

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 20 February 2017

PE1 – Draft Planning Proposal – West Tahmoor Minimum Lot Size Amendment No.2

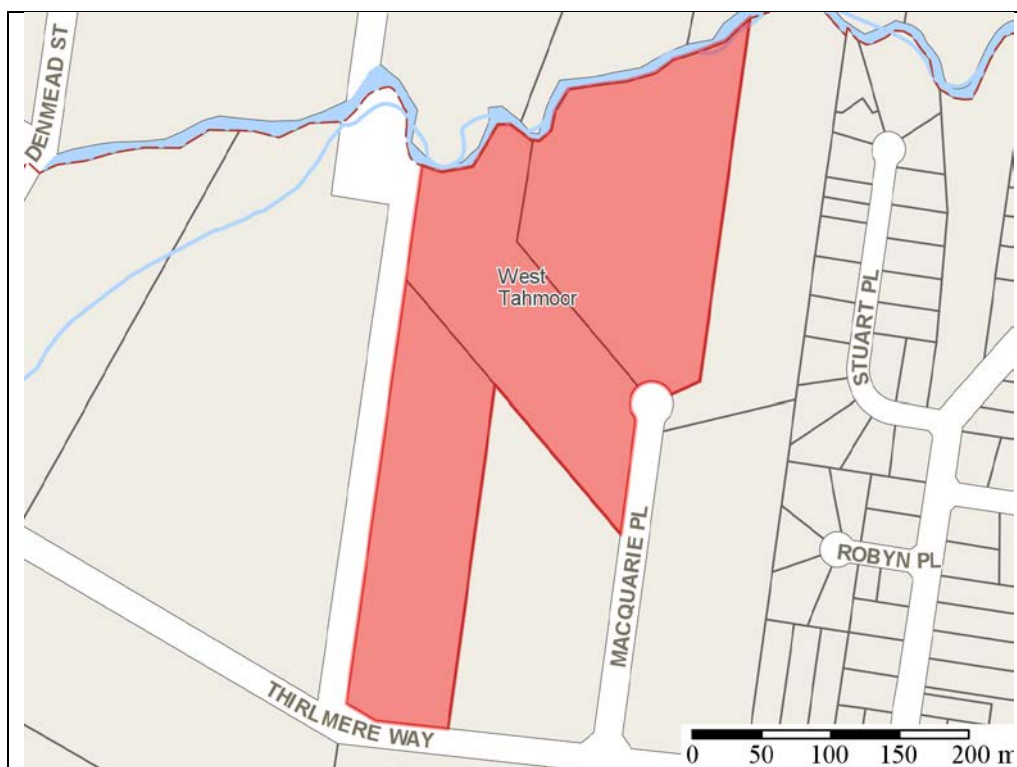
PLANNING AND ECONOMY

PE1 Draft Planning Proposal – West Tahmoor Minimum Lot Size Amendment No. 2

265508

TRIM 8154-2

Applicant: Precise Planning
Owner: Mr J E Baxter & Mrs M H Baxter and Abax Contracting Pty Limited



LOCATION MAP **N** ↑

Stage	Completed
Preliminary notification	28 September to 12 October 2016
Gateway Determination	Not completed
Consultation with Public Agencies	Not completed
Specialist Studies	Not completed
Public exhibition/community consultation	Not completed
Referred to Minister for Publication	Not completed

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EXECUTIVE SUMMARY

- A Draft Planning Proposal has been received for Lots 2, 3, & 4 DP 243776 at 125 Thirlmere Way Tahmoor and 21 & 25 Macquarie Place Tahmoor.
- The draft proposal seeks the following changes to the Wollondilly Local Environmental Plan, 2011:
 - To amend the Lot Size Map from a minimum lot size category of 4000m² and 2000m² (related to the Northern and Western portions of the site) to 450m² across the whole site.
 - To amend the Land Zoning of a small northern portion of the site from R2 Low Density Residential to E2 Environmental Conservation.
- The application has been subject to initial notification and there were four (4) submissions in response. Three (3) were in objection, zero (0) were in support and one (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 extend 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:
 1. Council supports the preparation of a planning proposal in an amended form that would rezone a portion of the land from a residential zone to an environmental protection zone and also amend the minimum lot size for subdivision.
 2. The portion of land proposed to be zoned E2 Environmental Conservation be expanded to include at least all “sensitive land” identified on the Natural Resources – Water Map.
 3. Council not support reducing the minimum lot size for subdivision along the western boundary.

REPORT

1.1 DESCRIPTION OF THE PROPOSAL

The Draft Planning Proposal (PP), known as West Tahmoor Minimum Lot Size Amendment No.2 Tahmoor, promotes an amendment to the minimum lot size map of approximately 3.5 ha of low density residential land to allow for a smaller allotment size of 450m². A copy of the amended Lot Size Map as submitted by the proponent is provided in Attachment 1.

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The draft planning proposal can be separated into two components; the land along the northern boundary referred to as “Land Adjoining Myrtle Creek” and “Land along the Western Boundary”.

