

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 15 June 2015

**PE3 - Planning Proposal - Montpelier Drive Residential Land**

**PE3**

**Planning Proposal - Montpelier Drive Residential Land**

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TRIM 6961

**Applicant:**

**Pascoe Planning**

**Owner:**

**Mr D C Beauchamp & Mrs T C Beauchamp**

**Mr C P Hunt & Mrs H C Hunt**



| Stage                                    | Completed                         |
|------------------------------------------|-----------------------------------|
| Preliminary notification                 | 26 November 2012 - 7 January 2013 |
| Gateway Determination                    | 3 July 2013                       |
| Consultation with Public Agencies        | 24 July 2013 to 17 August 2013    |
| Specialist Studies                       | 20 November 2014                  |
| Public exhibition/community consultation | 25 March 2015 - 24 April 2015     |
| Referred to Minister for Publication     |                                   |

**PE3 - Planning Proposal - Montpelier Drive Residential Land**

**EXECUTIVE SUMMARY**

- This report seeks a Council resolution to amend the provisions of Wollondilly Local Environmental Plan, 2011 as they apply to Lot 601 DP 735032 and Lot 1 DP 1043567 being No's 780-790 Montpelier Drive, The Oaks to:
  - Change the zoning of the land to Zone R2 Low Density Residential
  - Change the minimum lot size to 975m<sup>2</sup>
  - Change the maximum height of building to 6.8m at the eastern end and 9m at the western end
  - Change the natural resources biodiversity map to include environmentally sensitive land
  - Change the natural resources water map to include riparian land
- The Planning Proposal includes amendments to the Wollondilly Development Control Plan, 2011 for rural and heritage character, road efficiency, rural land use conflict, aviation risk, dam failure risk and stormwater management.
- The Planning Proposal is consistent with the Key Policy Directions and Assessment Criteria to Council's Growth Management Strategy.
- Council is authorised by the Minister with delegation to make this plan.
- Four submissions were received in response to Community Consultation. Of these submissions 3 objected and 1 was neutral.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extends to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended:
  - that Council adopt and make the Draft Local Environmental Plan in the form it was exhibited.
  - that the Draft Local Environmental Plan be forwarded to the Minister for Planning and Environment for publishing.
  - that Council amend the Wollondilly Development Control Plan, 2011 with amendments effective from the date at which the amended LEP is published. That these amendments also be incorporated into Draft Wollondilly Development Control Plan 2015.
  - that the applicant and persons who made submissions be notified of Council's decision.

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**REPORT**

**1.1 SITE DESCRIPTION**

The site is located approximately 820 metres south from The Oaks village on the eastern side of Montpelier Drive. Most of the site is cleared and slopes gently towards the Hardwicke Street road reserve on the eastern end. A single-storey dwelling and ancillary buildings are located on each property. Three dams are located on Lot 1 with the largest incorporating an unnamed tributary of Werri Berri Creek which runs downstream from south to north across the western end of the site. A large dam upstream on a property immediately to the south is also part of this unnamed tributary. Land adjoining to the north of the site was rezoned for low density residential purposes in 2012 and a residential subdivision is currently being constructed. Other surrounding land is used for agricultural and rural-residential purposes.

The Oaks airfield and east west runway is located directly to the north- west across Montpelier Drive. An unformed road adjoins the southern side of the site and Jooriland Road is offset diagonally to this road.

**1.2 DESCRIPTION OF PROPOSAL**

It is proposed to develop the site for the purposes of low density residential development for approximately 60 dwellings. This development is likely to be restricted to the eastern end of the site as the western end of the site is flood prone. The main access to the site is proposed from an unformed public road reserve adjoining to the south. Hardwicke Street on the eastern end will be used for emergency access only for fire fighting and potentially flood evacuation. It is also proposed to enable road and pedestrian links to the adjoining residential subdivision being constructed to the north.

The site contains a small area of Cumberland Plain Woodland which is proposed to be conserved on site. The tributary is proposed to be protected by a riparian buffer. Height restrictions for buildings and structures are proposed to reduce risk to aviation and limit the impact on the rural character. Density provisions across the site would apply to ensure the rural character is maintained. Landscaping and setbacks along the southern end are proposed to provide a buffer to rural land.

**1.3 GATEWAY DETERMINATION**

A Gateway Determination was issued dated 3 July 2013. The Determination permitted the proposal to proceed. The Gateway Determination granted that the planning proposal's inconsistencies with Section 117 Direction 1.2 Rural Zones is in accordance with the draft South West Subregional Strategy and no further approval is required in relation to this direction. The conditions of the Gateway Determination are summarised in the following table with comments as to how these have been addressed in the Planning Proposal process.

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| Gateway Condition                                                                                                                                                                                                                                                          | Addressed by:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Additional information about traffic & transport, aviation risk, heritage, flooding, stormwater & water quality, flora & fauna and potential for land use conflict should be placed on public exhibition with the planning proposal.                                       | Completed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Council should update its consideration of S117 Directions 2.1 Environment Protection Zones, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection and 5.2 Sydney Drinking Water Catchments to reflect the outcome of the studies and government agency consultation. | <p><u>S117 Directions</u></p> <p><u>2.1 Environment Protection Zones</u><br/>The Flora and Fauna study identified a small area of remnant Cumberland Plain Woodland which is proposed to be identified on the Natural Resources Biodiversity map. The planning proposal is not inconsistent with Direction 2.1.</p> <p><u>4.3 Flood Prone Land</u><br/>Flood prone land identified on the site is proposed to be zoned R2. This is inconsistent with Direction 4.3. However a concept plan outlines a proposal to use this flood prone land for the purpose of stormwater management and protection of water quality and riparian corridors. The proposed treatment of this flood prone land is in accordance with the principles and guidelines outlined in the Floodplain Development Manual, 2005.</p> <p><u>4.4 Planning for Bushfire Protection</u><br/>The site is impacted by bushfire hazard on its eastern end. The RFS Commissioner was consulted as per this direction. The Bushfire Constraints Assessment indicates that the site is able to meet the requirements of this direction.</p> <p><u>5.2 Sydney Drinking Water Catchment</u><br/>The site is proposed to be serviced by reticulated water and sewerage services. An assessment of water quality indicates that the proposed development would have a neutral or beneficial effect on water quality. The proposal is consistent with the <i>State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011</i>.</p> |

