

# Planning Proposal

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To Amend Wollondilly Local Environmental Plan 2011

## Government Road, Bargo

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For the rezoning of land located at 55 Government Road, Bargo (Lot 2 DP 596515) to allow for *E4 Environmental Living* & *E2 Environmental Conservation* purposes

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# Introduction

## Proposal

This planning proposal for the amendment of Wollondilly Local Environmental Plan (WLEP) 2011 was originally submitted to Council on 22 July, 2013. The planning proposal as originally submitted included two lots being Lot 1 DP 571589 (No. 35) and Lot 2 DP 596515 (No. 55) Government Road, Bargo. When originally submitted, the planning proposal proposed to rezone the site from RU1 Primary Production to R5 Large Lot Residential with a combination of 4,000m<sup>2</sup> and 2ha minimum lot size. This version of the planning proposal was considered by Council at the meeting of 16 December, 2013, at which Council resolved:

- *That Council defer the preparation of a Planning Proposal for the land being lot 1 DP 571589 and lot 2 DP 596515 (No's 35 and 55 Government Road, Bargo) pending the outcome of the court case and State Significant Development application for the Bargo Waste Transfer Station.*

Following the approval of the development application for the Waste Transfer Station on 2 April, 2014, a request was received to amend the Planning Proposal on 14 May, 2014 to zone the site E4 Environmental Living with a minimum lot size of 3ha.

The application was considered once again by Council at its ordinary meeting held on 15 September, 2014 and Council resolved to:

- *Support the preparation of a planning proposal for Lot 2 DP 596515, No. 55 Government Road, Bargo to allow the land to be zoned E4 Environmental Living with a minimum lot size of 2ha and maximum building height of 9m.*

Subsequently, the planning proposal now relates only to lot 2 which was the lot to the south of the site.

A Gateway Determination was initially issued on 26 November, 2014. However, Council requested an alteration to this Gateway Determination immediately following its issue in respect to condition 3 to enable a minimum lot size of 2ha.

A further revised Gateway determination was issued by the Department of Planning on 21 January, 2015 supporting the 2ha minimum lot size.

The subject planning proposal was then summarized as follows:

This Planning Proposal intends to amend Wollondilly Local Environment Plan 2011 (WLEP 2011) as it applies to No. 55 Government Road, Bargo in the following manner:

- *Amend the land use zoning of the site from zone RU1 Primary Production to E4 Environmental Living.*
- *Amend the minimum lot size of the site to 2ha.*
- *Amend the maximum building height to 9m.*

## Current Form of Proposal

A number of specialist studies and consultation with Government agencies has occurred in order to arrive at the current proposal described as follows:

This Planning Proposal intends to amend Wollondilly Local Environment Plan 2011 (WLEP 2011) as it applies to No. 55 Government Road, Bargo in the following manner:

- *Amend the Land Use Zoning map from RU1 Primary Production to E2 Environmental Conservation and E4 Environmental Living (Map 2);*
- *Amend the minimum Lot Size map to 2 hectares over the entire site covering both proposed zones (Map 3);*
- *Amend the Natural Resources – Biodiversity Layer map to include sensitive vegetation identified within the Flora & Fauna Assessment as sensitive land (Map 4 – identified as both HN556/PCT1395 categories in Legend) not located within the E2 zone.*

Comparison maps showing the existing and proposed land use zoning and minimum lot size are contained in Part 4 of this document.

It is anticipated that the proposal would enable the development of 5 environmental living lots on the site.

## Site Context and Analysis

The site is an irregular shaped lot and has an area of 11.21ha. The site has a frontage to Government Road which is slightly broken towards the southern boundary by lot 3 DP 571589. The site is currently zoned RU1 Primary Production and has a minimum lot size of 20ha under Council's LEP. The site contains an earth dam that is linked to a watercourse which passes through a small part of the site along the southern boundary. The watercourse is partly mapped as 10m sensitive land on the Natural Resources Water – Map.

The land generally slopes downwards from west to east. The site contains scattered vegetation that is generally denser around the boundaries of the site and around the existing dwelling which is located in the southern portion of the site. The middle of the site is predominantly cleared. The site is within the Bargo Mine Subsidence District.

The land to the immediate north and south of the site is zoned RU1 primary production and is vacant land with scattered vegetation. Land to the further north of the site is subject to a possible Water Recycling Facility. Land to the immediate east of the site E2 Environmental Conservation and this land comprises a large lot and is covered in dense vegetation.

## Part 1 – Objectives or Intended Outcomes

The intended outcome of this planning proposal is to provide for the future development of the site known as 55 Government Road, Bargo (Lot 2 DP 596515) for E4 Environmental Living purposes, with the exception of the riparian corridor running through the east to south-eastern portion of the site, which will be protected via an E2 Environmental Conservation zone (refer Part 4 Mapping).

## Part 2 – Explanation of Provisions

To achieve the objectives of the planning proposal, the following amendments to the Wollondilly Local Environmental Plan (WLEP) 2011 are proposed:

1. Amend the Land Zoning Map, as it applies to 55 Government Road (Lot 2 DP 596515), from RU1 Primary Production to zone E2 Environmental Conservation on the riparian corridor on the site and to E4 Environmental Living on the remainder of the site;
2. Amend the Lot Size Map, as it applies to 55 Government Road, Bargo, from 16ha (AB1) to 2ha (Z1) for the entire site;
3. Amend the Natural Resources – Biodiversity Layer map to include sensitive vegetation not located within the E2 zone.

The proposed changes (2. & 3.) are a result of specialist studies received by Council demonstrating the presence of Shale Sandstorm Transitional Forest (SSTF) located over the site with significant amounts to the east and south-east of the site. The E2 Environmental Conservation zone has been implemented over the majority of the SSTF in the effort to maintain and protect the significant vegetation from future development.

The Natural Resources – Biodiversity layer has been identified as a suitable approach to protecting the pockets of sensitive vegetation species not located in the E2 Environmental Conservation area. The specific areas have been identified within the Flora & Fauna study submitted to inform this proposal. The application of the Natural Resources – Biodiversity layer will ensure any future development is given due environmental consideration at the Development Assessment stage under Clause 7.2 of the WLEP in addition to the controls listed in Volume 1, Part 9 of the Wollondilly Development Control Plan.

These proposed map amendments are included in *Part 4 – Mapping*

## Part 3 – Justification

### Section A – Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

The subject land is identified in Council's Growth Management Strategy as being in the general direction of potential residential growth. However, it should be noted that the structure plan appears to indicate the areas of residential growth extending to Government Road to the west of the subject site but not including it. Comments received from Council's previous Growth Centres Manager in relation to the planning proposal state that Government Road is a logical eastern boundary for the Bargo residential Growth Area. In response to these comments the planning proposal was amended to exclude any residential zones and now proposes only Environmental living land which is more in keeping with the requirements of the GMS.

