Hume Federal electorate. The Hon. Angus Taylor MP is the Federal Member.

To the Western team's knowledge, neither MP has made any written representations regarding the proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

### 1.1.5 Recommendation

This report recommends that the Minister's delegate not proceed with the planning proposal as:

- the concept design of the new intersection at Menangle Street has not been addressed;
- inadequate measures for wastewater servicing to demonstrate an ability for the site to be serviced in an interim or permanent state; and
- inconsistencies with 9.1 Direction 3.1 Residential Zones remain unresolved, hence all related issues remain unresolved.

## 2 Gateway determination and alterations

The Gateway determination issued on 28/03/2013 (**Attachment B**) determined that the proposal should proceed subject to conditions. The key conditions in the Gateway determination are summarised as follows:

- Confirmation of inclusion of land currently zoned RE1 Public Recreation in the proposal;
- Address acquisition arrangements for land proposed to be zoned RE1 Public Recreation;
- Demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land;
- Additional studies be prepared for drainage and stormwater, flora and fauna, flooding, bushfire hazard, traffic and transport, heritage, geotechnical, open space, scenic landscape analysis, residue land and water and wastewater servicing; and
- Community consultation and consultation with public authorities and organisations is required.

The Gateway determination was altered five times as follows:

- 23/05/2015 to extend the timeframe for completing the LEP to 23/10/2015 (5 months);
- 05/04/2017 to extend the timeframe for completing the LEP to 31/03/2018 (11 months);
- 16/05/2018 to amend the description of the planning proposal including the proposed zoning, extend the timeframe for completing the LEP to 30 /11/2018 (6 months) and insert a new condition requiring 28 days public exhibition;
- 06/06/2019 to extend the timeframe for completing the LEP to 29/11/2019 (5 months) and insert a new condition requiring the renotification of the planning proposal due to mapping error made by Council during Public Exhibition; and
- 09/03/2020 to extend the timeframe for completing the LEP to 1/05/2020 (2 months).

In accordance with the Gateway determination (as altered) the proposal was due to be finalised on 01/05/2020.

In November 2020 Council resolved to return all planning proposals which remained unresolved for more than four years since the Gateway determination to the Department for consideration. The Department has considered each proposal individually and given regard to the prevailing strategic planning framework for Wollondilly including the Local Strategic Planning Statement assured by the Greater Sydney Commission in early 2020.

### 3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 12/09/2018 to 10/10/2018 for a total of 28 days.

According to the summary table prepared by Council, a total of 13 community submissions were received. Two of these submissions were in support of the development, one was neutral, and the remaining submissions objected to the proposal. The main issues raised by the community submissions were:

- Roads are inadequate at present;
- Public transport is limited and unreliable;
- Inconsistent with rural living and local character;
- Impact on scenic and landscape value;
- Inadequate infrastructure and services including:
  - educational and child care services;
  - medical services and infrastructure;
  - police and fire brigades;
  - community services and infrastructure;
- Lot size and density;
- Building design and considerations;
- Impact on tourism;
- Stormwater and flooding concerns;
- Geotechnical stability and landslip risk;
- Impact on flora and fauna; and
- Vehicular access.

The planning proposal was not re-exhibited as required by the altered Gateway determination issued on 06/06/2019, due to unresolved water servicing and traffic issues. These issues are discussed further in Section 3.1.

#### 3.1 Advice from agencies

In accordance with the Gateway determination, Council was required to consult with the agencies listed in Table 3. Table 3 summarises the agencies feedback.

Table 3 also outlines Council's position on agency advice. Council has generally addressed matters raised in submissions from public authorities, except for those raised by Sydney Water and RMS. The Department does not share Council's view on all matters and the Department's assessment follows in section 4.