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| <b>Gateway Condition</b>                                                                                                                                                                                                                                                                                                                                                | <b>Addressed by:</b>                                                                                                                                                                              |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 - Remediation of Land. Council is to prepare an initial site investigation report to demonstrate that the site is suitable for rezoning to the proposed zone. This report is to be included as part of the public exhibition material. | The site has been determined to contain contaminated material and will require remediation prior to subdivision. This requirement has been included as a control in site specific DCP provisions. |
| Community consultation is required for a minimum of 28 days.                                                                                                                                                                                                                                                                                                            | Completed                                                                                                                                                                                         |
| Consultation is required with relevant public authorities listed in the Gateway Determination.                                                                                                                                                                                                                                                                          | Completed                                                                                                                                                                                         |
| A public hearing is not required to be held by Council unless required in response to a submission.                                                                                                                                                                                                                                                                     | Noted                                                                                                                                                                                             |
| The timeframe for completing the LEP is 12 months from the week following the date of the Gateway determination.                                                                                                                                                                                                                                                        | An alteration to the Gateway determination was sought to allow the timeframe to be extended to July 2015.                                                                                         |

**CONSULTATION**

**2.1 CONSULTATION WITH COUNCIL STAFF**

The following comments on the Planning Proposal were received from Council staff:

**Manager Infrastructure Planning**

**Traffic**

Vehicular access from Montpelier Drive via the unformed public road is supported. To ensure traffic conflict is reduced Jooriland Road should be aligned with this proposed new access road. A reduction in speed along Montpelier Drive to allow safe access into this new road is likely to be required. Consideration has been given to future access in the design of the new subdivision adjoining to the north to allow for an alternative access route. No access into Hardwicke Street other than for emergency vehicles or evacuation is proposed.

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Flooding

A significant part of the site is flood prone and there is the possibility of the large dam failing on the adjoining property to the south. The important issue is the management of flooding and associated risks. The exact limits of flooding will vary for example with the design of the access road and the detailed drainage design. The scenario may also change if the property (or the dam) upstream is modified in future.

A control to exclude development within the potential dam failure zone has been included in the draft DCP site specific provisions.

Future stormwater management will require long term maintenance and there are controls within the site specific draft DCP provisions.

Recreation Facilities

No additional recreation facilities are required specifically to service this site and proposed pedestrian links are supported.

**Manager Environmental Services**

There are no significant environmentally sensitive areas on the site. A small amount of remnant Cumberland Woodland vegetation was identified and is included on the Natural Resources Biodiversity map. It is proposed to be retained on site. Revegetating with suitable native species around the waterways, consistent to riparian river flat forest, is required to prevent erosion and assist in maintaining water quality.

**Manager Community Outcomes**

The Infrastructure study contains a brief discussion of community facilities that basically suggested that the additional population (60 lots) would be adequately serviced by existing infrastructure and that a contribution be made as outlined in Council's S94 contributions plan.

The study also suggested that the relatively poor provision of public transport and cycle infrastructure will be improved with planned adjoining developments as well as future contributions from the developer likely to be required as part of the planning consent. A connecting cycleway/pedestrian path is proposed along Montpelier drive and linked to the adjoining subdivision.

This proposal seems adequate considering the size of the development and its proximity to The Oaks Village centre. Concerns raised through the exhibition period appear to have been addressed through the specialist studies.

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**Manager Governance**

Council land and roads should not to be used as Asset Protection Zones.

Access to the site has been proposed via the unformed public road reserve between 760 & 790 Montpelier Drive. The proponent is proposing to align this road to form an intersection with Jooriland Road through acquisition of neighbouring land (760 Montpelier Drive). The proponent would require written consent from the adjoining neighbour for the splay as part of the application.

There is a Limited Title on 790 Montpelier Drive (Lot 1 DP 1042367) which indicates that the boundaries for Lot 1 DP 1043567 have not been investigated by the Registrar General (RG). A new survey plan should be provided by the applicant subdividing this parcel. Council can then be assured the land title is valid.

**2.2 CONSULTATION WITH PUBLIC AGENCIES**

The Gateway Determination required consultation with the following Public Agencies:

- NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)
- Office of Environment and Heritage
- Sydney Water
- Transport for NSW - Roads and Maritime Services
- Endeavour Energy
- Civil Aviation Safety Authority
- NSW Education and Communities
- Department of Primary Industries - Agriculture
- Department of Primary Industries - Office of Water
- Sydney Catchment Authority (S117 Direction 5.2 Sydney Drinking Water Catchments).

The following is a summary of the matters raised by public authorities and assessment comments.

**NSW Rural Fire Service (NSW RFS) (Section 117 Direction 4.4 Planning for Bushfire Protection)**

The RFS notes that the eastern edge of the site is impacted by the Wollondilly Bush Fire Prone Land Map but has no objection to the proposed rezoning.

Future development will be subject to the requirements of Section 79BA of the Environmental Planning and Assessment Act 1979 and Section 100B of the Rural Fires Act 1997.



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Comment

The RFS comments are noted. A bushfire hazard assessment has been undertaken which makes recommendations with regard to APZs and these are able to be met on site. Bushfire protection requirements under Planning for Bushfire Protection 2006 will be assessed further for a residential lot layout lodged as part of any future development application for subdivision.

**Office of Environment and Heritage - Environment Branch**

The Environment branch recommended the completion of an archaeological assessment and a cultural heritage assessment to inform the planning proposal.

Comment

An aboriginal archaeological and cultural assessment was undertaken which found that the site did not contain any aboriginal archaeological heritage items. Consultation was undertaken with local Aboriginal groups who did not identify that the site had any cultural significance. The Environment Branch was satisfied with the assessment.

**Office of Environment and Heritage - Heritage Council**

The heritage branch noted the two listed heritage items – Rose Cottage and The Oaks Airfield. They indicated that a heritage impact assessment is required which considers the suitability of the rezoning and provides an assessment on the likelihood of visual and physical impacts on heritage items resulting from the future envisaged subdivision and residential development of the site.

Comment

A heritage impact assessment was undertaken and found that the proposed rezoning would not impact on the existing heritage items.