The Housing Target Distribution Table in the GMS sets a dwelling target for the Bargo area of 2000 additional dwellings by 2036. This would comprise 40 dwellings within an existing seniors living development which are yet to be constructed and 1960 additional dwellings through infill and land release. This proposal could provide for some of the targeted growth identified in the GMS.

**2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The subject site is currently zoned *RU1 Primary Production* with a minimum lot size of 20 hectares and has no potential for further subdivision. It is considered that amending WLEP 2011 is the best means of achieving the objectives of the planning proposal.

## **Section B – Relationship to strategic planning framework**

**3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

### A Plan for Growing Sydney

The planning proposal is generally consistent with A Plan for Growing Sydney as it achieves the following broad focus points of the plan:

Housing – The proposal will allow environmental living properties to be developed creating a varying housing type for the area that will provide a conforming mix to the current and potential future development in the area.

Environment – The proposal is seeking to create environmental land for both living and conservation due to the significance of the vegetation identified on a certain portion of the site. This affected portion will be protected by the E2 Environmental Conservation zone allowing the biodiversity on the site and surrounding areas to be maintained and preserved.

### A Metropolis of Three Cities (Regional Plan)

A Metropolis of Three Cities took effect in March 2018 and is intended to shape and guide the strategic planning vision for Sydney in the coming future. Wollondilly is a Local Government that is located within the Greater Sydney area that this Plan applies. Wollondilly has been identified to be within the Western City District and has developed a strong role for the future vibrancy of the Sydney region. The site of this planning proposal has been identified within the Metropolitan Rural Area (MRA) which aims to restrict inappropriate development of rural areas. This site is proposing to create environmental living lots that benefits or maintains the character of the Bargo area and does not detrimentally disrupt the rural aspect of the area.

### Western City District Plan

The Western City District Plan was implemented in March 2018 and describes planning priorities within the Western District that the Wollondilly Shire is located within. The relevant priorities have been considered and a brief assessment of *Planning Priority Actions* directly affecting the subject site can be seen below;

### **Sustainability**

*Planning Priority W14 – Protecting and enhancing bushland and biodiversity*

Action 72 – This action is satisfied as the proposal seeks to provide land with an environmental focus with conservation areas where deemed appropriate. The land is also managed in such a way that will soften the edge-effect impact potential between urban and environmental areas.

*Planning Priority W17 – Better managing rural areas*

Action 78 – This action is achieved as it intends to enhance the use of an existing lot within the Metropolitan Rural Area. It is seeking to provide land for environmental living with a portion of the land being environmentally conserved in recognition of the vegetation that exists. The environmental focus provides merit for this proposal to progress to the further proposal stages.

Action 79 – This is satisfied through the implementation of a proposed environmental zoning, limiting the future development potential to a limited scope in comparison to if it was seeking urban residential alteration.

**4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?**

**Wollondilly Local Environmental Plan 2011**

This proposal aims to amend the Wollondilly Local Environmental Plan (WLEP) 2011 to allow for *E2 Environmental Conservation* and *E4 Environmental Living*. The amendments are consistent with the existing provisions of WLEP 2011. The aims are set out in section 1.2 of WLEP and the planning proposal is considered to be consistent with the aims of this plan.

**Wollondilly Community Strategic Plan 2033**

The Wollondilly Community Strategic Plan 2033 (WCSP), adopted by Council 17 June, 2013 is the Council's highest level long term plan and sets out the long term strategic directions for Wollondilly over a 20 year period up to the year 2033.

It is based on a vision of rural living for Wollondilly Shire and focusses around the following five themes:

- Looking after the community
- Accountable and transparent governance
- Caring for the Environment
- Building a strong local economy
- Management and provision of infrastructure

Each theme is supported and identified by outcomes and strategies that express in broad terms what is to be achieved and how. These themes are, in part, delivered through a number of key supporting strategies, plans and policies which have been prepared by Council. Particularly relevant to the planning proposal is the Council's Local Environmental Plan and Growth Management Strategy.

The following Community Strategic Plan strategies are relevant to the planning proposal as described below:

***Look after the Community***

*CO4. Engagement and communication*

*Implement excellence in our community engagement by listening to and responding to the needs and concerns of our residents.*

Comment: Preliminary consultation was carried out for the planning proposal and the concerns raised were considered in Council's pre-gateway assessment. Further consultation will occur in the future when the planning proposal is formally exhibited.

***Building a Strong Local Economy***

*EC3. Manage Growth*

*Encourage and manage growth to ensure that it contributes to economic well-being.*

Comment: The subject site is outside the area for potential residential expansion of east Bargo in the GMS. However, it is considered that at the proposed density and lot size, the site is appropriate for the proposed development as it will provide for an environmental living development on the fringe of the East Bargo urban area.

#### *EC4. Managing Development and Land use*

*Manage and regulate land use and development in order to achieve a high quality built environment which contributes to economic well-being.*

Comment: The larger lot sizes of 2ha will ensure that future housing development is appropriate for the area and achieves an appropriate built form on the fringe of the east Bargo urban area.

#### *EC5. Protect natural resources so as to contribute to the Shire's economic well-being.*

Comment: The site has components which are mapped as Cumberland Plain Woodland Vegetation and is also identified as bushfire prone land. The planning proposal has been amended to include a larger lot size than originally proposed in an attempt to minimise clearing of vegetation required for future development and further specialist studies would be required to investigate the impact of any clearing required.

### **Caring for the Environment**

#### *EN1. Biodiversity Resilience*

*Protect and conserve biodiversity and natural resources, including waterways, riparian lands and groundwater dependant ecosystems.*

Comment: A flora and fauna study was commissioned and assessed that the impact of future development on the vegetation communities on site will not be likely to cause species decline or habitat degradation and the waterway and riparian corridor to the south of the site will also be protected under the E2 Environmental Conservation zone.

Building envelopes will be identified within the E4 zone to ensure that minimal sensitive vegetation clearing occurs with future development. The building envelopes will be located in areas largely containing exotic pasture or the most modified form of SSTF, DNG (derived native grassland).

#### *EN2. Growth Management*

*Apply best practice environmental principles to the management of future growth.*

Comment: Specialist studies were carried out to investigate the measures required to alleviate impacts of the planning proposal on areas such as flora and fauna, aboriginal heritage, drainage, stormwater and noise. Potential future impacts were reduced through the elimination of the northern lot and through the increase in proposed minimum lot sizes to 2 hectares.