Land Adjoining Myrtle Creek (riparian corridor)

This component of the proposal is to rezone a portion of the land to the north of the site adjacent to Myrtle Creek from R2 Low Density Residential to E2 Environmental Conservation zone and to reduce the minimum lot size for subdivision from 4000m² to 450m².

The land proposed for the E2 Environmental Conservation zone will encompass nearly but not all “sensitive land” currently identified on the Natural Resources - Biodiversity Map (NRB) and the Natural Resources - Water Map (NRW) which form part of the Wollondilly LEP 2011. A copy of the proposed amendment to land zoning map submitted by the proponent is provided in Attachment 2.

The current minimum lot size of 4000m² of this portion of the site would potentially allow for the future development of around 5 lots. Under the proposed amendments the estimated lot yield for this area (outside of the proposed E2 zone) is 26 lots.

Land along Western Boundary (rural/urban interface)

The second component is to reduce the minimum lot size for subdivision for land located along most of the western boundary of the site from 2000m² to 450m². This request is based on the intention that any clearing of vegetation in this area will be offset.

The current minimum lot size for subdivision for this portion of the site would potentially allow the area to be subdivision into approximately 7 lots, while the estimated yield under the proposed amendments will be 31 lots.

If supported in the form submitted by the proponent, the proposal as a whole has the potential to enable approximately 57 additional new lots at this location.

1.2 SITE DESCRIPTION

The PP is located within three principle allotments that are in the ownership of two land holders.

The site forms part of the West Tahmoor Precinct and was part of the Picton Thirlmere Tahmoor New Urban Lands (PTT) Urban Lands gazetted on 31 January 2014 (LEP Amendment No. 3).

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The land to which the Planning Proposal relates, consists of three (3) lots known as, Lot 2 DP 243776, Lot 3 DP 243776 and Lot 4 DP 243776 which comprise a total area of 6.82 ha.

Moderate to dense vegetation is situated in many parts of the site, most notably along the western boundary of Lot 2, the northern boundary of Lots 3 and 4, and the western and south western boundary of Lot 4.

The land slopes gently down towards the north before progressing to a steeper decline towards the northern boundary adjoining Myrtle Creek.

The site is zoned R2 Low Density Residential and contains three distinct minimum lot size areas under WLEP 2011. These include an area to the north of the site which has a minimum lot size of 4000m², a portion along the western boundary which has a minimum lot size of 2000m² with the remainder of the site having a minimum lot size of 450m².

Surrounding Lands

The land is located on the periphery of the Tahmoor residential precinct and is bound to the west by an unformed road.

To the immediate west of the unformed road is zoned RE1 Public Recreation and is currently used as an equestrian facility which is operated by the Tahmoor Pony Club. This recreational land provides a buffer between the urban borders of Tahmoor and Thirlmere.

Land to the south is also zoned RE1 Public Recreation and consists of recreational land which is used for sporting fields and netball courts. This land provides a southern buffer between the Tahmoor residential and the rural land.

Lots to the immediate east of the site consist of R2 Low Density Residential zoned land and include an existing retirement village.

A corridor of land on the other side of Myrtle Creek, to the north of the site, is zoned E2 Environmental Conservation and is in private ownership. This land comprises remnants of Shale Sandstone Transition Forest and creates a northern buffer between the residential areas of Tahmoor and Thirlmere.

1.3 PLANNING PROPOSAL BACKGROUND – PTT URBAN LANDS

The land in this draft proposal was recently rezoned for residential development in January 2014 under LEP Amendment No. 3. The site was located within the West Tahmoor precinct which was one of six (6) precincts within the PTT amendment.

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The amendment, as it related to the West Tahmoor precinct, involved:

- Rezoning the land from its previous rural zone to R2 Low Density Residential across the whole site
- Changing the lot size across the majority of the site to 450m² and applying a larger minimum lot size to constrained areas near Myrtle Creek of 4000m² and along the western boundary of 2000m²
- Applying a maximum building height for development
- Protecting sensitive land in terms of biodiversity and water resources by identifying land within the site on the Natural Resources – Biodiversity Map and Natural Resources – Water Map.

Larger minimum lot sizes were applied to areas within the PTT precincts containing riparian land, land of biodiversity value and land on the rural-urban interface. For the West Tahmoor site larger lots (4000m²) were required along the northern edge of the site adjoining Myrtle Creek and along the western boundary to provide a “transition between urban and rural lands” (2000m²). In part, the larger lot sizes on this site are also necessary to ensure that Asset Protection Zones to provide adequate bush fire protection can be accommodated within the site.

This draft proposal is the second draft planning proposal which has been submitted to Council to effectively reconsider aspects of the original PTT amendments.

The previous draft proposal was submitted in July 2014 and subsequently withdrawn by the proponent in May 2015 as the proposed amendments were considered unlikely to be supported by Council.