**Table 3: Advice from public authorities**

Agency	Advice raised
Former NSW Office of Environment & Heritage (now Office of Environment and Heritage)	<p><i>9 May 2013</i></p> <ul style="list-style-type: none"> <li>• The site supports remnants of critically endangered species. Ecological constraints should be mapped and included in a biodiversity overlay.</li> <li>• A flora and fauna assessment should be prepared.</li> <li>• An Aboriginal cultural heritage assessment and archaeological assessment be prepared. The ceremonial/dreaming site be zoned E2 rather than RE1.</li> <li>• Further information required in relation to flooding and stormwater.</li> </ul> <p><i>26 October 2018</i></p> <ul style="list-style-type: none"> <li>• E2 land should remain in one portion. Preference for E2 land to be in public ownership.</li> <li>• Not supportive of detention basins in in E2 Land.</li> <li>• DCP controls recommended to protect environmental values.</li> <li>• Located APZs outside E2 land.</li> <li>• Use native plant species to landscape the site</li> <li>• Aboriginal cultural heritage assessment and archaeological assessment be updated.</li> <li>• Submitted flood study is fit for purpose.</li> </ul> <p><i>11 October 2018</i></p> <ul style="list-style-type: none"> <li>• OEH does not object to the proposed rezoning.</li> </ul> <p><i>8 April 2019</i></p> <ul style="list-style-type: none"> <li>• Seek clarification as to whether Menangle St culvert can be replaced with a bridge to enhance the riparian corridor.</li> <li>• Additional details required on Menangle St design plans.</li> </ul>
Heritage Council	<p><i>14 May 2013</i></p> <p>Site is located partially with Picton Conservation Area and incorporates Vault Hill which includes an old cemetery and dairy, which are identified in the planning proposal as being of potential heritage significance.</p> <p>A heritage assessment should be prepared to inform the planning proposal.</p> <p><i>5 March 2019</i></p> <p>A heritage assessment should be prepared to inform the planning proposal.</p> <p><i>11 October 2018</i></p> <p>No objection is raised to the planning proposal as it supports the recommendations of the heritage assessment</p>
Catchment Management Authority Hawkesbury - Nepean	<p><i>30 April 2013</i></p> <ul style="list-style-type: none"> <li>• Approval is required under the <i>Native Vegetation Act 2003</i> for any clearing of native vegetation on E2, E3 or RE1 Land.</li> <li>• Endangered species located in the site.</li> <li>• Flora and Fauna Study required.</li> <li>• Support environmental management and conservation zones around riparian corridors</li> </ul>



Agency	Advice raised
Department of Primary Industries – Agriculture	<p><i>11 September 2018</i></p> <ul style="list-style-type: none"> <li>• The land has low potential for cropping and most likely the existing use of grazing would continue. Therefore, the proposal does not alienate the use of high-quality land for agriculture.</li> <li>• Support a buffer of 10m between operational agricultural and residential land.</li> </ul>
Mine Subsidence Board (Subsidence Advisory NSW)	<p><i>23 April 2013</i></p> <ul style="list-style-type: none"> <li>• No objection to the planning proposal.</li> <li>• The Boards approval is required for any subdivision or improvement works.</li> </ul> <p><i>16 October 2018</i></p> <ul style="list-style-type: none"> <li>• Tahmoor Coal and South 32 hold active mining and exploration licences in close proximity to the site.</li> <li>• South 32 has a current application for a licence to undertake coal exploration activity.</li> <li>• South 32 and the Division of Resources and Geosciences should be consulted prior to making a determination.</li> </ul>
Department of Trade and Investment – Resources and Energy	<p><i>6 May 2013</i></p> <ul style="list-style-type: none"> <li>• Location of planning proposal is in accordance with Wollondilly Growth Management strategy.</li> <li>• No objection to planning proposal.</li> <li>• Consultation with Mine Subsidence Boards is required.</li> </ul>
Department of Planning & Environment – Division of Resources and Geoscience	<p><i>25 September 2018</i></p> <ul style="list-style-type: none"> <li>• Comments largely unchanged from 2013 advice (see Department of Trade and Investment).</li> <li>• Coal resources beneath the site are of high value, but are not currently under title (or application) an unlikely to be considered for extraction in the foreseeable future.</li> <li>• Consultation with Subsidence Advisory NSW required.</li> </ul>
Sydney Water	<p><i>4 June 2013</i></p> <ul style="list-style-type: none"> <li>• Water and wastewater systems do not have capacity to support the proposal.</li> <li>• Picton wastewater amplifications detailed planning project did not consider this development in the study.</li> <li>• Sydney water to assess impact of any subsequent development when a Section 73 Certificate is applied for.</li> </ul> <p><i>14 November 2018</i></p> <ul style="list-style-type: none"> <li>• Water and wastewater systems do not have capacity to support the proposal.</li> </ul> <p><i>22 October 2020</i></p> <ul style="list-style-type: none"> <li>• Picton Water Recycling Plant at capacity.</li> <li>• Sydney Water has submitted a Licence Variation Application to expand the Plant.</li> </ul>
Roads and Maritime Services	<p><i>3 May 2013</i></p> <ul style="list-style-type: none"> <li>• Traffic Impact Study and intersection modelling required.</li> <li>• Considerations to be given to site access road and junction type.</li> </ul>