### **Management and Provision of Infrastructure**

*IN2: Manage the road network to respond to community needs, growth in the Shire, improving road safety and improving transport choices.*

Comment: The additional traffic movements from the development are expected to be minimal given that the maximum lot yield that could be obtained would be five lots.

#### **Wollondilly Growth Management Strategy 2011**

Wollondilly's Growth Management Strategy (GMS) was adopted by Council on 21 February 2011. All planning proposals which are submitted to Council must be assessed against the Key Policy Directions within the GMS. A table addressing these directions is included as *Appendix C* to this planning proposal.

### **5. Is the planning proposal consistent with applicable state environmental planning policies?**

The planning proposal is consistent with applicable State Environmental Planning Policies (see *Appendix A*). Specific consideration is given to SEPP 44 - Koala Habitat Protection, SEPP 55 - Remediation of Land and Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River (REP 20), as follows:

#### **SEPP 44**

The Wollondilly Shire Local Government Area is listed under Schedule 1 of SEPP 44 and therefore requires consideration during the planning proposal process.

Consideration must firstly be given to whether any part of the land comprises potential Koala Habitat which is defined in the SEPP as follows:

*'Potential koala habitat means areas of native vegetation where the trees of the types listed in Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.'*

The Flora and Fauna assessment prepared for the planning proposal identifies that one of the tree species outlined in Schedule 2 as a feed tree is present on the site, with another feed tree species located outside the site boundary to the east. However, the feed trees do not constitute 15% of the total number of trees present and thus the site does not constitute a koala habitat.

The planning proposal is thus consistent with SEPP 44.

### **SEPP 55**

Clause 6 of SEPP 55 (Contamination and remediation to be considered in zoning or rezoning proposal) provides:

- (1) *In preparing an environmental planning instrument, a planning authority is not to include in a particular zone (within the meaning of the instrument) any land specified in subclause (4) if the inclusion of the land in that zone would permit a change of use of the land, unless:*
  - (a) *The planning authority has considered whether the land is contaminated, and*
  - (b) *If the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and*
  - (c) *If the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose.*

*Note: In order to satisfy itself as to paragraph (c), the planning authority may need to include certain provisions in the environmental planning instrument.*

- (2) *Before including land of a class identified in subclause (4) in a particular zone, the planning authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.*
- (3) *If a person has requested the planning authority to include land of a class identified in subclause (4) in a particular zone, the planning authority may require the person to furnish the report referred to in subclause (2).*
- (4) *The following classes of land are identified for the purposes of this clause:*
  - (a) *land that is within an investigation area,*
  - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
  - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*
    - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
    - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

The Gateway Determination requires the submission of a preliminary contamination investigation to identify whether the site has been previously used for a potentially contaminating purpose and whether further investigations are required to demonstrate compliance with the clause above.

Land to which the proposal relates has previously been used for rural purposes and is potentially contaminated. A Preliminary Site Investigation was undertaken in accordance with sub-clause (2) above. The investigation was consistent with the Contaminated Land Planning Guidelines and identified the following areas of environmental concern (AEC) on the site:

- Dilapidated sheds/former shed footprints



- Farm dam

It is considered that if the land is contaminated by any of the above AEC's that the land would be capable of being made suitable for a future residential use following remediation. To determine whether any of the AEC's require mediation, an Intrusive Site Investigation is recommended. This will need to occur following the demolition of all remaining structures as part of a condition of development consent, following a hazardous materials assessment.

### **Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River**

The planning proposal is considered to be consistent with the aims of the plan as the planning proposal is likely to be capable of being carried out whilst protecting the Hawkesbury Nepean River System. An assessment of the planning proposal against the specific planning policies of the plan is described below:

#### (2) Environmentally Sensitive Areas

An E2 Environmental Conservation Zone is proposed to be applied to the watercourse and associated riparian area, which runs through the central area of the site. This would provide a significant buffer to the watercourse. The E2 zone would also assist in protecting aquatic habitat, riverine vegetation and bank stability in accordance with the requirements of the Plan.

#### (3) Water Quality

The Stormwater Management Study identifies that a variety of treatment measures may be used to achieve the water quality goals on the site. The application of the E2 Zone to the riparian corridor and water body would also ensure that aquatic vegetation and bank stability is preserved in the area to the maximum extent in accordance with the requirements of the Plan.

#### (4) Water Quantity

A Stormwater Management Study was undertaken with the proposal and sufficient measure are proposed to ensure that stormwater run-off from the site and the rate at which it leaves the site would not significantly increase as a result of future development. The study has recommended that individual above ground on site detention basins be provided on each future lot subdivision, with stormwater discharged on site via a level spreader.

#### (5) Cultural Heritage

The planning proposal would facilitate the conservation of the existing heritage items on the site as required by the plan. It is a requirement of this strategy to protect Aboriginal sites and places of significance and the application of an E2 Environmental Conservation Zone to parts of the site where archaeological features have been identified would ensure that they are adequately conserved.

#### (6) Flora and Fauna

Strategy (a) in the REP is to conserve and where appropriate, *enhance flora and fauna communities, particularly threatened species, populations and ecological communities, aquatic habitats, wetland flora, rare flora and fauna, riverine flora, flora with heritage value, habitats for indigenous and migratory species of fauna, and existing or potential fauna corridors.* Threatened flora species and Shale Sandstone Transition Forest, all identified as Critically Endangered Ecological Communities will be suitably conserved through E2 Environmental Conservation zoning. The measures taken to protect the vegetation on the site are discussed in more detail below under part 7.

#### (12) Metropolitan Strategy

The planning proposal is consistent with the current Metropolitan Strategy and its relationship to the river.

## **6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?**

The planning proposal is consistent with the applicable Ministerial Directions (for Council's complete response to this requirement (see *Appendix B*).

## Section C – Environmental, social and economic impact

### 7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The property has been identified as containing remnant shale sandstone transition forest (SSTF) towards the east of the site. Threatened species have also been observed on site as part of a site inspection for a previous development application for the site. A flora and fauna assessment required as part of the specialist study requirements has determined that a minimal impact to the areas of SSTF will occur. This will be managed by the implementation of building envelopes that will minimise the removal of intact woodland SSTF with future development. The main area of intact woodland SSTF is to be zoned E2 Environmental Conservation allowing the appropriate protection and management of the vegetation with reduced risk of harm. These Study outcomes have been assessed against the likely required Asset Protection Zones (APZ), effluent disposal area and building envelopes of potential future dwellings.