The table below provides an overview of the current provisions which apply to the site and those which have been proposed since the Amendment No. 3:

	Site	Land Use Zone	Minimum Lot Size (sqm)	Comment
Current LEP Provisions	Land Adjoining Myrtle Creek (riparian corridor)	R2 Low Density Residential	4,000	
	Land along western boundary (rural/urban interface)	R2 Low Density Residential	2,000	

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West Tahmoor Lot Size Amendment (earlier withdrawn planning proposal)	Land Adjoining Myrtle Creek (riparian corridor)	R2 Low Density Residential	700	Report prepared for the Ordinary Meeting of Council on 18 May 2015 which recommended Council not support the proposal. The draft planning proposal was subsequently withdrawn by the proponent.
	Land along western boundary (rural/urban interface)	R2 Low Density Residential	700	
West Tahmoor Minimum Lot Size Amendment No.2 (current draft planning proposal)	Land Adjoining Myrtle Creek (riparian corridor)	E2 Environmental Protection	450	The draft proposal seeks to dedicate land to be zoned E2 Environmental Protection to Council for a nature reserve.
	Land along western boundary (rural/urban interface)	R2 Low Density Residential	450	The proposal seeks the basis for a smaller minimum lot size on the basis of clearing vegetation in this area with an offsetting arrangement.

2. CONSULTATION

2.1 FORMAL CONSULTATION WITH COUNCIL STAFF THAT PROVIDE SPECIALIST COMMENT

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

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Infrastructure and Planning

Council's Infrastructure and Planning team have advised that the area of 'sensitive land' identified on the Natural Resources – Water Map (NRW) which forms part of the Wollondilly LEP 2011 was increased to from 30m to 50m under LEP Amendment No. 3 to ensure better protection of the creek.

The proposed E2 Environmental Conservation zone does not appear to encompass the full extent of the mapped NRW layer overlay and so the E2 area should be increased to include a greater extent of land currently identified on the Natural Resources – Water Map and Natural Resources Biodiversity Map in the LEP.

It was also highlighted that there have been some difficulties with maintaining the land designated as protected via the LEP mapping overlays and so it is thought that the proposed environmental zoning, in addition to the overlay, will better protect the creek. Providing that, all development (including water quality facilities as far as possible) is excluded within this zone.

Environmental Services

Councils' Environmental Services Team have advised that they are not supportive of the proposal as the current LEP provisions are viewed as being inadequate to protect the vegetation at this location.

The Local Environment Study (LES) report prepared by Biosis (in support of the PTT Planning Proposal in 2014) identified the western and northern parts of the site (those largely proposed to have minimum lots of 450m²) as comprising of Critically Endangered Ecological Community Shale/Sandstone Transition Forest and that the site adjacent to Myrtle Creek and the south western part of the site had the highest potential for occurrence of threatened species and was considered the more resilient areas of bushland.

Priority Mapping endorsed by Council in December 2015 identified land on the Western border as having the second highest category in terms of priority for protection and the proposed 450m² allotments will not allow for the location and design of development which would avoid any adverse environmental impact on the Natural Resource Biodiversity (NRB) Layer, (which covers this part of the site), in accordance with Section 7.2(4) of the Local Environmental Plan.

In addition to this the proposed area zoned for E2 Environmental Conservation does not include significant portions of the site currently covered by the Natural Resources Biodiversity Layer and it has not been demonstrated that the E2 zone would adequately offset biodiversity losses associated with the revised proposal.

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Acquisition of the proposed E2 zoned land by Council is not warranted from an environmental perspective given the strong unlikelihood of a riparian corridor being established adjacent to Myrtle Creek as a result of private land to the east and Crown Land to the west.

Environmental Services are supportive of the alternative approach recommended in this report, as the establishment of the extended E2 zone to incorporate all of the Natural Resources Water (NRW) layer is viewed as a stronger form of protection.

Land & Property Panel (LPP)

The draft planning proposal indicates an intention to dedicate the land proposed to be rezoned to E2 Environmental Conservation adjoining Myrtle Creek to Council for use as a nature reserve.

This dedication of the proposed E2 zoned land was considered by Council's Land and Property Panel (LPP) at its meeting held 9 November 2016. At this meeting the LPP concluded that there is no merit in the dedication of this land to Council and recommended that the proposed E2 zoned land to remain in private ownership for the following reasons:

- Acquiring this asset when not strategically required would be contrary to best practice asset management
- There is concern with accessing the site, ongoing maintenance, flood and bushfire issues
- The proposed funding is insufficient/low
- There is concern with the potential legal implications of taking on the ownership of the creek bed/watercourse.

2.2 CONSULTATION WITH PUBLIC AGENCIES

If the Planning Proposal is supported by Council and forwarded to the Greater Sydney Commission, any subsequent Gateway Determination will outline the consultation requirements with government agencies.

No agencies have been consulted at this preliminary stage.

2.3 COMMUNITY CONSULTATION

In accordance with Council's notification policy, initial community consultation has been undertaken. The application was made available on Council's website and letters were sent to owners and occupiers of adjoining and potentially affected properties.

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A total of **4** submissions were received and of these submissions; **3** objected, **0** supported and **1** submission was neutral.

Of those objecting, one submission was from the Wollondilly Pony Club and the other two were from land owners from Tahmoor and Thirlmere.