Agency	Advice raised
	<ul style="list-style-type: none"> <li>• RMS preferred strategy is to deny access to the classified road where alternative local road access is provided.</li> <li>• Promote increased use of sustainable modes of travel.</li> <li>• Developer contributions for road and transport improvements.</li> </ul> <p><i>28 September 2018</i></p> <p>Concerns relating to:</p> <ul style="list-style-type: none"> <li>○ A strategic/concept design for the new intersection at the Menangle Street access point; and</li> <li>○ Connectivity within/through the land affected by the PP and when it will be provided.</li> </ul> <p><i>20 December 2018</i></p> <p>Concerns noted in September have not been addressed and RMS requests the planning proposal be placed on hold until the issues are resolved.</p> <p><i>10 April 2019</i></p> <p>RMS would have significant concern with the planning proposal proceeding without an agreed concept intersection design and a mechanism to deliver the identified upgrade. RMS requests that the finalisation of the planning proposal be placed on hold until additional information that adequately addresses the issues identified.</p>
NSW Rural Fire Service	<p><i>8 May 2013</i></p> <p>RFS has no objection to the proposal in principle. Future subdivision must comply with the requirements of Planning for Bushfire Protection. Consideration should also be given to ensuring that suitable access, water and utilities is made available to the lots.</p> <p><i>18 October 2018</i></p> <p>APZs extend into the Riparian Corridor proposed to be rezoned to E2 - Environmental Conservation. A Vegetation Management Plan or suitable legal instrument will be required at subdivision stage that acknowledges the APZs and introduces controls to ensure management of the APZs in perpetuity.</p> <p><i>15 December 2020</i></p> <p>On 15 December 2020 RFS indicated that it is preferable that the council carries out its Shire wide <i>Natural and Manmade Hazards a Emergency Management Study</i> and that any proposal for the site would be required to assessed against the updated Bush Fire Protection 2019 provisions (in particular chapter 4 – Strategic Planning).</p> <p>The RFS also mentioned it was concerned that based on the recent 2019/2020 bush fire season experienced by Wollondilly a number of evacuation and traffic management issues as a result of bush fires were evident and therefore the RFS held concerns that the cumulative impacts of 'spot rezoning's' such as this may exacerbate these adverse experiences.</p>
Endeavour Energy	<p><i>5 October 2018</i></p> <p>No easements over the site benefiting Endeavour Energy. Further technical advice provided considered relevant at the DA stage.</p>

Agency	Advice raised
NSW Health – South Western Sydney Local Heath District	<i>2 October 2018</i> Support changes made to the original proposal.
Department of Primary Industries – Office of Water	<i>24 May 2013</i> <ul style="list-style-type: none"> <li>• Preference for riparian corridor to be zoned E2 and under Council ownership.</li> <li>• Preference for residential subdivision to include reticulated water and sewer system to assist in mitigating impacts on surface water and ground water.</li> <li>• Provide details for inclusion in Flora and Fauna study.</li> </ul>
Tharawal Aboriginal Land Council	<i>24 September 2018</i> <ul style="list-style-type: none"> <li>• Concerns raised regarding the impacts of the proposal on an identified Aboriginal Site located within the broader land area.</li> <li>• Recommend further studies to confirm the site will not be impacted.</li> </ul>
Transport for NSW	<i>8 October 2018</i> <ul style="list-style-type: none"> <li>• Consider a shared path for cyclists and pedestrians.</li> <li>• Clarification on location of bus route connection to and through the proposed development.</li> <li>• Notes minor mapping errors to be corrected.</li> </ul>

A supplementary submission from Sydney Water was provided on 22/10/2020.