### 8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

It is considered that potential environmental effects arising from a future development allowed by the requested planning proposal would particularly relate to the area of water quality, heritage, bushfire and flooding.

#### **Water Quality**

There is a watercourse to the south of the site which is partly mapped as 10 metre sensitive land on the Natural Resources Water Map. The specialist studies have demonstrated that any impacts on this watercourse would be manageable with further detailed plans to be submitted along with each property at the Development Assessment stage to ensure the water quality is also maintained.

#### **Bushfire**

The site is mostly bushfire prone land. The land along the southern boundary and to the east of the site is vegetation category 1 whilst land to the south surrounding the existing house is category 2. A bushfire hazard assessment has been submitted demonstrating that the site and proposed development can achieve compliance with ministerial direction 4.4 Planning for Bushfire Protection based on the low scale of development proposed. Further specific assessment will be required at the Development Assessment stage to ensure each property achieves the more specific bushfire prone land control requirements.

#### **Flooding**

The Gateway Determination requires the submission of a drainage study to satisfy the specialist studies requirements. Advice from Council's engineering section has stated that flooding is unlikely to be an issue for future development; this has been demonstrated through the submission of stormwater and flooding studies determining that appropriate onsite stormwater detention methods can be achieved in addition to the most part of the land to be developed not largely affected by flooding potential. It is noted that there is a higher potential for flooding along the eastern corner of the site, although this is not considered to provide detrimental effects to the rest of the subject site.

#### **Heritage**

An Aboriginal and Cultural Heritage Assessment (ACHA) has been supplied to support this proposal. As a result of identifying a potential site and the recognition of the site and its possible Aboriginal Heritage value, a community consultation process involving relevant Aboriginal people is being undertaken by the proponent. Further consultation and Archaeological Test Excavations are required in the area identified as Potential Archaeological Deposit within the ACHA. If sites or objects are identified through this process the proponent will be required to apply for an Aboriginal heritage Impact Permit at a later stage of development.

### 9. Has the planning proposal adequately addressed any social and economic effects?

It is considered that the planning proposal would enable an appropriate use of the subject land in a manner considered to be compatible with its surrounding environment. Only 5 additional dwellings would be achieved therefore, minimal adverse economic and social impact is anticipated.

## Section D – State and Commonwealth interests

### 10. Is there adequate public infrastructure for the planning proposal?

The scale of development proposed by the planning proposal could be adequately supported by the local public infrastructure.

#### Sewer and water

It is anticipated that the site would be serviced by on-site wastewater disposal systems. A Wastewater Site Assessment and concept on-site effluent disposal areas plan has demonstrated that the land is capable of accommodating on-site wastewater disposal systems. Council is required as part of the Gateway Determination to consult with Sydney Water to establish reticulated water requirements, this will be carried out following the completion of the specialist studies during the community consultation period of the planning proposal.

#### Roads

It is considered that the deletion of the lot to the north of the current site from the planning proposal would reduce the impact of traffic on the future development. It is considered that a maximum of 5 lots being created will have a minimal effect on the traffic and should not be effected by the traffic generated by the proposed Waste Transfer Station.

### 11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The Gateway required consultation to be carried out with the following public authorities/government agencies:

- Department of Trade and Investment – Resources and Energy (February 2015)

No objections.

- Office of Environment and Heritage (Environment Division) (February 2015)

Require a Flora & Fauna Assessment that should be used to inform Councils' determination of the proposed zoning and minimum lot sizes to protect areas of high and moderate biodiversity value.

- Office of Environment and Heritage (Heritage Division) (February 2015)

Require an Aboriginal Cultural Heritage Assessment involving two basic assessment types;

- An Archaeological Assessment; and
- A Cultural Heritage Assessment.

Upon completion of the assessment, further consultation be conducted with OEH Heritage.

- Mine Subsidence Board (April 2015)

No objections.

- Rural Fire Service (February 2015)

No objections.

- Sydney Water (April 2015)

No objections.

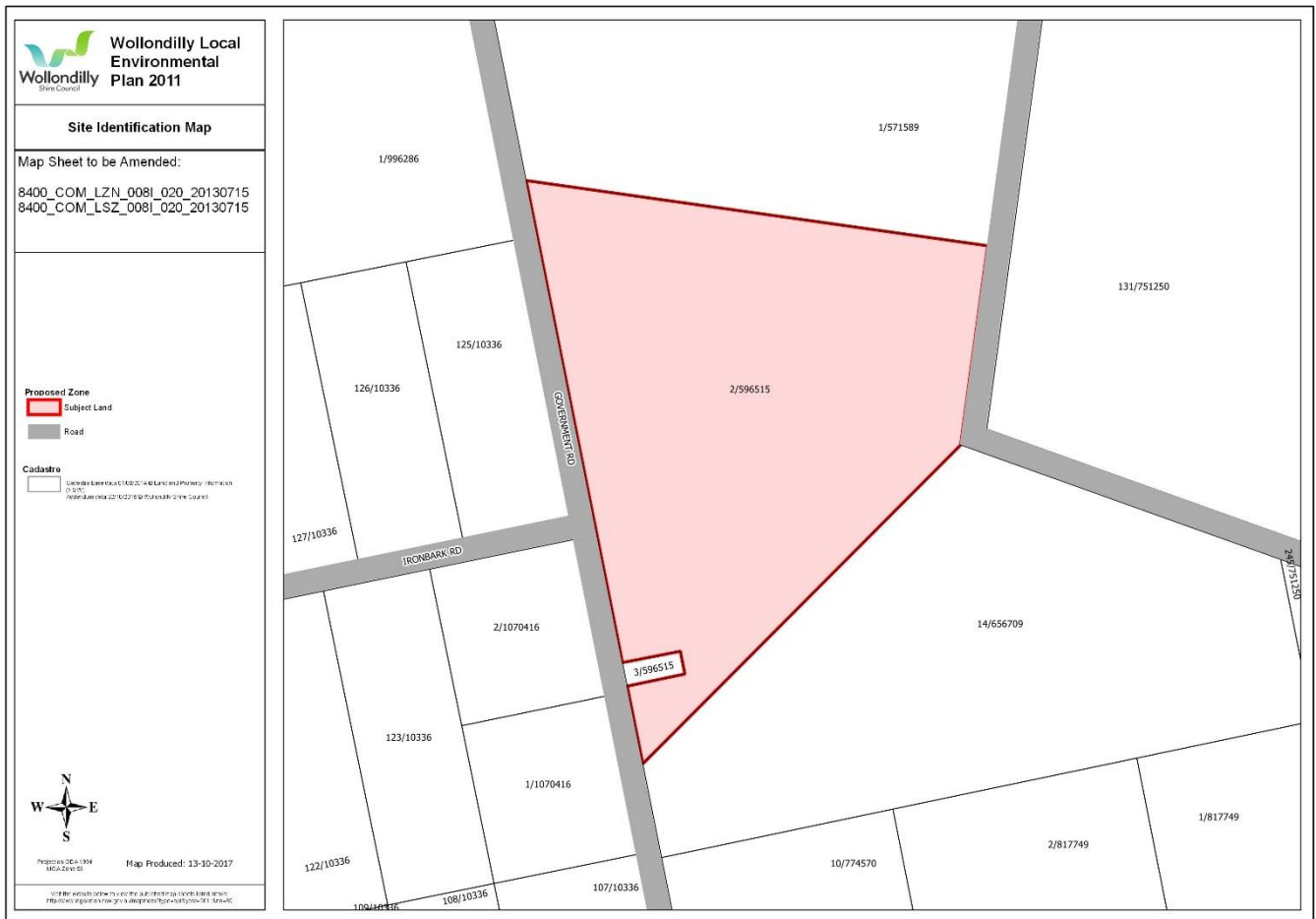
- Greater Sydney Local Land Services (February 2015)