The issues raised in submissions that are relevant to the assessment of the application are summarised in the following table.

Issue Raised	Assessment Comment
<p>Land dedication The transfer of land to Council will need to be considered by the Property Panel</p>	<p>The proposal to dedicate land to Council was considered by the Land & Property Panel (LPP) at its meeting on 9 November 2016. Where it was recommended that any land proposed to be zoned E2 Environmental Conservation remain in private ownership.</p>
<p>Environmental impact</p> <ul style="list-style-type: none"> ▪ Buffer Zone should be widened (enlarged), ▪ The nature strip should be enlarged to protect our wildlife. Bower birds have lived there for 20 years, ▪ Native orchids grow there as part of the Cumberland Plain 	<p>Previous studies prepared to support amendment No.3 to the WLEP 2011 have shown that the site typically supports a high level of fauna habitat features that are important in the maintenance of native fauna diversity and life cycles.</p> <p>Extension of the buffer zone has also been highlighted during internal consultation with Council staff.</p> <p>This report recommends increasing the area proposed to be rezoned for environmental protection purposes so that it aligns with the area identified for water protection on the Natural Resources – Water Map which forms part of the WLEP 2011.</p>
<p>Traffic & parking</p> <ul style="list-style-type: none"> ▪ Thirlmere Way will not cope with additional traffic. It is already next to impossible to connect with Milne Street in the morning. 	<p>This comment appears to relate to the future development of the whole site. Traffic impacts would have been considered as part of the original planning proposal to rezone the land for future development. The addition of approximately 57 new lots is not viewed as being significant enough to require a new study. The planning proposal was referred to Council’s Infrastructure and Planning unit who did not identify the need for a traffic study to be undertaken.</p>

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	The site is located within a designated Urban Release Area and so developer contributions towards the upgrade of State and Council infrastructure, including roads will be required at the development application stage.
Conflict with rural living <ul style="list-style-type: none"> ▪ Not Rural Living ▪ Not compatible with rural living 	The site is already zoned for residential purposes and has been identified for growth in Council's GMS.
Open space and recreation <ul style="list-style-type: none"> ▪ No Land set aside for park or open space for children to play, ▪ No open space is planned for kids to exercise. ▪ All subdivisions should have open space ▪ Maybe a community garden should be established 	The site is located adjacent to public recreational space. Developer contributions towards Council owned infrastructure which include sports fields and parks will be required at the development application stage.
Block sizes <ul style="list-style-type: none"> ▪ The block size of 450 should be much larger, ▪ Lot sizes shouldn't be reduced in size 	<p>The proposed minimum lot size of 450m² is consistent with that of adjoining properties to the east of the site.</p> <p>This report discusses this issue in detail.</p>
Height of buildings <ul style="list-style-type: none"> ▪ They will build double story which takes away more 	The draft proposal does not seek to amend the maximum building height that applies to the site and there is not considered to be any planning grounds to restrict the height of part of this proposal.
Flooding and runoff <ul style="list-style-type: none"> ▪ Concerns with runoff water that this development will cause. Myrtle Creek already takes vast amounts of water as shown by the June rains. ▪ Further evidence of this is the flooding on the corner of Renmead and Leonard Street Thirlmere. Neighbour also has flooding out 	If the proposal proceeds a flood and stormwater management assessment will be required at the development application stage to establish that future subdivision of the site will not negatively impact on Myrtle Creek or surrounding properties.

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<p>the front and sure this was caused by runoff from the Gumtree Estate at the top of Renmead Street.</p> <ul style="list-style-type: none"> ▪ Houses east of the proposal also suffered flooding ▪ Reducing the lot size to 450sqm will add even more flooding pressure to Myrtle Creek 	
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2.4 PREPARATION OF A PLANNING PROPOSAL

Should Council resolve to support the application, a Planning Proposal will be prepared in accordance with Section 55 to the *Environmental Planning and Assessment Act, 1979* and guidelines published by the Department of Planning and Environment. The Planning Proposal is then forwarded to the Minister for Planning and Environment for a Gateway Determination.

In deciding to forward a Planning Proposal to the Gateway process, Council is endorsing the Planning Proposal and it is deemed to be *Council's* Planning Proposal.

Council's options are:

1. Resolve to support the application in its original form and prepare a Planning Proposal accordingly. Matters can be more fully investigated and resolved with future specialist studies as determined by the Gateway process.
2. Resolve that a Planning Proposal be prepared in a form different to the application (and as described in Section 2.13 of this report). Matters can be more fully investigated and resolved with future specialist studies as determined by the Gateway process.
3. Resolve not to support a Planning Proposal for this site. The applicant can choose to apply for a Pre-Gateway Review as a result of this option.

Note that the application **has** been with Council for more than 90 days. The applicant can apply for a pre-Gateway review in accordance with the EP&A Regs, 2000 if Council fails to indicate support for the application within 90 days of receiving the application.

Option **2** is the recommendation of this report.