Three other items are considered to have heritage value but are not listed on any heritage register. A group of rural buildings at 800 Montpelier Drive are not considered to merit listing based on a previous study. An early cottage at 745 Montpelier Drive and an early farm dam at 662-676 Montpelier Drive will be considered for listing as part of a separate heritage based planning proposal currently being undertaken. The Heritage Council has indicated that they will be providing comments in response to the public exhibition but these are not expected to require any change to the planning proposal.

**Sydney Water**

Water

The proposed development will be serviced by a drinking water extension of the 100mm main in Montpelier Drive and infrastructure will be in accordance with relevant codes.



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Wastewater

A wastewater main will connect to the 150mm main located on the northern section of the adjoining lot to the north and infrastructure will be in accordance with relevant codes.

Comment

Existing water and wastewater infrastructure will need to be extended and this will be undertaken with future development of the site.

**Transport for NSW – Roads and Maritime Services (RMS)**

The RMS have advised that given the distance of the proposed rezoning to any classified roads and the potential maximum yield of approximately 60 low density single residential dwellings in the rezoning area, the planning proposal is unlikely to have a significant impact on the classified road network. Therefore, RMS does not object to the planning proposal in principle.

The RMS strongly supports sustainable modes of travel – buses, bicycles and walking - to reduce car dependency. Where applicable the rezoning proposal should make provisions for developer funding or required road/transport infrastructure provisions, including cycleways that may be required as a result of the additional development.

The RMS also advised that Council should refer to the Premier's Council for Active Living – Designing Places for Active Living which proposes key design considerations for urban places to positively impact on individual and community health and well-being in the broadest sense thereby meeting multiple health, environmental and social objectives.

Comment

In terms of sustainable modes of travel it is proposed that the shared pathway which provides a link to The Oaks village centre along Montpelier Drive be extended to include this site. Pedestrian/cycleways are also proposed to be developed within the site and integrated with the adjoining newly subdivided land at 800 Montpelier Drive which has included potential transport connections to this site.

There are limited bus services within The Oaks but it is anticipated that bus stop infrastructure required for the adjoining site will be close enough to also service this site.

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Council has a bike plan which includes The Oaks and the provision of a shared pathway along Montpelier Drive will add to this developing plan. Council's engineering design guidelines include requirements for shared pathways along local roads. Council's development control plans support the provision of sustainable transport options. Consideration of the matters raised in Designing Places for Active Living will be undertaken during future planning and assessment of any application for subdivision of the planning proposal site.

**Endeavour Energy**

No submission was received from Endeavour Energy.

**Comment**

The Infrastructure report details the requirements for augmentation of the high voltage mains on Montpelier Drive. Provision of electricity services will be undertaken by any future developer of the site.

**Civil Aviation Safety Authority (CASA)**

It is considered that operations at The Oaks using the east-west runway may not be compatible with the proposed development.

Aircraft operated at The Oaks are generally home-built, ultralight aircraft which are designed, built and flown by members of Recreational Aviation Australia (RA-Aus). RA-Aus aircraft and pilots are exempted from a number of provisions of the civil aviation legislation that relate pilot training and licensing, and to aircraft design standards, certification and airworthiness.

The take-off and approach surfaces that apply to an aeroplane landing area (ALA) are intended to provide obstacle clearance in the critical phases of flight when an aircraft is close to the ground during take-off or landing. They are not intended to provide clearance between an aircraft taking-off or landing and a populous below the aircraft's flight path.

The consultant's assessment did not consider aircraft noise, and this alone will undoubtedly affect the quality of life and well-being of residents. It is considered that residents would be more concerned about RA-Aus aircraft flying at low level over their houses, regardless of the noise level.

To reiterate, CASA is not able to control operations at an ALA, or to apply conditions on a development that may be affected by operations at an ALA. The imposition of conditions on a residential development, or on the zoning of land used as an ALA, is therefore not within CASA's jurisdiction.

**Comment**

CASA is concerned with the safety aspects of allowing aircraft over a residential area and also with the continued operation of the east-west runway.

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The Aviation Risk Assessment has demonstrated that there is minimal risk for potential future residents from aircraft of all types using the east-west runway. The east-west runway is not the main runway at The Oaks airfield and is only used in certain weather conditions when the other two runways are unusable. With respect to CASA's previous comments about the reliability of aircraft using the east-west runway, this factor has been taken into account in the assessment through the use of a crash rate derived from similar unregistered/uncertified recreational aircraft types within Australia. This rate is 7-8 times higher than the crash rate for typical CASA-registered light aircraft used by private pilots (eg Cessna 172 etc).

The flight path covers around one-third of the potential future area to be used for residential development. Around a quarter of the site at the western end nearest the runway is flood prone and will not contain dwellings or habitable structures.

Controls to limit the height of buildings, structures and trees will be put in place to assist in mitigating potential risk to aircraft during take-off and landing.

The level of noise anticipated from the limited use of the east-west runway would not restrict the proposed residential land use. However acoustic measures for future dwellings in Wollondilly DCP that are in place for the adjoining land to the north of this site will also be used for this site.

Future residents will be aware that the site is affected by aircraft flying overhead by covenants on the land title in relation to noise and height restrictions due to aviation use. Complaints from potential future residents about any legal operation of the airfield would not be considered a valid reason to limit its operation.

Accordingly it is considered that the proposed provisions and controls will enable the east-west runway to continue to be safely used and with minimal impact on residents and their quality of life.

**NSW Education and Communities (NSW Education)**

NSW Education has indicated that there would be sufficient capacity at The Oaks primary school to cater for additional students generated from the proposed approximately 60 dwellings resulting from the rezoning.

**Comment**

Noted.

**Department of Primary Industries - Agriculture**

Suitable fencing and a landscaped buffer to prevent public access into the property to the south are suggested.

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The proposed landscaping of the access road to provide screening and a minimum setback of 10m from the access road to provide a buffer between rural and urban uses is supported.

The Compatibility Report mentions a poultry farm however no recommendation was noted regarding potential odour drift towards the proposed residential area.

Comment

Fencing/landscaping to prevent both the public from entering and livestock from escaping would need to be addressed by the landowner.

Support for the proposed screening landscaping and setbacks is noted.

The subject poultry sheds are located around 1km east of the nearest property boundary. An odour assessment was undertaken around 7 years ago as part of a development application for an additional shed and found that odour to sensitive receivers including some further from the subject site was well below exceedance criteria.