Vegetation identified as an Endangered Ecological Community (EEC) under the NSW Threatened Species Conservation Act 1995 should be protected where possible. Support low density lots where possible to minimise impacts on native vegetation.

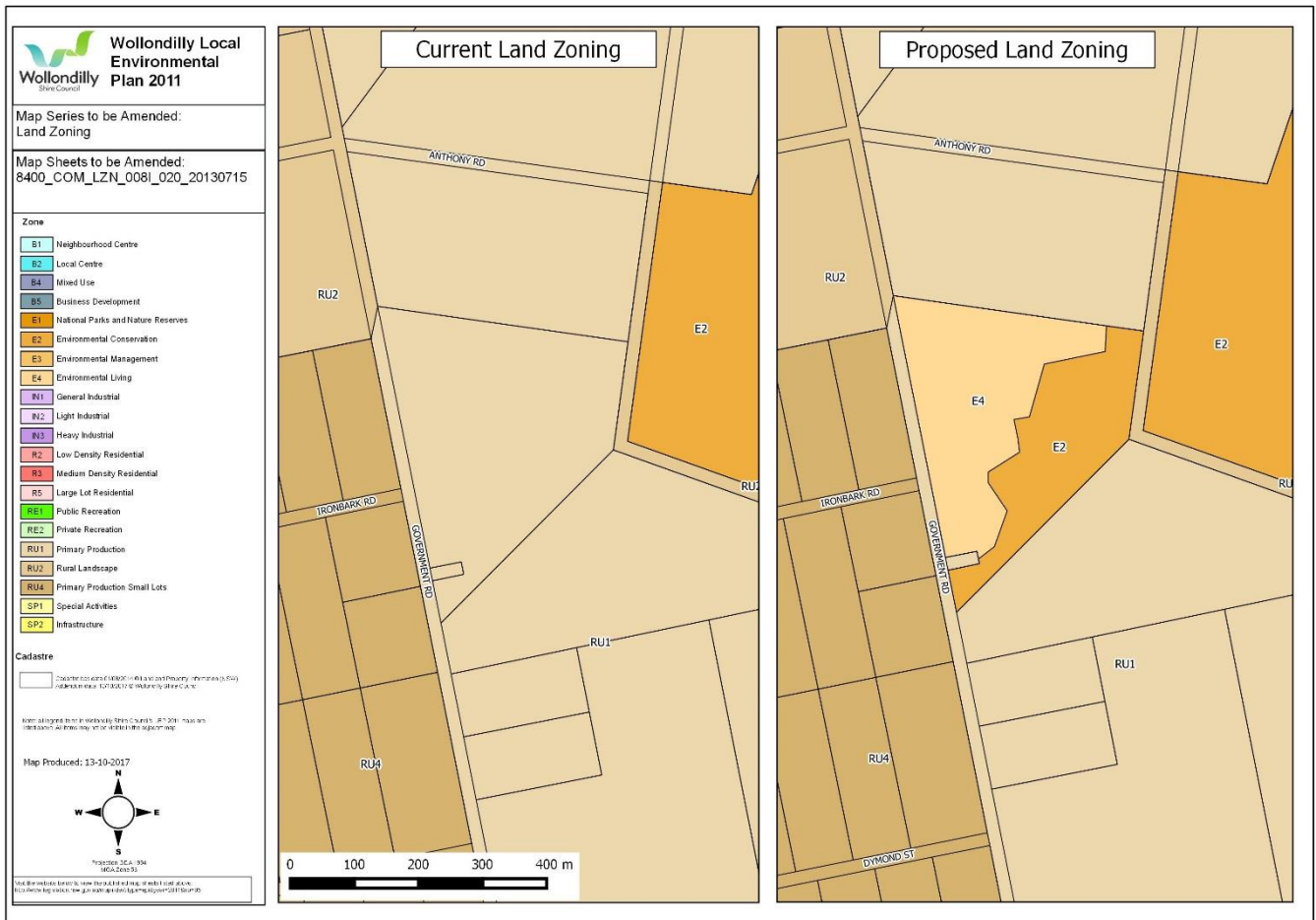
The government agencies will then be involved once again further in the process when they are asked to review specialist studies and provide feedback on the proposal.

# Part 4 – Mapping

## Map 1 - Site Identification



# Map 2 – Land Zoning



# Map 3 – Minimum Lot Size



Map 4 – Sensitive Areas to be Applied to Natural Resources – Biodiversity Layer (extract from Flora & Fauna Assessment by EcoPlanning July 2017)





## Part 5 – Community Consultation

In accordance with Council's Notification Policy, initial community consultation was undertaken from 31 July to 2 September, 2013. The application was made available on Council's website and Council's offices and letters were also sent to owners of adjoining and potentially affected properties.