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2.5 GATEWAY DETERMINATION

When a Planning Proposal has been endorsed by Council, it is then forwarded to the Minister for Planning and Environment for a Gateway Determination. The Gateway process is a checkpoint for Planning Proposals before significant resources are committed to carrying out specialist studies and before extensive consultation with public agencies.

As part of the Gateway process, the Greater Sydney Commissioner will decide:

- whether the proposal is justified on planning grounds
- whether the Planning Proposal should proceed (with or without variation)
- whether the Planning Proposal should be re-submitted for any reason (including for further studies or other information, or for the revision of the Planning Proposal)
- the community consultation required
- any consultation required with State and Commonwealth Agencies
- whether a public hearing by the Planning Assessment Commission or other specified person or body is required
- the timeframes for the various stages of the procedure to make the draft amendment
- whether the function of making the LEP is to be exercised by the Greater Sydney Commission or delegated to Council.

2.6 METROPOLITAN PLAN FOR SYDNEY 2036

An initial assessment indicates that the proposal appears to be in line with the policy objectives of A Plan for Growing Sydney as it seeks to allow for additional housing adjacent to an established residential area, has access to existing services and is in close proximity to existing community infrastructure.

The proposal to introduce an environment protection zone to the portion of the site that adjoins Myrtle Creek is also considered to be consistent with Strategic Direction G – Protecting Sydney’s Natural Environment, in regard to, objective G4 – To improve the Health of Waterways, Coasts and Estuaries. However the future loss of vegetation to the western portion of the site is considered to be inconsistent with this direction.

2.7 DRAFT SOUTH WEST DISTRICT PLAN

The priorities listed in the Draft South West District Plan that are relevant considerations for this proposal are as follows:

Sustainability Priority 2: Maintain and improve water quality and waterway health

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The proposed land use zone 'E2 Environmental Conservation' will provide a higher protection of land adjoining Myrtle Creek than the current residential land use zone. However, it is considered that the proposed boundary should be extended to align with sensitive land identified on the Natural Resources – Water Map (NRW) which forms part of the WLEP 2011.

The associated clause 7.3 *Water protection* in the WLEP 2011 aims to maintain the hydrological functions of riparian land and waterway. The proposal in its current form is considered to be only partially consistent with this priority.

Sustainability Priority 3: Avoid and minimise impacts on biodiversity

The proposed land use zone 'E2 Environmental Conservation' will provide a higher protection of land adjoining Myrtle Creek than the current residential land use zone. However not all land identified on the Natural Resources - Biodiversity Map (NRB) which forms part of the Wollondilly LEP 2011 has been identified for this zone.

The associated clause 7.2 Biodiversity protection aims to maintain terrestrial and aquatic biodiversity. The proposal in its current form does not include all land protected by the NRB and so the proposal is only partially consistent with this priority.

2.8 SECTION 117 MINISTERIAL DIRECTIONS

Preliminary assessment of the proposal indicates that the proposal is largely consistent with the s117 Ministerial Directions, however further information may be required to establish that the proposed amendments to the Wollondilly LEP 2011 are consistent with the following:

- 2.1 Environmental Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 4.2 Mine Subsidence and Unstable Land
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection

If the draft proposal is supported and a Gateway Determination to proceed is issued further consideration of the relevant Ministerial Directions listed above will be required.

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2.9 STATE ENVIRONMENTAL PLANNING POLICIES

Preliminary assessment indicates that further information is required to establish that the proposed amendments to the Wollondilly LEP 2011 are consistent with the following SEPP's:

- SEPP No. 44 - Koala Habitat Protection
- SEPP No. 55 - Remediation of Land
- REP No. 20 - Hawkesbury–Nepean River (No 2 - 1997)

If a Gateway Determination is issued for the Planning Proposal specialist studies may be required to inform the Planning Proposal and address the requirements of the relevant SEPP's and deemed SEPP's.

2.10 WOLLONDILLY GROWTH MANAGEMENT STRATEGY

A summary of how the PP applies to the Wollondilly Growth Management Strategy (GMS) is provided in the table below:

Key Policy Direction	Comment
General Policies	
P1 All land use proposals need to be consistent with the key Policy Directions and Assessment Criteria contained within the GMS in order to be supported by Council.	The proposal is considered to be inconsistent with key policy directions P2, P9 and P21.
P2 All land use proposals need to be compatible with the concept and vision of "Rural Living" (defined in Chapter 2 of the GMS).	The current lot size is considered to be more consistent with the rural living requirements of the GMS as the larger lot sizes to the north and the west of the site would create a more suitable buffer to the rural and recreational lands.
P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.	Four (4) submissions were received during the exhibition of the proposal and have been given due consideration within this report.
P4 The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.	There have been no such representations regarding this proposal and therefore this key policy direction has been satisfied.