## 3.2 Post-exhibition changes

The applicant provided an updated wastewater treatment approach including a new location for plant and irrigation area for consideration by Council. However, as discussed in section, the planning proposal does not demonstrate the ability to service the site in an interim or permanent state.

The Department has not been made aware of any other changes to the planning proposal post-exhibition.

## 4 Department's Assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination (**Attachment B**) and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

As outlined in the Gateway determination, the planning proposal submitted to the Department for Gateway determination was:

- Consistent with regional and district plans in place at the time of Gateway determination;
- Inconsistent with Ministerial Direction 3.1 Residential Zones; and
- Consistent with all relevant SEPPs.

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 4.1

**Table 4 Summary of strategic assessment**

	Consistent with Gateway determination report Assessment	
Regional Plan	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
District Plan	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
Local Strategic Planning Statement	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
Local Planning Panel (LPP) recommendation	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
Section 9.1 (s.117) Ministerial Directions	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

**Table 5 Summary of site-specific assessment**

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Environment impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Infrastructure	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1

## 4.1 Detailed Assessment

In November 2020 Council resolved to return all planning proposals which remained unresolved for more than four years since gateway determination to the Department for consideration. The Department has considered each proposal individually and with regard to the prevailing strategic planning framework for Wollondilly including the Local Strategic Planning Statement assured by the Greater Sydney Commission in early 2020.

The following section provides details of the Department's assessment and conclusion of key matters.

### 4.1.1 Strategic Assessment

#### Strategies at gateway determination

##### *Sydney Metropolitan Strategy and Draft South West Subregional Strategy*

The planning proposal was found to be consistent with these strategies Gateway determination as it promoted opportunities for housing adjacent to existing urban areas.

##### *Wollondilly Growth Management Strategy*

The Wollondilly Growth Management strategy identified the southern portion of the site as a potential residential growth area.

### **Current strategies and policies**

#### *Greater Sydney Regional Plan (A Metropolis of Three Cities)*

The planning proposal received a Gateway determination before the release of the Greater Sydney Regional Plan (A Metropolis of Three Cities) (Regional plan). Planning proposals are to be consistent with plan. The Regional plan nominates the site as being part of the Metropolitan Rural Area (MRA). The MRA is identified as having environmental, social and economic values that contribute to the region, and of importance for its capacity to produce agricultural products.

Strategy 24.3 identifies the need to protect and support agricultural production by preventing inappropriately dispersed urban activities in rural areas. Limited urban investigation areas are identified within the MRA to enable long term growth.

The site is not identified with the regional plan within an urban investigation area and as such the proposal for urban residential development is inconsistent with the Regional Plan.

#### *Western City District Plan*

The planning proposal received a Gateway determination before the release of the *Western City District Plan* (District plan). The District Plan supports the aims of the Regional Plan with Action 29, identifying the need to limit urban development, except to those areas identified for urban investigation.

The planning proposal is inconsistent with the following District Plan planning priorities:

W1 Planning for a city supported by infrastructure;

- W17 Better Managing Rural Area; and
- W20 Adapting to the impacts of urban and natural hazards and climate change.

The basis for this is that:

- inadequate measures have been provided for wastewater servicing to demonstrate an ability for the site to be serviced in an interim or permanent state;
- the site is located within the Metropolitan Rural Area and is not designated as a growth area. Housing targets at a regional and district level are not expected to be met through additional housing in the Metropolitan Rural Area, but rather through the new development in growth areas such as the Wilton and Greater Macarthur Growth Areas; and
- the cumulative impacts of bushfire on the Shire are unresolved. Concerns continue to exist about the ability to defend against major bushfire events, as well as ensure safe evacuation

#### *Local Strategic Planning Statement*

Since issuing the original Gateway determination, the Wollondilly Local Strategic Planning Statement (LSPS) provides the framework for local planning for future housing, jobs, infrastructure and environment for the LGA. The LSPS sets out a 20-year vision for growth that takes into account the principles of the Metropolitan Rural Areas established by the Western City District Plan, the local housing strategy and wastewater capacity limits.