**Department of Primary Industries - Office of Water**

Two dams are proposed to be modified to create online wetlands and their purpose is not clear and does not comply with NSW Office of Water guidelines. Further consultation is required to determine the merit of the online wetland design.

**Water Holding Structures (Dams)**

The design of water holding structures will need to consider the Maximum Harvestable Rights Dam Capacity for the property area of the newly created lots or reduction, removal or licensing will be required.

The proponent should consider consulting with the Dams Safety Committee to determine the safety and integrity of any dam with regard to proposed development and any modification to dams upstream.

**Water NSW (previously Sydney Catchment Authority) (Section 117(2) Direction 5.2 Sydney Drinking Water Catchment)**

The subject site is within the Sydney drinking water catchment and planning proposals are required to demonstrate that water quality is protected and that future development is able to demonstrate a neutral or beneficial effect on water quality. Water NSW is pleased to note that the proposal identifies the importance of achieving a neutral or beneficial effect on water quality in the catchment and identifies a range of measures that can achieve this.

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Strategic Land and Water Capability Assessment (SLWCA)

A low risk to water quality from residential sewer development on the eastern portion of the site. There is a moderate risk to water quality around the tributary to Werri Berri Creek and a small dam in the western end of the site.

Water NSW supports the proposal for a riparian buffer around the watercourse and the proposal for stormwater treatment and management.

Water NSW supports provision of flood free dwelling envelopes on all future lots and that no houses or habitable structures are constructed within the failure zone for the large dam upstream of the site.

Water NSW supports use of the flood prone land for open space and stormwater management and generally not for residential development.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

Compliance with the Drinking Water SEPP requires that future development must have a neutral or beneficial effect on water quality.

A number of aspects of the MUSIC modelling undertaken were not consistent with the MUSIC User Guide. Water NSW will review any future development application and may require changes and or additional information at that time. Construction of the site will also need to adhere to management of water quality guidelines.

Connection to reticulated sewer network

The site is able to be connected to the nearby sewerage system of The Oaks, Oakdale and Belimbla Park Sewerage Scheme. Transfer of Wastewater to the West Camden Sewerage Treatment Service must meet the Minister's Conditions of Approval in terms of ensuring no more than five (5) wet weather overflows in a ten year period. Developers will be required to assess environmental impacts associated with additional connections. Water NSW will require confirmation when reviewing any future development assessment for subdivision that the site can be connected to the sewerage scheme without impacting the compliance with relevant conditions of the scheme.

**2.3 COMMUNITY CONSULTATION**

The Gateway Determination specified a 28 day period of community consultation and public exhibition. During this time the Planning Proposal, specialist studies and other documents as required by the Gateway Determination were made available for public viewing on Council's website and at Council's Administration Building and Picton Library. A public notice was placed in the local newspaper. Letters were sent to adjoining landowners and those who made previous submissions.

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The issues raised in submissions that are relevant to the assessment of the Planning Proposal are summarised in the following table along with assessment comments.

| Issue Raised                                                | Assessment Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Loss of rural character.                                    | Lower densities and landscaping provisions are proposed to ensure the impact on the rural character is minimised. A significant proportion of the site is flood prone and is expected to be free from residential development.                                                                                                                                                                                                                                                                                                                 |
| Use of Hardwicke Street as an access road.                  | Hardwicke Street is proposed to be used as an evacuation route only in times of emergencies similar to the adjoining residential development to the north.                                                                                                                                                                                                                                                                                                                                                                                     |
| The validity of the aviation risk assessment is questioned. | The aviation risk assessment was conducted by recognised specialists in the field and was undertaken in accordance with all relevant planning and air safety standards. It is therefore considered to be valid.                                                                                                                                                                                                                                                                                                                                |
| Lack of consultation in relation to The Oaks airfield       | The owner of The Oaks airfield was consulted in relation to the previous planning proposal adjoining to the north. It is considered that there has been little change in the operation of the airfield since that time. In any case the aviation risk assessment modelled the maximum number of movements that could be undertaken on the east-west runway which was greater than the numbers provided by the landowner. The airfield operators have since been directly contacted by the consultants regarding the information in the report. |
| Impact on operation of The Oaks airfield                    | <p>The finding of the aviation risk assessment is that there would be negligible impact on the operation of the east-west runway.</p> <p>Controls on the height of buildings and structures and measures to reduce potential noise impacts are proposed to limit safety risk to aircraft, maintain residential amenity and enable the continued safe use of the east-west runway.</p>                                                                                                                                                          |

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| Issue Raised                                                                                                                                       | Assessment Comment                                                                                                                                                                                                               |
|----------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Larger minimum lot size on western end similar to adjoining land to the north                                                                      | It is likely that there will be minimal development on the western end of the site as the land is flood prone.                                                                                                                   |
| Maximum building height limit of 6.8m at western end                                                                                               | A maximum building height of 6.8m is proposed to limit aviation safety risk and maintain the rural.                                                                                                                              |
| Reduce the speed limit to 50km/h further to the south of the site                                                                                  | A reduction in the speed limit to the south of the site requires RMS approval. Any requirements / comments received from RMS will be considered as part of the assessment of any future development application for subdivision. |
| Maintain the traditional rural frontage                                                                                                            | The traditional open rural frontage with suitable fencing and landscaping will be maintained.                                                                                                                                    |
| Ensure the stormwater is managed to reduce flooding particularly across Montpelier Drive when considering both this and the adjoining development. | Stormwater management will be assessed at the development application stage with the final subdivision design and any infrastructure required for the development will be provided by the developer.                             |

In summary, the matters raised in submissions have been addressed by the specialist studies and controls are proposed to be included in the DCP or can be dealt with as part of the assessment of future development applications.

### **3.1 PLANNING PROPOSAL**

The Planning Proposal has been prepared in accordance with Section 55 to the EP&A Act, 1979 and the guidelines published by the DP&E.

Council's options are:

1. Resolve to support the Planning Proposal in the form as described in Section **4.10** to this report.
2. Resolve to support the Planning Proposal in another form. With this option a new Gateway Determination, amended specialist studies and a new public exhibition period may be required.
3. Resolve not to support the Planning Proposal. With this option there is no further action to be taken on the Planning Proposal other than to inform the applicant, submitters and the DP&I that the Planning Proposal has been terminated. The applicant could choose to submit a new Planning Proposal. There are no appeal rights through the Land and Environment Court against Council's refusal to support the Planning Proposal at this stage of the process.