A total of six (6) submissions were received and of these submissions; one (1) objected, five (5) supported and no submissions were neutral. The issues raised in the submissions that are relevant to the assessment of the application are summarised in the following table:

Issue Raised	Assessment Comment
No objection is raised to this planning proposal. Request for land on Ironbark Road and Dymond Street between Hawthorne Road and Government Road and 30 Bargo Road to be considered for rezoning.	The GMS identifies this area as having potential for growth. Any planning proposal lodged for this area would be considered by Council on its merits.
No objection is raised to this planning proposal. Requested that 25 Johnston Road, Bargo also be considered for rezoning to allow 4000 square metre lots or 1ha lots.	The GMS identifies this area as having potential for growth. Any planning proposal lodged for this area would be considered by Council on its merits.
No objection is raised to this planning proposal. Requested that 115 and 129 Bargo Road, Bargo also be considered for rezoning.	115 and 129 Bargo Road are outside of, but adjacent to land within Bargo that is identified as a potential residential growth area in the GMS. Any planning proposal lodged for this area would be considered on its merits.
A late submission was received on 5 November, 2013 regarding this planning proposal. This late submission does not raise any objection to this planning proposal, however it requests that No. 95 Ironbark Road and the greater area along Ironbark Road be included for further investigation as the planning proposal progresses.	The Growth Management Strategy identifies the area around Ironbark Road as part of the greater East Bargo area as having potential for growth. Any planning proposal lodged for this area would be considered by Council on its merits.

A submission outlining an objection was received from Tahmoor Coal. This submission was also made with regards to the planning proposal for the adjoining site to the west at 95 Great Southern Road, and raised the following specific issues:

- Mining Lease – Tahmoor Coal holds mining tenement CCL747, which is held over the Bargo and Pheasants Nest localities. The Tahmoor South project proposes underground long wall mining of the coal resource from within CCL 747.
- Mine Subsidence District – Tahmoor Coal note that the Bargo locality is designated within the Bargo Mine Subsidence District and recommend that the Picton Office of the Mine Subsidence Board also be consulted regarding building design controls and guidelines to accommodate subsidence for any residential development proposed.
- Tahmoor South Project – Tahmoor Coal has submitted to the Department of Planning and Infrastructure a Preliminary Environmental Assessment (PEA) and obtained Director Generals Requirements (DGR's) for the Tahmoor South Project. The PEA provides details the proposed underground mining operation and longwall mine plan and outlines potential subsidence impacts.

- Tahmoor South Proposed Vent Shaft site – An entity controlled by Tahmoor Coal's parent company own 125 Anthony Road, Bargo (Lot 245 DP751250). This property was identified based on its distance from existing residential areas and being located near other industrial type land uses such as a Council owned land fill and a proposed waste transfer station.

Based on this Tahmoor Coal proposes that this site retain its rural zoning.

Following amendments to the planning proposal, the proposal was again placed on preliminary exhibition from 28 May, 2014 to 25 June, 2014. One (1) objection was received during this period from Tahmoor Coal, which was of a similar nature to the previous submission that they had provided on the proposal with the addition of the following:

*'This is an isolated rezoning that is not consistent with Council's current urban growth policy and strategy'. The proposal will have impacts on the continued operation of Council's Waste Management Centre and the approved Waste Transfer Station'.*

The proposal has now been amended to exclude the northern lot which was directly opposite the waste transfer station site and also now allows for a minimum lot size of 2ha.

Further to the above, under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act, formal community consultation is required once specialist studies have been reviewed and the planning proposal is amended to reflect the specialist study requirements. The formal exhibition will apply as follows:

- (a) the planning proposal must be made publically available for **28 days**; and
- (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposal and the specifications for material that must be made publically available along with planning proposal as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013).

During the public exhibition period the following documents will be made available for public viewing:

- The Planning Proposal;
- The Gateway Determination;
- The Council report;
- Specialist Studies prepared to inform the planning proposal;
- Any additional information deemed necessary.

This community consultation will follow consultation with public authorities, the undertaking of specialist studies and the revision of the planning proposal based on the feedback gained from both these public agencies and the findings of the specialist studies.

## Part 6 – Project Timeline

Project detail	Timeframe	Timeline
Commencement and completion dates for public exhibition period – after amending the planning proposal if required, preparation of maps and special DCP provisions	3 month period	December, 2018
Timeframe for consideration of submissions	1 month	January, 2018
Timeframe for the consideration of a proposal post exhibition including amendments and maps and report to Council	2 months	March, 2018
Date of submission to the Department to finalise the Draft LEP amendment (including 6 week period for finalisation)	2 months	May, 2019
Anticipated date RPA will make the plan if delegated	1 month	June, 2019
Anticipated date RPA will forward to PC and Department of Planning for finalisation	Not applicable	

# Appendices

## **A. Compliance with SEPPs**

Table indicating compliance with applicable State Environmental Planning Policies (SEPPs) and deemed SEPPs (formerly Regional Environmental Plans).

## **B. Assessment against Section 9.1 Directions**

Table indicating compliance with applicable section 9.1 (117(2)) Ministerial Directions issued under the Environmental Planning and Assessment Act (EP&A Act) 1979.

## **C. Assessment against Wollondilly GMS**

Table indicating compliance with relevant Key Policy Directions within Wollondilly Growth Management Strategy (GMS) 2011

# Appendix A

## Compliance with SEPPs

The table below indicates compliance, where applicable, with State Environmental Planning Policies (SEPPs) and deemed SEPPs (formerly Regional Environmental Plans).

No.	State Environmental Planning Policies (SEPPs)	Consistency	Comments
1	Development Standards	N/A	Repealed.
19	Bushland in Urban Areas	N/A	Not applicable.
21	Caravan Parks	N/A	Not applicable.
30	Intensive Agriculture	N/A	Not applicable.
33	Hazardous and Offensive Development	N/A	Not applicable.
36	Manufactured Home Estates	N/A	Not applicable.
44	Koala Habitat Protection	Yes	The Flora and Fauna assessment prepared for the planning proposal identifies that the feed trees identified do not constitute 15% of the total number of trees present and thus the site does not constitute a koala habitat.
47	Moore Park Showground	N/A	Not applicable.
50	Canal Estates	N/A	Not applicable.
52	Farm Dams and Other Works in Land and Water Management Plan Areas	N/A	Not applicable.
55	Remediation of Land	N/A	A Preliminary Site Investigation was undertaken in accordance with the Contaminated Land Planning Guidelines. It is considered that if the land is contaminated by any of the above AEC's that the land would be capable of being made suitable for a future residential use following remediation.
62	Sustainable Aquaculture	N/A	Not applicable.
64	Advertising and Signage	N/A	Not applicable.
65	Design Quality of Residential Flat Development	N/A	Not applicable.
70	Affordable Housing (Revised Schemes)	N/A	Not applicable.
	SEPP (Affordable Rental Housing) 2009	N/A	Not applicable.
	SEPP (Housing for Seniors or People with a Disability)	N/A	Not applicable.
	SEPP (Building Sustainability Index: BASIX) 2004	N/A	Not applicable.
	SEPP (Kurnell Peninsula) 1989	N/A	Not applicable.