A key action (Action18.12) of the LSPS is to prepare a study in partnership with emergency service agencies to evaluate the threats and risk level from both natural and manmade hazards and establish appropriate management. The study will inform Council's decisions on local growth and planning proposals. A site-specific strategic bushfire study prepared in accordance with *Planning for Bushfire Protection 2019* is required to demonstrate consistency with the hazard's management approach being implemented under the LSPS. The planning proposal does not include such a study.

The site is located within the Metropolitan Rural Area, which is outside the nominated growth areas of Wilton and Greater Macarthur. Instead the LSPS identifies seeks to contain all additional housing in the short term to be met on land already rezoned for towns and villages.

The LSPS includes council's commitment to undertake a range of local studies that relate to some of the unresolved matters relating to the proposal, such as bushfire evacuation and safety, and a rural lands study. Once completed and endorsed by council these studies will help further define the direction for use and rezoning of land in the LGA.

At this time however, the planning proposal does not give effect to LSPS as it does not provide effective planning to reduce the exposure of new urban development to urban hazards, permits incompatible urban development in a rural area and is not adequately supported by local infrastructure.

## **Ministerial Directions**

### *Direction 3.1 – Residential Zones*

The objective of this Direction is to ensure residential zoned land is appropriately serviced by urban infrastructure.

The development cannot be adequately serviced by wastewater infrastructure. Sydney Water has advised that there is insufficient capacity in the existing wastewater system, to service the development. The inconsistency with Direction 3.1 Residential Zones is unresolved. The concerns of the former OEH in relation to the impact of any on-site disposal solution mean that the site cannot be serviced independently of the reticulated sewerage system.

### *Direction 4.4 - Planning for Bushfire Protection*

The objective of this direction is to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas.

The Wollondilly local government area is highly exposed to bushfire hazard with significant areas mapped as bushfire prone land. To address requirements of *Planning for Bushfire Protection 2019* all planning proposals in bushfire prone areas are to be supported by a strategic bushfire study.

As committed to in the LSPS council will prepare a study in partnership with emergency service agencies to evaluate the threats and risk level from both natural and manmade hazards and establish appropriate management practices. This study will help inform Council's decisions on local growth and planning proposals. A site-specific strategic bushfire study prepared in accordance with *Planning for Bushfire Protection 2019* is also required to demonstrate consistency with the hazard's management approach being implemented under the LSPS. While a further study has been provided for the subject proposal, the RFS feedback is clear that it is their preference that the shire wide evaluation occur first.

## **Local Planning Panel review**

At the time of issuing the original Gateway determination, there was no requirement for planning proposals to be referred to the Local Planning Panel. However, this planning proposal was reported to the Wollondilly Local Planning Panel on 25 June 2020. The Panel was of the opinion that:

- 1. The proposal is not consistent with Council's land use vision as detailed in the Local Strategic Planning Statement.*
- 2. The proposal is not consistent with the District Plan.*
- 3. The proposal would require the delivery of public infrastructure and services that are currently not forecast or funded.*
- 4. The proposal is considered premature given the lack of services.*

5. *The housing strategy has not yet been completed which would indicate whether there is current or future demand for growth in this location.*
6. *The proposal is considered premature until it can be demonstrated that it is consistent with the Local Strategic Planning Statement, Picton Master Plan and the Local Housing Strategy.*
7. *The proposed on site treatment is not an appropriate outcome for the site, and its approval would likely set a precedent for other proposals that are unable to be accommodated in the Sydney Water Network.*

The Panel's advice to Council was as follows:

1. *Recommends to Council that the proposal be placed on hold pending resolution of the following issues:*
  - a. *The lack of capacity within the Sydney Water wastewater network to service the proposed development.*
  - b. *Finalisation of the Local Housing Strategy to determine housing needs within the Picton area.*
  - c. *Development of planning strategies for the future development of Picton which include consideration of topography, heritage, environment, scenic quality and landscape.*
2. *Provides advice that Council:*
  - a. *Consider including the Picton East site in the Picton Master Planning Process;*
  - b. *Continue to advocate to the NSW Government for local infrastructure upgrades, including the Picton Sewage Treatment Plant, to support economic stimulus;*
  - c. *Ensure the provision of appropriate infrastructure to support the proposed development is demonstrated by the proponent.*
3. *Recommend that the applicant not proceed with the preparation of further studies until such time that:*
  - a. *Sydney Water has confirmed the ability of the site to connect to the reticulated sewage network.*
  - b. *Council has concluded its master planning process*

#### 4.1.2 Social and Economic Impacts

The planning proposal will generate social and economic benefit, creating jobs during its construction and new demand for local business services.