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Option 1 is the recommendation of this report.

**RELEVANT CONSIDERATIONS****4.1 A PLAN FOR GROWING SYDNEY**

The Plan has a vision for a city of housing choice with homes that meet our needs and lifestyle. It is considered that this planning proposal will provide this housing choice for those seeking a lifestyle within a rural setting.

**4.2 DRAFT SOUTH WEST SUBREGIONAL STRATEGY**

A strategy has not been finalised but housing growth will be an important element. In terms of what is highlighted in the metropolitan plan, south west strategy the planning proposal meets the objectives as it is located adjoining urban land to consolidate housing growth around The Oaks village while ensuring that water quality is maintained in the Sydney Drinking Water Catchment.

**4.3 METROPOLITAN PLAN FOR SYDNEY TO 2036**

This plan highlighted the need for consolidated housing growth around town centres which has been met by this planning proposal.

**4.4 SOUTH WEST DRAFT SUBREGIONAL STRATEGY TO 2031**

The strategy set out housing targets for the sub region to be met mainly by growth around urban centres. The strategy outlines a range of matters to be considered in planning proposal including heritage, biodiversity, riparian areas and resources. The planning proposal is not inconsistent with the Draft Plan.

**4.5 SECTION 117 MINISTERIAL DIRECTIONS**

It is considered that the planning proposal has satisfactorily addressed all relevant directions.

**4.6 STATE ENVIRONMENTAL PLANNING POLICIES****4.6.1 AMENDMENT TO THE STATE ENVIRONMENTAL PLANNING POLICY (MINING, PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES) (COAL SEAM GAS EXCLUSION ZONES) 2013**

The 2km exclusion zone around residential land for coal seam gas mining applies to this land.

**4.7 WOLLONDILLY GROWTH MANAGEMENT STRATEGY**

| Criteria                                                     | Response                             |
|--------------------------------------------------------------|--------------------------------------|
| NSW State Plan, Metropolitan Strategy, Sub-Regional Strategy | Consistent with relevant provisions. |
| State Planning Policies                                      | Consistent with relevant provisions. |

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| Criteria                                    | Response                                                                                                                                                                                                                                                                                                                                      |
|---------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ministerial Directions                      | Consistent with the relevant provisions, or where not consistent is justified.                                                                                                                                                                                                                                                                |
| LEP Framework                               | The proposed amendments to WLEP 2011 would be in accordance with the Standard Planning Instrument.                                                                                                                                                                                                                                            |
| <b>Local Strategies and Policies</b>        |                                                                                                                                                                                                                                                                                                                                               |
| Criteria                                    | Response                                                                                                                                                                                                                                                                                                                                      |
| Key Policy Directions on the GMS            | Consistent with the relevant provisions.                                                                                                                                                                                                                                                                                                      |
| Precinct Planning                           | Consistent with the relevant provisions.                                                                                                                                                                                                                                                                                                      |
| Wollondilly Community Strategic Plan        | Consistent with the relevant provisions                                                                                                                                                                                                                                                                                                       |
| <b>Project Objectives and Justification</b> |                                                                                                                                                                                                                                                                                                                                               |
| Criteria                                    | Response                                                                                                                                                                                                                                                                                                                                      |
| Overall Objective                           | To provide serviced residential land that is able to be sustainably developed with good access and links to the local community.                                                                                                                                                                                                              |
| Strategic Context                           | The site will provide additional lots in a well located position to achieve housing targets for The Oaks.                                                                                                                                                                                                                                     |
| Net Community Benefit                       | The site is able to meet water quality requirements and provide additional housing to service local demand.                                                                                                                                                                                                                                   |
| Summary of Likely Impacts                   | The proposed residential land will enable the provision of additional housing which can be readily serviced with the augmentation of existing infrastructure. Potential water quality impacts are able to be addressed. Potential impacts from operation of the east-west runway have been addressed and will ensure its continued operation. |
| Infrastructure and Services                 | Infrastructure and services are available and with augmentation can be connected to the site.                                                                                                                                                                                                                                                 |
| Supply and Demand Analysis                  | The proposal would add a relatively small amount of additional serviced residential land to satisfy unmet demand.                                                                                                                                                                                                                             |

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| Criteria                                   | Response                                                                                                                                                                                                                                                                                                                                                                         |
|--------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Site Suitability/Attributes                | The subject site is near The Oaks urban area and most services have capacity to be extended onto the site. Subject to environmentally sensitive design the site is considered capable of being sustainably developed. It is considered likely that traffic generation from the resulting development would be within the environmental capacity of the surrounding road network. |
| <b>Preserving Rural Land and Character</b> |                                                                                                                                                                                                                                                                                                                                                                                  |
| Criteria                                   | Response                                                                                                                                                                                                                                                                                                                                                                         |
| Character Setting                          | The land is sited within a rural setting near The Oaks village Town Centre.                                                                                                                                                                                                                                                                                                      |
| Visual Attributes                          | The site is located on a small plateau area which slopes up to the east while land to the west is open rural paddock which slopes up to small hills. The Oaks airfield is located within this rural setting.                                                                                                                                                                     |
| Rural and Resource Lands                   | The land is currently used for agricultural purposes but the current use has limited commercial viability in this location.                                                                                                                                                                                                                                                      |
| <b>Environmental Sustainability</b>        |                                                                                                                                                                                                                                                                                                                                                                                  |
| Protection and Conservation                | Most of the site is cleared but there is a small amount of remnant vegetation which has characteristics of Cumberland Plain Woodland. This vegetation is proposed to be included on the Natural Resources Biodiversity mapping layer which will ensure that it is either conserved or offset if cleared.                                                                         |
| Water Quality and Quantity                 | Maintaining water quality is important as the land is within the Sydney Drinking Water catchment. An assessment has shown how stormwater management can achieve a neutral or beneficial effect on water quality.                                                                                                                                                                 |
| Flood Hazard                               | Around a quarter of the site is impacted by flooding. In addition the potential for flooding from the failure of a large dam has been assessed and indicated that on land within the PMF flood level no habitable structures should be allowed.                                                                                                                                  |
| Geotechnical/Resources/Subsidence          | The site is not within a Mine Subsidence Area and there are no geotechnical issues.                                                                                                                                                                                                                                                                                              |