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<p>P5 Council is committed to the principle of appropriate growth for each of our towns and villages. Each of our settlements has differing characteristics and differing capacities to accommodate different levels and types of growth (due to locational attributes, infrastructure limitations, geophysical constraints, market forces etc.).</p>	<p>The proposal relates to land within an existing residential precinct, however, the larger lot sizes on the western and northern boundary of the site were established to address the environmental and physical features of the site. Therefore the proposed reduction of the lot sizes to 450sqm is considered to be contrary to this policy. However the introduction of an E2 zone to the north of the site may help to address this inconsistency.</p>
<p>Housing Policies</p>	
<p>P6 Council will plan for adequate housing to accommodate the Shire’s natural growth forecast.</p>	<p>The proposed amendment to the minimum lot size maps on the site will contribute to the achievement of dwelling targets for the Shire which are contained in the GMS</p>
<p>P8 Council will support the delivery of a mix of housing types to assist housing diversity and affordability so that Wollondilly can better accommodate the housing needs of its different community members and household types.</p>	<p>The draft proposal would result in approximately 57 additional smaller and easier to maintain lots in close proximity to the business centre.</p>
<p>P9 Dwelling densities, where possible and environmentally acceptable, should be higher in proximity to centres and lower on the edges of towns (on the “rural fringe”).</p>	<p>The current lot sizes of 4000m² and 2000m² ensure a larger lot size on the perimeter of the township and so a proposal to decrease these lot sizes on the periphery of the town is inconsistent with this policy.</p> <p>The proposal to introduce an environmental protection zone on identified environmentally sensitive land is seen as being consistent with this proposal.</p>
<p>P10 Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.</p>	<p>The Planning Proposal is within an existing low density residential zone and is consistent in this regard.</p>

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Macarthur South Policies	
Key Policy Directions P11, P12, P13 and P14 are not applicable to this planning proposal. The subject land is not with the Macarthur South area.	Not applicable to this planning proposal
Employment Policies	
P15 Council will plan for new employment lands and other employment generating initiatives in order to deliver positive local and regional employment outcomes.	Not applicable to this planning proposal
P16 Council will plan for different types of employment lands to be in different locations in recognition of the need to create employment opportunities in different sectors of the economy in appropriate areas.	Not applicable to this planning proposal
Integrating Growth and Infrastructure	
P17 Council will not support residential and employment lands growth unless increased infrastructure and servicing demands can be clearly demonstrated as being able to be delivered in a timely manner without imposing unsustainable burdens on Council or the Shire's existing and future community.	If the Planning Proposal is supported, the relevant agencies responsible for the provision of services and infrastructure (e.g. sewerage infrastructure) will be formally consulted to ensure that the service provision is adequate.
P18 Council will encourage sustainable growth which supports our existing towns and villages, and makes the provision of services and infrastructure more efficient and viable – this means a greater emphasis on concentrating	The planning proposal relates to residential land within the existing village boundaries of the township of Tahmoor and is subsequently considered to be consistent with this policy direction.

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<p>new housing in and around our existing population centres.</p>	
<p>P19 Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.</p>	<p>The planning proposal is within an existing precinct and complies with this policy.</p>
<p>P20 The focus for population growth will be in two key growth centres, being the Picton/Thirlmere/Tahmoor Area (PTT) area and the Bargo Area. Appropriate smaller growth opportunities are identified for other towns.</p>	<p>The planning proposal relates to land within the West Tahmoor PTT precinct and is consistent with this policy.</p>
<p>Rural and Resource Lands</p>	
<p>P21 Council acknowledges and seeks to protect the special economic, environmental and cultural values of the Shire's lands which comprise waterways, drinking water catchments, biodiversity, mineral resources, agricultural lands, aboriginal heritage and European rural landscapes.</p>	<p>The vegetation communities to the north of the site form part of a locally significant vegetation corridor of Myrtle Creek which has been identified on the Natural Resources - Biodiversity Map which forms part of the WLEP 2011.</p> <p>It is considered that the current 4000m² minimum lot size is more suitable for retaining and protecting this area and minimising degradation of this environmentally sensitive area. However, the application of an E2 zone to this areas may also act to protect this vegetation however further assessment will be required if the proposal proceeds to establish the extent of this protection.</p> <p>The proposal also seeks to remove significant vegetation that has been nominated within the Biodiversity Layer in the WLEP 2011 on the Western side of the site by way of an offsetting arrangement.</p>
<p>P22 Council does not support incremental growth involving increased dwelling entitlements and/or rural lands</p>	<p>The lot size amendment is located on lands currently zoned R2 Low Density Residential and the requirements of this policy are achieved.</p>

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fragmentation in dispersed rural areas. Council is however committed to maintaining where possible practicable, existing dwelling and subdivision entitlements in rural areas.	
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2.11 SUMMARY OF ASSESSMENT

Flora, Fauna and Riparian Land

The Local Environment Study undertaken by Cardno for the PTT rezoning stated that:

“Riparian corridor of Myrtle Creek should be maintained as a 50m corridor, protected future development by being included on the Natural Resources – Biodiversity Map. This corridor can be allocated within the future. Subdivision of the corridor should be limited to one to two lots to minimise fragmentation of the corridor. Vegetation along the corridor should be retained and managed.”

In addition to this, the previous flora and fauna study undertaken for the PTT rezoning indicated the presence of potential Koala feed trees within the corridor and referenced previous records of this species being in the locality of the site.