No.	State Environmental Planning Policies (SEPPs)	Consistency	Comments
	SEPP (Sydney Region Growth Centres) 2006	N/A	Not applicable.
	SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Yes	Council has consulted with the Department of Trade and Investment – Resources and Energy. No issues have been raised therefore the planning proposal is consistent with this SEPP.
	SEPP (Infrastructure) 2007	N/A	Not applicable.
	SEPP (Kosciuszko National Park - Alpine Resorts) 2007	N/A	Not applicable.
	SEPP (Rural Lands) 2008	N/A	Not applicable.
	SEPP (Exempt and Complying Development Codes) 2008	N/A	Not applicable.
	SEPP (Western Sydney Parklands) 2009	N/A	Not applicable.
	SEPP (Western Sydney Employment Area) 2009	N/A	Not applicable.
	SEPP (Sydney Drinking Water Catchment) 2011	N/A	Not applicable.

Deemed State Environmental Planning Policies (Formerly Regional Environmental Plans)		Consistency	Comments
9	Extractive Industry (No 2)	N/A	Not applicable.
20	Hawkesbury–Nepean River (No 2 - 1997)	Yes	The planning proposal is considered to be consistent with the aims of the plan as the planning proposal is considered to be capable of being carried out whilst protecting the Hawkesbury Nepean River System

# Appendix B

## Assessment against Section 9.1 (117(2)) Directions

The table below assesses the planning proposal against Section 9.1 Ministerial Directions issued under the Environmental Planning and Assessment Act (EP&A Act) 1979.

Ministerial Direction	Applicable to Draft LEP	Consistency of draft LEP with Direction	Assessment
<b>1. Employment and Resources</b>			
1.1 Business and industrial Zones	No	N/A	Not applicable.
1.2 Rural Zones	Yes	No (but justified)	The Gateway Determination acknowledged that the planning proposal is inconsistent with this direction; however the variation is of minor significance and is justified. The planning proposal is therefore able to proceed.
1.3 Mining, Petroleum Production and Extractive Industries	Yes	Yes	Council has consulted with the Department of Trade and Investment to establish consistency with this direction. No issues were raised with the planning proposal so it is considered to be consistent.
1.4 Oyster Production	N/A	N/A	Not applicable.
1.5 Rural Lands	N/A	N/A	Not applicable.
<b>2. Environment and Heritage</b>			
2.1 Environmental Protection Zones	Yes	Yes	The site is now proposed to be rezoned to E4 Environmental Living and E2 Environmental Conservation. The planning proposal includes provisions that would protect and conserve environmentally sensitive areas of the site and therefore is considered to be consistent with the 117 direction subject to further specialist studies.
2.2 Coastal Protection	N/A	N/A	Not applicable.
2.3 Heritage Conservation	Yes	Yes	An Aboriginal and Cultural Heritage Assessment has demonstrated compliance with this ministerial direction subject to further consultation with Aboriginal parties and a suitable subdivision design in later stages.
2.4 Recreation Vehicle Area	N/A	N/A	Not applicable.
<b>3. Housing, Infrastructure and Urban Development</b>			
3.1 Residential Zones	N/A	N/A	Not applicable.
3.2 Caravan Parks and Manufactured Home Estates	N/A	N/A	Not applicable.
3.3 Home Occupations	N/A	N/A	Not applicable.

Ministerial Direction	Applicable to Draft LEP	Consistency of draft LEP with Direction	Assessment
3.4 Integrating Land Use and Transport	N/A	N/A	Not applicable.
3.5 Development Near Licensed Aerodromes	N/A	N/A	Not applicable.
3.6 Shooting Ranges	N/A	N/A	Not applicable.
<b>4. Hazard and Risk</b>			
4.1 Acid Sulphate Soils	N/A	N/A	Not applicable.
4.2 Mine Subsidence and Unstable Land	Yes	Yes	Previous consultation with the Mine Subsidence Board and Department of Trade and Investment (Resources Division) has determined no issues with the planning proposal. Further consultation with these agencies at the Public Consultation stage will be undertaken to ensure consistency with this direction.
4.3 Flood Prone Land	Yes	Yes	A Flood Study has been completed demonstrating the negligible impact of flooding on the site therefore this planning proposal is consistent with this direction.
4.4 Planning for Bushfire Protection	Yes	Yes	A Bushfire Assessment Report has been completed demonstrating that the site is capable of containing potential development of this planning proposal, therefore it is consistent with this direction.
<b>5. Regional Planning</b>			
5.1 Implementation of Regional Strategies	N/A	N/A	Not applicable.
5.2 Sydney Drinking Water Catchments	N/A	N/A	Not applicable.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	N/A	N/A	Not applicable.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	N/A	N/A	Not applicable.
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	N/A	N/A	Revoked.
5.6 Sydney to Canberra Corridor	N/A	N/A	Revoked.
5.7 Central Coast	N/A	N/A	Revoked.
5.8 Second Sydney Airport: Badgerys Creek	N/A	N/A	Not applicable.
5.9 North West Rail Link Corridor Strategy	N/A	N/A	Not applicable



Ministerial Direction		Applicable to Draft LEP	Consistency of draft LEP with Direction	Assessment
5.10	Implementation of Regional Plans	Yes	Yes	This planning proposal seeks to create environmental lots including protected environmental land for conservation. The site will result in development that provides careful consideration to the environmental aspects of the site, therefore this proposal is considered to be consistent with this direction.
<b>6. Local Plan Making</b>				
6.1	Approval and Referral Requirements	Yes	Yes	The proposal is consistent with this direction because it does not alter the provisions relating to approval and referral requirements.
6.2	Reserving Land for Public Purposes	Yes	Yes	This planning proposal is consistent with this direction because it does not create, alter or reduce existing zoning or reservations of land for public purposes.
6.3	Site Specific Provisions	N/A	N/A	Not applicable.
<b>7. Metropolitan Planning</b>				
7.1	Implementation of A Plan for Growing Sydney	Yes	Yes	This planning proposal is generally consistent with A Plan for Growing Sydney.
7.2	Implementation of greater Macarthur Land Release Investigation	No	N/A	Not applicable.
7.3	Parramatta Road Corridor Urban Transformation Strategy	N/A	N/A	Not applicable.
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	N/A	N/A	Not applicable.
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N/A	N/A	Not applicable.
7.6	Implementation of Wilton priority Growth Area Interim Land Use and Infrastructure Implementation plan	No	N/A	Not applicable.
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	N/A	N/A	Not applicable.