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| Criteria                                      | Response                                                                                                                                                                                                                                                                                                                                                            |
|-----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Buffers and Spatial Separation                | The site will be located opposite rural land to the south. There will be a road separating this land and to assist in buffering the site from any potential agricultural activities, landscaping of the southern side of this road would be required as part of any future development application for subdivision.                                                 |
| Bushfire Hazard                               | The eastern and southern side of the site is impacted by bushfire hazard and an assessment has defined the need for asset protection zones which are able to be accommodated on the site. Further assessment of bushfire protection requirements including asset protection zones will be undertaken as part of any future development application for subdivision. |
| Heritage                                      | Two heritage items are located in the vicinity of the site but the rezoning will not impact on these items. An archaeological investigation was undertaken and found that the land has no archaeological sites or aboriginal cultural heritage which would constrain the proposal for rezoning to residential and future subdivision.                               |
| Resource Sustainability                       | Opportunities for energy efficiency, water recycling and reuse and waste minimization can be readily applied to future residential development                                                                                                                                                                                                                      |
| <b>Infrastructure</b>                         |                                                                                                                                                                                                                                                                                                                                                                     |
| Criteria                                      | Response                                                                                                                                                                                                                                                                                                                                                            |
| Efficient Use and Provision of Infrastructure | Utilities and services required for residential development are able to be provided with extension and augmentation.                                                                                                                                                                                                                                                |
| Transport Road and Access                     | A traffic/transport study has found that the local road network has the capacity to cater for increased residential development.                                                                                                                                                                                                                                    |
| Open Space                                    | No additional open space requirements have been identified for the site by Council staff.                                                                                                                                                                                                                                                                           |

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| <b>Residential Lands</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Criteria</b>          | <b>Response</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Location/Area/Type       | The proposal is consistent with land identified under the GMS for Urban on Town Edge development.                                                                                                                                                                                                                                                                                                                                                                                         |
| Social Integration       | It is anticipated that the development of the site will allow for social integration and this will be assisted by the proposed pedestrian and cycle links to The Oaks village centre and to the adjoining residential area.                                                                                                                                                                                                                                                               |
| Urban on Town Edge       | The site adjoins urban land & most of the land is within practical walking/cycling distance of town services. The density of residential development shall be further assessed and is proposed to ;<br>- Achieve physical and visual integration with the existing edge of town.<br>- Allow for a mix of residential lot sizes to cater for a mix of housing types.<br>- Achieve a density range which ensures the efficient use of land while maintaining the rural landscape character. |

#### **4.8 FINAL FORM OF PLANNING PROPOSAL**

#### **4.9 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP 2011)**

Based on the specialist studies and consultation and engagement there are no changes to the Planning Proposal as exhibited.

The Planning Proposal seeks amendments to WLEP 2011 as described below:

- Amend the Land Zoning Map from Zone RU2 Rural Landscape to Zone R2 Low Density Residential
- Amend the Lot Size Map from a minimum lot size category of 40 hectares to 975m<sup>2</sup>
- Amend the Height of Buildings Map from a Maximum Building Height Category of no maximum to a Maximum Building Height Category of 6.8 m at the western end and 9 m over the remainder of the site
- Amend the Natural Resources Biodiversity Map to include a small area of environmentally sensitive land towards the western end of the site
- Amend the Natural Resources Water Map to include a 10m riparian buffer around the natural watercourse at the western end of the site.

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**4.10 WOLLONDILLY DEVELOPMENT CONTROL PLAN, 2011 (WDCP 2011)**

**Amendments are proposed to WDCP 2011 as follows:**

- To minimise the impacts on the scenic qualities of the rural and heritage landscape
- To improve road efficiency and permeability between residential areas.
- To minimise rural land use conflict
- To maintain water quality in the drinking water catchment
- To reduce Council's maintenance burden
- To minimise the potential risk to life and property, and mitigate noise, from use of the nearby airfield
- To ensure habitable buildings are not impacted by potential "dam failure" from the large dam located on the adjoining property to the south
- To ensure that contaminated land is suitably assessed and remediated prior to residential development.

These amendments will be included within the residential and subdivision volumes of WDCP 2011.

These amendments were placed on public exhibition with the Planning Proposal. No submissions raised issues relevant to the proposed amendments to WDCP 2011 and these are detailed in Section 2.3 to this report.

**FINANCIAL IMPLICATIONS**

Funding for this project to date has been achieved through Council's adopted Fees and Charges.

All proposals which result in an increased intensity of land use within the Shire shall also lead to increased demand for Council services and facilities over time. Council will need to consider this in the adopted budget and forward estimates.

**ATTACHMENTS:**

1. Proposed changes to the Land Zoning Map
2. Proposed changes to the Lot Size Map
3. Proposed changes to the Height of Buildings Map
4. Proposed changes to the Natural Resources Biodiversity Map
5. Proposed changes to the Natural Resources Water Map

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**RECOMMENDATION**

1. That Council as the delegated responsible authority adopt and make the draft Local Environmental Plan for land being:

Lot 601 DP 735032 (No. 780) and Lot 1 DP 1043567 (No. 790)  
Montpelier Drive, The Oaks, to amend Wollondilly Local Environmental Plan, 2011 as follows:

- Amend the Land Zoning Map (LZN Map) from Zone RU2 Rural Landscape (RU2) to Zone R2 Low Density Residential (R2)
- Amend the Lot Size Map (LSZ Map) to indicate a minimum lot size of 975 m<sup>2</sup>
- Amend the Height of Buildings Map (HOB Map) HOB to impose a maximum building height limit of 9 metres for the majority of the site and 6.8 metres at the western end of the site
- Amend the Natural Resources Water Map (NRW Map) to allow for a 10m riparian zone along the watercourse on the western end of the site
- Amend the Natural Resources Biodiversity (NRB Map) to allow for the protection of a small area of environmentally sensitive land located towards the western end of the site.