Council’s Environmental Services team is of the opinion that the current larger minimum allotment size, the application of the Biodiversity Protection clause in the WLEP 2011 (Clause 7.2) and the planning controls contained in the Wollondilly Development Control Plan are sufficient protection measures for the biodiversity present at the site.

The proponent argues that the proposal to apply an E2 Environmental Conservation zone to the riparian corridor (situated to the north of the site) should act to achieve the same outcomes for this location. However the proposal also seeks to use this zone as a trade-off for the future loss of the vegetation to the west of the site (also identified on the NRB map but viewed as being less important. However the actual benefit in relation to this loss needs to be calculated.

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The proponent also highlights that the current minimum lot size does not sufficiently protect the riparian corridor as dual occupancies are currently permissible under the Wollondilly Development Control Plan (DCP) 2016 within in an R2 zone on land larger than 800m² (for attached) 975m² (detached). This is not the case though as the planning controls for dual occupancy development in the Wollondilly Development Control Plan 2016 prohibits dual occupancy development on lots that are larger than 1400m² on land zoned R2 Low Density Residential.

Council's Infrastructure Planning team are supportive of the E2 Environmental Conservation zone as a means of providing more protection to Myrtle Creek and better achieving water quality outcomes, providing that the zone is extended to encompass the whole area at this location identified on the Natural Resources – Water Map which forms part of the Wollondilly LEP 2011 and currently apply to the site.

Council's Land & Property Panel do not support ownership and management of this land being transferred to Council due to the future financial and legal liability this land may present. Therefore, the future management of this area would need to rely on private management and conservation by way of either a Voluntary Planning Agreement or a Vegetation Management Plan.

This may be hard to manage if the land is divided among multiple owners. Conversely, it could also be argued that, if parcelled into a single ownership, there would be a disproportionate financial burden on the land owner. However by keeping within one to two owners there is a higher likelihood that the land could be bio-banked in the future, which would then generate an income to manage the land.

The Western Residential Border of Tahmoor

The site is located on the western residential border of Tahmoor with a recreational zone providing a buffer between rural land to the south and the residential border of Thirlmere to the west. The GMS advocates for lower densities on the edge of towns and villages in the location known as the rural fringe.

The site has been rezoned to a low density residential zone and is close proximity to the town centre and Tahmoor railway station. The site is also supported by a sealed walkway running along Thirlmere Way which directly links to the town centre and is a good location for smaller lot sizes.

The site is buffered by a recreation zone to the south and west and as such there appears and is on the rural interface of the residential and rural land in Tahmoor. The character of the land along this border is heavily vegetated and presents a rural outlook to the future houses to be located adjacent and is worth retaining for its conservation, buffering and aesthetic value.

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The current minimum lot size of 2000m² at this location has been identified in Volume 3 of the Wollondilly Development Control Plan 2016 (DCP) 3.4 Tahmoor West as being large lot residential to provide a transition between urban and rural lands.

Recreation, Safety and Land Use Conflict

The site also has good access to recreational space as it is adjacent to sporting fields, a children’s accessible playground and a skate park. The location of smaller lot housing in this area would enhance the use of this valuable community infrastructure and would provide better natural surveillance to an area that currently appears isolated.

Parking and noise from these spaces during sporting events and their impact on the future residents’ amenity and enjoyment of their homes is a consideration.

The potential for conflict in land use between the Wollondilly Pony Club and housing along the western border is another consideration. Smaller lots in this vicinity that are cleared of vegetation could potentially exacerbate noise and the amount of dust moving across to houses during events. Larger lots along this boundary can reduce the intensity of this interface by reducing the number of houses and vehicle movements and enables a greater setback and separation between uses. Both of these issues have potential to lead to significant conflict between home owners and sporting and recreational clubs.

CONCLUSION

In terms of the orderly development of the land and the protection of biodiversity and the waterway, Council is presented with three options. Council could not support the proposal and thereby retain the existing provisions within the Wollondilly LEP 2011; support the proposal in the form as submitted by the proponent or support the proposal in an amended form.

This report recommends supporting the planning proposal in an amended form in order to achieve greater protection of the riparian corridor along Myrtle Creek by rezoning an appropriate buffer to E2 Environmental Conservation zone. This buffer would include at least all ‘sensitive land’ associated with the riparian corridor which is currently protected by Clause 7.3 Water Protection and mapped on the Natural Resources – Water Map within Wollondilly LEP 2011. An E2 Environmental Conservation Zone for this land would also mirror and be consistent with the approach taken with vegetated riparian land on the northern side of Myrtle Creek.

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Given the intention to rezone the land for environmental protection purposes it is also considered appropriate to restrict the minimum lot size for subdivision so that the land can be retained, preferably in single ownership, or alternatively in two (2) lots. Site specific controls for this site in Volume 3 of the Wollondilly Development Control Plan already indicate this intention within the Structure Plan but controlling this aspect of future development through the LEP will provide more certainty over this outcome. It is suggested that increasing the minimum lot size from 4000m² to 5000m² could achieve this outcome but this should ultimately be determined after the extent of the E2 Environmental Conservation zone has been confirmed.