#### 4.1.3 Environmental Impacts

The planning proposal has satisfactorily addressed the need to protect flora and fauna and responded to flooding issues.

#### 4.1.4 Infrastructure

##### **Water Servicing**

The Picton Water recycling plant is operating at capacity and unable to receive effluent from any development on land currently zoned non-urban. Sydney Water has developed an integrated water strategy to increase the plant's capacity by increasing the use of recycled water on nearby farms. A variation to the plant's Environmental Protection Licence (EPL) is required to permit the change. Sydney Water plans to submit its licence variation application in early 2021 and expects a decision in the second half of 2021.



The Department and Sydney Water have under certain circumstances permitted Interim Operating Procedures (IOPs) including pump out of effluent for transport by tanker to another operating Sydney Water facility. The IOPs were permitted where there was certainty that service capacity would become available within a defined timeframe. This includes cases where the new servicing infrastructure was under construction, or funding had been committed for the infrastructure and its delivery programmed. In these cases, an EPL for the wastewater treatment facility was also in place. In this instance, there is insufficient certainty to allow an IOP as the required upgrade works have not received environmental or funding approval.

The Water Industry Competition Act 2006 (WICA) establishes the framework to allow private sector participation in the water and wastewater industry. This can apply where package treatment facilities are used as an interim or long-term measure to service development. Private sector delivery and management of infrastructure can provide significant benefit but is not suitable in all circumstances. Applications for a WICA licence are made to the Independent Pricing and Regulatory Tribunal which have a service commitment to process applications in thirty-four weeks.

The planning proposal does not demonstrate the ability for the site to be serviced in an interim or permanent state. Its determination cannot be deferred for an extended period to allow for preparation, lodgement and determination of a WICA licence application.

If the Environment Protection Authority approves Sydney Water's licence variation application, Sydney Water will proceed with a business case for the related infrastructure. A successful licence variation application and business case would provide sufficient evidence for the Department to support a future planning proposal.

### **Traffic Issues**

RMS advised that it has concerns with the planning proposal, specifically these concerns relate to the need for:

- A strategic/concept design for the new intersection at the Menangle Street access point; and
- Connectivity within/through the land affected by the planning proposal and when it will be provided.

The then RMS requested that the finalisation of the planning proposal be placed on hold until additional information that adequately addresses the issues above has been provided. This is to ensure that the planning proposal, if approved, has minimal impacts on the state classified road network and correctly reflects the works required to be provided by the developer as part of any future development applications lodged.

The issues identified by the then RMS, including the concept intersection design, have not been addressed by the applicant.

## **5 Recommendation**

The extensive work and time taken to attempt to address and resolve matters relating to the proposal is acknowledged. However, many of these matters as outlined in this report remain unresolved and therefore the proposal fails to demonstrate that the site is suitable for the proposed development that would be expected to result from the land being rezoned in accordance with the subject planning proposal. Added to this proposal is presently not aligned with the directions set in the District and local strategic plan framework for Wollondilly LGA.

Therefore, it is recommended that the Minister's delegate determine to alter the Gateway determination to not proceed under clause 3.34(7) of the *Environmental Planning and Assessment Act 1979* given that

1. the proposal's concept design of the new intersection at Menangle Street has not been addressed;



2. the proposal is inconsistent with regional, district and local strategic planning frameworks now in place for Wollondilly LGA;
3. the measures for wastewater servicing fail to demonstrate an ability for the site to be serviced in an interim or permanent state; and
4. the proposal remains inconsistent with Section 9.1 Direction 3.1 Residential Zones and 4.4 Planning for Bushfire Protection.

Any additional development capacity for the site should be considered as part of the Council's strategic forward planning under its Rural Lands Study and Local Housing Strategy and coordinated with planning for supporting infrastructure and services.



18/12/2020

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8217 2018

## Attachments

**Attachment A** – Planning Proposal as exhibited November 2018

**Attachment B** – Gateway Determination 28 March 2013

**Attachment C** – Gateway Determination report