2. That in accordance with Section 59 of the Environmental Planning and Assessment Act 1979, Council makes the plan in the form as detailed in this report and request Parliamentary Counsel and the Department of Environment and Planning to make arrangements for the drafting and notification of the amended Local Environmental Plan subject to there being no objection from the Office of Environment and Heritage - Heritage Council.
3. That Council support the amendments to WDCP 2011 as described in Section 4.10 to this report. That these amendments also be incorporated into Draft Wollondilly Development Control Plan 2015.
4. That the applicant and persons who made submissions regarding the Planning Proposal be notified of Council's decision.

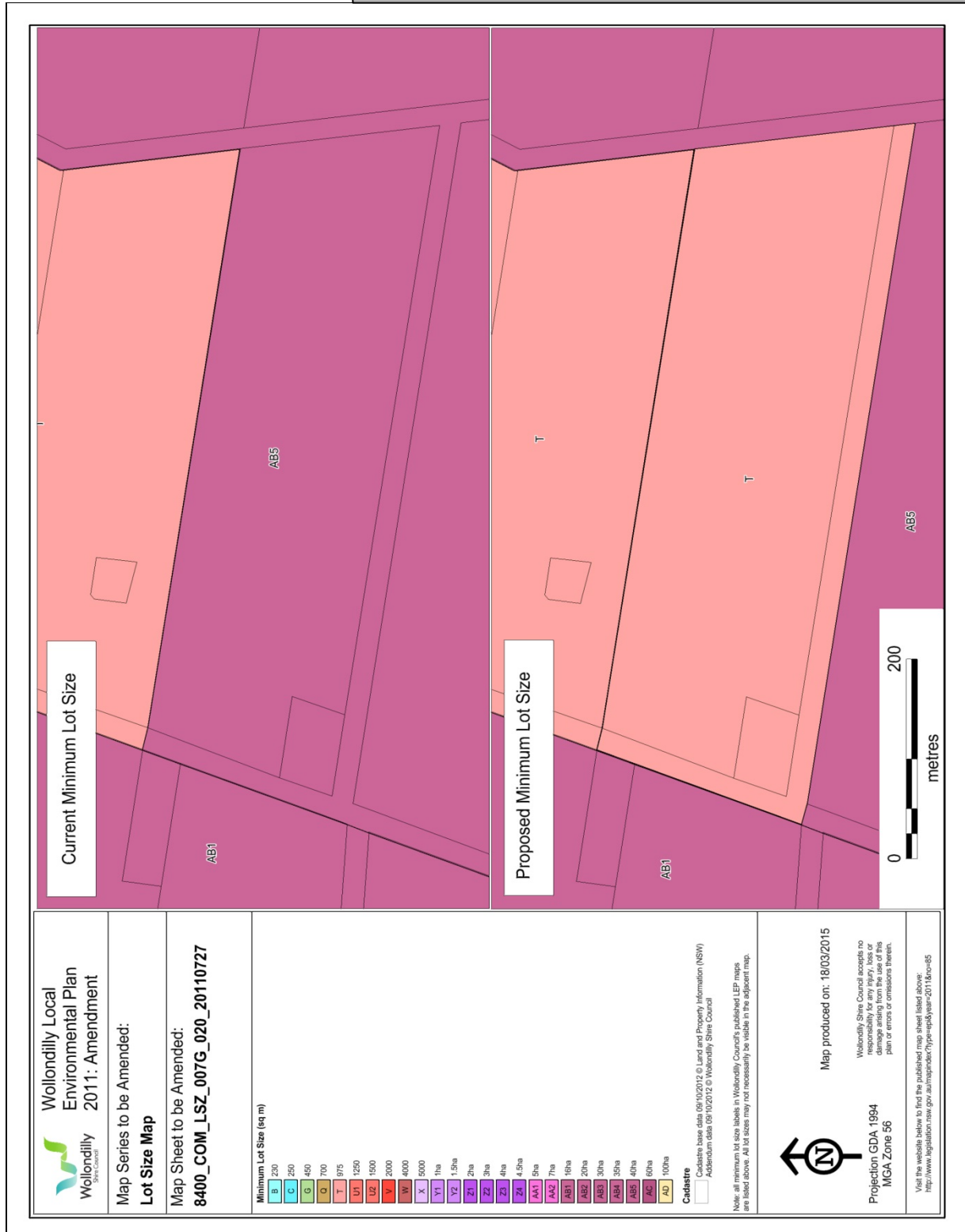




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ATTACHMENT 2 – 6961 – 15 JUNE 2015



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**PE3 - Planning Proposal - Montpelier Drive Residential Land**