# Appendix C

## Assessment against Wollondilly GMS

Wollondilly Growth Management Strategy (GMS) was adopted by Council in February 2011 and sets directions for accommodating growth in the Shire for the next 25 years. All planning proposals which are submitted to Council are required to be assessed against the Key Policy Directions within the GMS to determine whether they should or should not proceed.

The following table sets out the planning proposal's compliance with relevant Key Policy Directions within the GMS:

Key Policy Direction	Comment
<b>General Policies</b>	
<b>P1</b> All land use proposals need to be consistent with the key Policy Directions and Assessment Criteria contained within the GMS in order to be supported by Council.	The proposal, as noted throughout this table, satisfies this Key Policy Direction.
<b>P2</b> All land use proposals need to be compatible with the concept and vision of 'Rural Living' (defined in Chapter 2 of the GMS).	The draft proposal is generally consistent with the concept and vision of 'Rural Living'. The proposal seeks to include larger lot sizes that assists the rural landscape features identified within the locality.
<b>P3</b> All Council decisions on land use proposals shall consider the outcomes of community engagement.	Initial consultation was carried out with the community and the issues that were raised have been appropriately considered and used to form part of the requirements for specialist studies. Further formal public exhibition will be carried out later in the planning proposal.
<b>P4</b> The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.	There have been no such representations regarding this draft proposal and therefore this Key Policy Direction has been satisfied.
<b>P5</b> Council is committed to the principle of appropriate growth for each of our towns and villages. Each of our settlements has differing characteristics and differing capacities to accommodate different levels and types of growth (due to locational attributes, infrastructure limitations, geophysical constraints, market forces etc.)	The planning proposal has been designed in accordance with the characteristics of the site and provides an appropriate outer edge development consisting of a low density development type. The proposed zone is now E4 Environmental Living and E2 Environmental Conservation with minimum lot sizes of 2ha, in order to retain the highest level of vegetation on the site and minimise the impacts of the nearby waste management centre and possible future Water Recycling Facility.
<b>Housing Policies</b>	
<b>P6</b> Council will plan for adequate housing to accommodate the Shire's natural growth forecast.	The draft proposal contributes toward Council's dwelling target for Bargo outlined in the GMS.
<b>P8</b> Council will support the delivery of a mix of housing types to assist housing diversity and affordability so that Wollondilly can better accommodate the housing needs of its different community members and household types.	The planning proposal would contribute to a mix of housing types consistent with surrounding residential development. The establishment of environmental living allotments on the edge of the township would contribute to a mix of housing types in the Bargo area.
<b>P9</b> 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").	The site sits outside the likely future residential zone boundary of Bargo and accordingly an environmental living zone is proposed which would allow higher densities closer to the township of Bargo.
<b>P10</b> Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.	The site is located on the boundary of the area identified for future residential growth in Bargo. The planning proposal would not restrict future residential growth adjacent to the existing town and village.

Key Policy Direction	Comment
<b>Macarthur South Policies</b>	
<p><b>P11</b> Council does not support major urban release within the Macarthur South area at this stage.</p>	Key Policy Direction P11 is not applicable to this proposal.
<p><b>P12</b> Council considers that in order to achieve sound long-term orderly planning for the eventual development of Macarthur South an overall master plan is required.</p>	Key Policy Direction P12 is not applicable to this proposal.
<p><b>P13</b> Council will not support further significant new housing releases in Macarthur South beyond those which have already been approved. Small scale residential development in and adjacent to the existing towns and villages within Macarthur South will be considered on its merits.</p>	Key Policy Direction P13 is not applicable to this proposal.
<p><b>P14</b> Council will consider proposals for employment land developments in Macarthur South provided they:</p> <ul style="list-style-type: none"> <li>▪ Are environmentally acceptable;</li> <li>▪ Can provide significant local and/or subregional employment benefits;</li> <li>▪ Do not potentially compromise the future orderly master planning of the Macarthur South area;</li> <li>▪ Provide for the timely delivery of necessary infrastructure;</li> <li>▪ Are especially suited to the particular attributes of the Macarthur South area AND can be demonstrated as being unsuitable or unable to be located in alternative locations closer to established urban areas;</li> <li>▪ Do not depend on the approval of any substantial new housing development proposal in order to proceed (Employment land proposals which necessitate some limited ancillary or incidental housing may be considered on their merits).</li> </ul>	Key Policy Direction P14 is not applicable to this proposal.
<b>Employment Policies</b>	
<p><b>P15</b> Council will plan for new employment lands and other employment generating initiatives in order to deliver positive local and regional employment outcomes.</p>	N/A
<p><b>P16</b> 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.</p>	N/A
<b>Integrating Growth and Infrastructure</b>	

Key Policy Direction	Comment
<p><b>P17</b> 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.</p>	<p>Initial investigations have found that reticulated water would be available to the site subject to an application for connection being made to Sydney Water however reticulated sewer could not be provided. In this regard, on-site systems would need to be provided.</p> <p>Public transport in Bargo comprises trains (providing access to Campbelltown and Sydney CBD, as well as south), buses and taxis.</p> <p>Developer contributions payable at the development application stage will fund necessary local infrastructure required to support future development.</p>
<p><b>P18</b> Council will encourage sustainable growth which supports our existing towns and villages, and makes the provision of services and infrastructure more efficient and viable – this means a greater emphasis on concentrating new housing in and around our existing population centres.</p>	<p>The planning proposal site is located approximately 1 kilometre from the town centre and sits on the edge of the likely future residential boundary that has been identified in the GMS.</p>
<p><b>P19</b> Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.</p>	<p>The planning proposal does not propose any residential zoned land and would not discourage the expansion of the town village in the areas identified in the GMS.</p>
<p><b>P20</b> The focus for population growth will be in two key growth centres, being the Picton/Thirlmere/Tahmoor Area (PTT) area and the <u>Bargo Area</u>. Appropriate smaller growth opportunities are identified for other towns.</p>	<p>The planning proposal is outside the potential future residential growth area for Bargo; however the planning proposal proposes only environmental zoned land with a 2ha minimum lot size and would not sterilise the development of land identified closer to the township.</p>
<p><b>Rural and Resource Lands</b></p>	
<p><b>P21</b> 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 planning proposal includes larger lot sizes to enable the Shale Sandstone Transition Forest on the site to be retained and also protect the watercourse to the south of the site. Specialist studies have been completed which have informed that these values can adequately be protected through the implementation of the E2 Environmental Conservation zone.</p>
<p><b>P22</b> Council does not support incremental growth involving increased dwelling entitlements and/or rural lands fragmentation in dispersed rural areas. Council is however committed to maintaining where possible practicable, existing dwelling and subdivision entitlements in rural areas.</p>	<p>N/A</p>