In light of these provisions it is considered appropriate to reduce the minimum lot size for subdivision from 4000m² to 450m² for those areas adjoining the E2 zone with the exception of the area adjoining the western boundary with Lot 380 in DP 751270. The 2000m² lot size which runs along the length of the western boundary should be extended to meet the line of the proposed E2 boundary. A minimum lot size of 450m² is not considered to be appropriate for land proposed to be zoned E2 Environmental Conservation.

Even though a minimum lot size of 450m² is considered to have merit these lots may still need to be larger in order to ensure adequate bushfire protection can be provided within the property boundary and this includes any required Asset Protection Zones (APZ). No APZ's should rely on or be located on land zoned for environmental protection. Larger lots may also be required to minimise removal of and/or impacts on vegetation both on the site and adjoining sites. This will be considered at the development application stage.

The draft proposal also seeks to reduce the minimum lot size along the western boundary from 2000m² to 450m² and indicates that the intention is to remove the vegetation in this area through an offsetting arrangement at the development application stage.

While portions of the western boundary are constrained by vegetation the main reason for large lots along this boundary was to provide a transition between urban and rural lands. Offsetting tree removal in the manner proposed, which is to achieve smaller lots, will not address this transition and is not considered to justify a change to the minimum lot size for subdivision. It is also noted that the current lot size, i.e. 2000m², in this location is consistent with the approach taken for the southern end of Silverdale.

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2.12 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP 2011)

Following consideration of responses from initial consultation and notification and preliminary assessment of the application, it is considered that the Planning Proposal should take the form as detailed below.

2.13.1 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP, 2011)

The proposed amendments to WLEP 2011 are described below:

- Amend the Land Zoning Map to rezone a portion of the subject site from Zone R2 Low Density Residential to Zone E2 Environmental Conservation.
- Amend the Lot Size Map to reduce the minimum lot size from 4000m² to 450m² for land zoned R2 Low Density Residential in the northern portion of the site, except land adjoining the western boundary.
- Amend the Lot Size Map from a minimum lot size category of 4000m² to 2000m² for land zoned R2 Low Density Residential along the western boundary.

An appropriate lot size for land proposed to be zoned E2 Environmental Conservation cannot be determined at present until the extent of the E2 zone has been confirmed. The intention will be to increase the minimum lot size, if necessary, to prevent the environmentally protected land from being subdivided into more than two (2) lots.

2.13.2 WOLLONDILLY DEVELOPMENT CONTROL PLAN, 2011 (WDCP, 2011)

There are currently controls for this site in the DCP. These will need to be reviewed if the draft proposal is supported and may need to be amended. If amendments are necessary, these will be reported to Council prior to public exhibition.

2.14 FINANCIAL IMPLICATIONS

Funding for this project to date has been achieved through the adopted Planning Proposal fees and charges.

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Council has experienced a record increase in the number of Planning Proposals submitted in addition to the Wilton Junction project. Note that the Wilton Junction project is not a planning proposal but has had significant impact on Strategic Planning resources. 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 INCLUDED IN A SEPARATE BOOKLET

1. Amended Lot Size Map (submitted by Precise Planning)
2. Proposed Amendment to Land Zoning Map (submitted by Precise Planning)
3. Map of proposed alternative LEP amendments

RECOMMENDATION

1. That Council support the preparation of a Planning Proposal, in an amended form, for Lots 3 & 4 in DP 243776 (21 & 25 Macquarie Place Tahmoor) to amend Wollondilly Local Environmental Plan 2011 as follows:
 - Amend the Land Zoning Map as it applies to the northern portion of the site to rezone land adjoining Myrtle Creek from R2 Low Density Residential to E2 Environmental Conservation.
 - Amend the Lot Size Map for land;
 - zoned R2 Low Density Residential in the northern portion of the site, but not adjoining the western boundary to a minimum lot size of 450m².
 - for land zoned R2 Low Density Residential along the western boundary to 2000m².
2. That the Lot Size Map be amended so that land proposed to be zoned E2 Environmental Conservation cannot be subdivided into more than two (2) lots. The minimum lot size will be determined in consultation with the proponent after a Gateway Determination has been issued.
3. That the portion of land proposed to be zoned E2 Environmental Conservation be expanded to include at least all 'sensitive land' identified on the Natural Resources – Water Map.
4. That Council does not support reducing the minimum lot size of 2000m² for land at Lot 2 DP 243776, located along the western boundary (with Lot 380 in DP 751270) as proposed in the draft Planning Proposal submitted by Precise Planning.

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5. That the amended Planning Proposal be forwarded to the Greater Sydney Commission for a Gateway Determination.
6. That Council request the Greater Sydney Commission to grant Council delegation to make the amendments to Wollondilly Local Environmental Plan, 2011 in accordance with Section 59 to the Environmental Planning and Assessment Act, 1979.
7. That the applicant and submitters be notified of Council's Resolution.