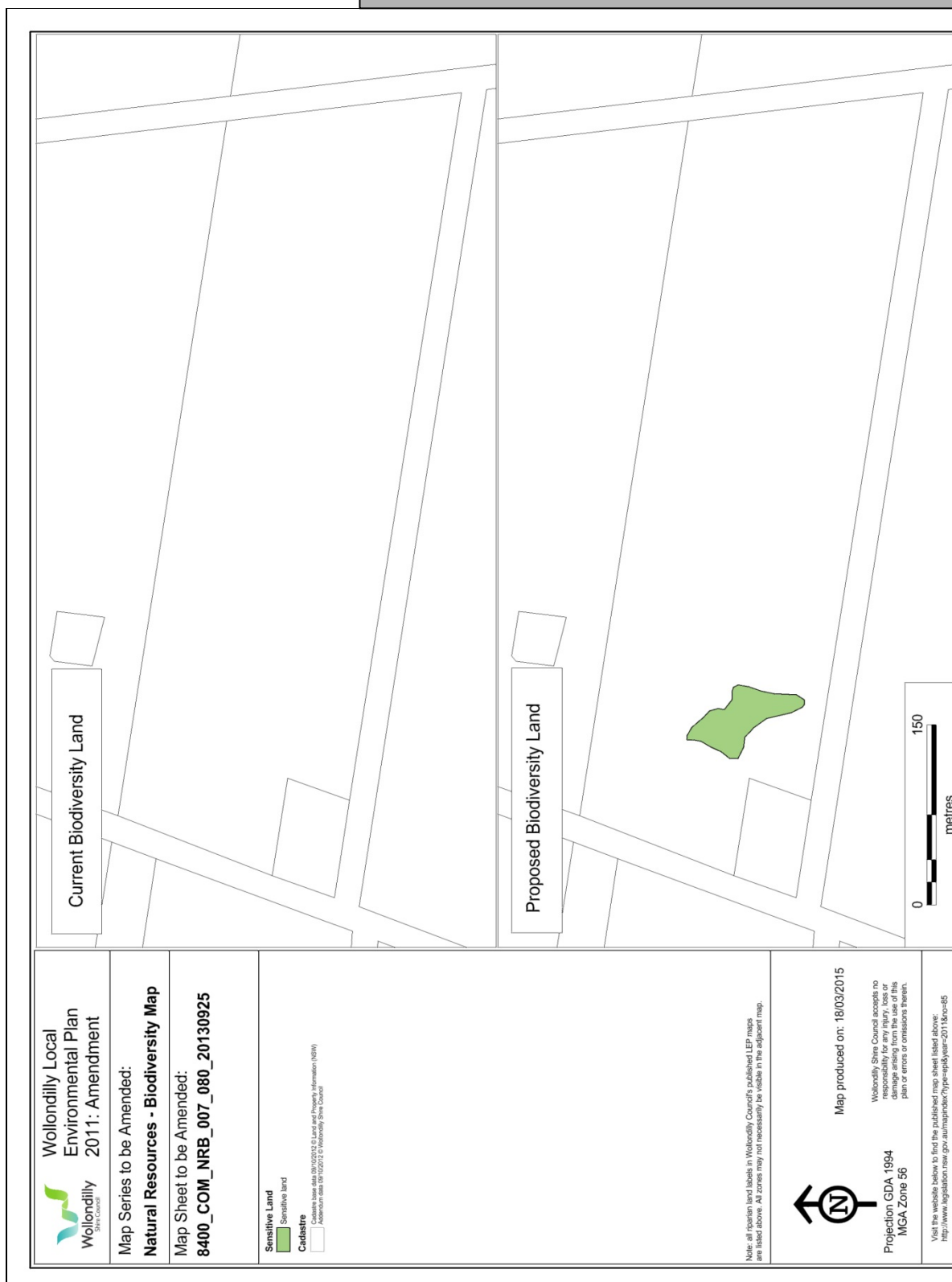
**ATTACHMENT 3 – 6961 – 15 JUNE 2015**



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**PE3 - Planning Proposal - Montpelier Drive Residential Land**

**ATTACHMENT 4 – 6961 – 15 JUNE 2015**

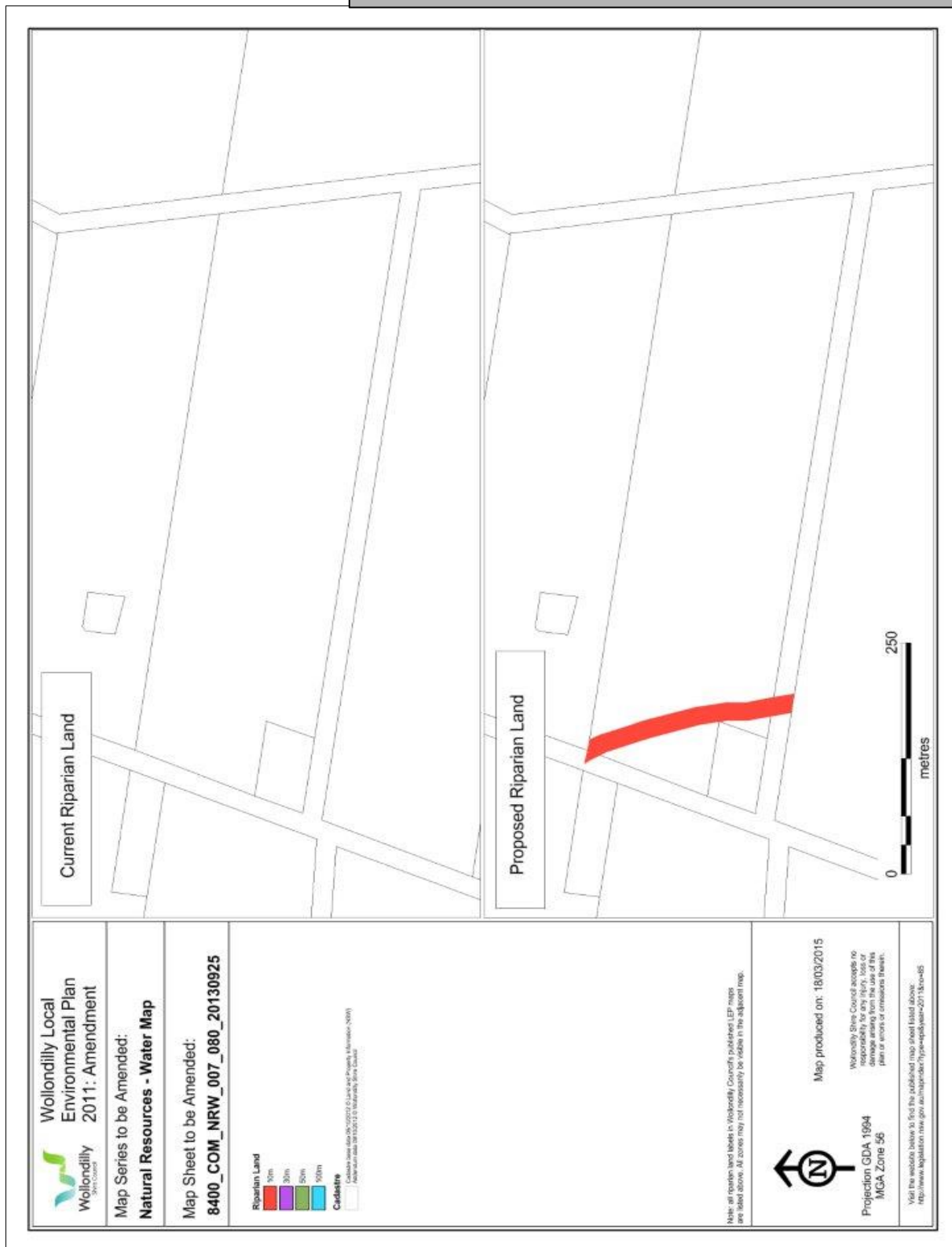


Planning & Economy

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**PE3 - Planning Proposal - Montpelier Drive Residential Land**

**ATTACHMENT 5 – 6961 – 15 JUNE 2015**



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