

PCU077503

Our Reference: CM No. 7325 BM:MR

Anne-Maree Carruthers
Director, Sydney Region West Planning Services
GPO Box 39
Sydney NSW 2001

Department of Planning
Received
17 DEC 2018
Scanning Room

12 December 2018

Dear Ann-Maree,

REQUEST FOR ALTERATION TO GATEWAY DETERMINATION FOR PP_2014_WOLLY_007_00 – No. 45 NOONGAH STREET AND NO. 25 GWYNN HUGHES STREET BARGO PLANNING PROPOSAL.

Wollondilly Shire Council requests an altered Gateway Determination for the Planning Proposal at No. 45 Noongah Street and No. 25 Gwynn Hughes Street, Bargo under Section 3.35 of the *Environmental Planning & Assessment Act 1979*. The alteration sought is to amend the determination to say that the planning proposal is not to proceed.

A Gateway Determination for the proposal was issued in January 2015. Since the Gateway Determination was issued, specialist studies have been prepared and Council has consulted with the Office of Environment & Heritage (OEH) and NSW Rural Fire Service (RFS) to determine the consistency of the proposal with relevant section 9.1 ministerial directions. OEH raised concerns regarding the impact the planning proposal would have on the ecological value of the site and the extent of the site which is flood affected. RFS raised concerns regarding emergency access to the western side of the subject site. The site is considered to be significantly constrained in regard to ecological values and the cumulative impacts of bushfire and flooding threats.

Subsequently, it is not possible to demonstrate consistency with Section 9.1 Direction 4.3 *Flood Prone Land* and Direction 4.4 *Planning for Bushfire Protection* or Condition 3 of the Gateway Determination.

This matter was recently reported to the Ordinary Meeting of Council on 19 November 2018 and at this meeting the following was resolved:

- Council not support the planning proposal;
- That a request be sent to the Greater Sydney Commission for an altered Gateway Determination requesting the planning proposal not proceed;
- The proponent and landowners be notified of Councils decision; and
- Persons who made a submission regarding the planning proposal be notified of Councils resolution.

The reasons that Council considers that the proposal should not proceed are as follows:

- Council received advice from NSW Trade and Investment (Division of Resources and Geoscience (DRG) stating that the site may be subject to subsidence impacts from longwall extraction of coal, is within the Bargo Mine Subsidence District and that they do not support the proposal as it has the potential to restrict coal resources;
- The eastern portion of the site is not capable of supporting residential development due to flood constraints. The western portion of the site is flood free, however, the future development of only this portion of the site would result in a fragmented development which does not present a structured or logical pattern of development;
- Given that the eastern portion of the watercourse is unable to be developed due to flood constraints, it is Council's view that the watercourse presents a clearly defined and logical boundary for residential development to the west of the Bargo village;
- The advice received from the Rural Fire Service states that they would only be supportive of the proposal if a second access road were constructed to enable vehicles to exit the site. This would involve the construction of a new public road and construction of a bridge over the watercourse that passes through the site. Advice from Council's engineers indicates that the construction of the road/bridge through the site would impact on the flood immunity of the Kader Street bridge downstream;
- The proposal is not consistent with Action 88 in the Western City District Plan which is to *avoid locating new urban development in areas exposed to natural and urban hazards and consider options to limit the intensification of development in existing urban areas most exposed to hazards*;
- The proposal is inconsistent with Ministerial Directions 1.3 Mining, Petroleum Production and Extractive Industries, 4.3 Flood Prone Land and 4.4 Bushfire Prone Land;
- The proposal and location of the site are not consistent with Wollondilly's Growth Management Strategy and Community Strategic Plan.

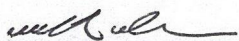
Please find attached the following relevant documents:

- The report considered by Council at the November, 2018 Ordinary Council Meeting (including attachments);
- The minutes of the November, 2018 Ordinary Council Meeting;
- The latest advice from Office of Environment and Heritage;
- The latest advice from NSW Rural Fire Service.

Council no longer intends to progress this planning proposal and now seeks an altered Gateway Determination that the planning proposal is not to proceed.

If you require further information on this matter contact Brittany Madeley from Council's Strategic Planning Team by phone 4677 1100 or by email council@wollondilly.nsw.gov.au

Yours faithfully



Mark Ruddiman
Acting Strategic Planning Team Leader
SUSTAINABLE GROWTH

11.5 PLANNING PROPOSAL - NOONGAH AND GWYNN HUGHES STREETS - POST GATEWAY REPORT TO COUNCIL**File Number: 10619#111**

Applicant: Precise Planning

Owner: Common Ground Property NSW Pty Ltd (45 Noongah Street) & Pudoro Pty Ltd (25 Gwynn Hughes Street)

Lot & DP – Subject Site: Lot 22 DP 619150 (45 Noongah Street, Bargo) and Lot 95 DP 13116 (25 Gwynn Hughes Street, Bargo).

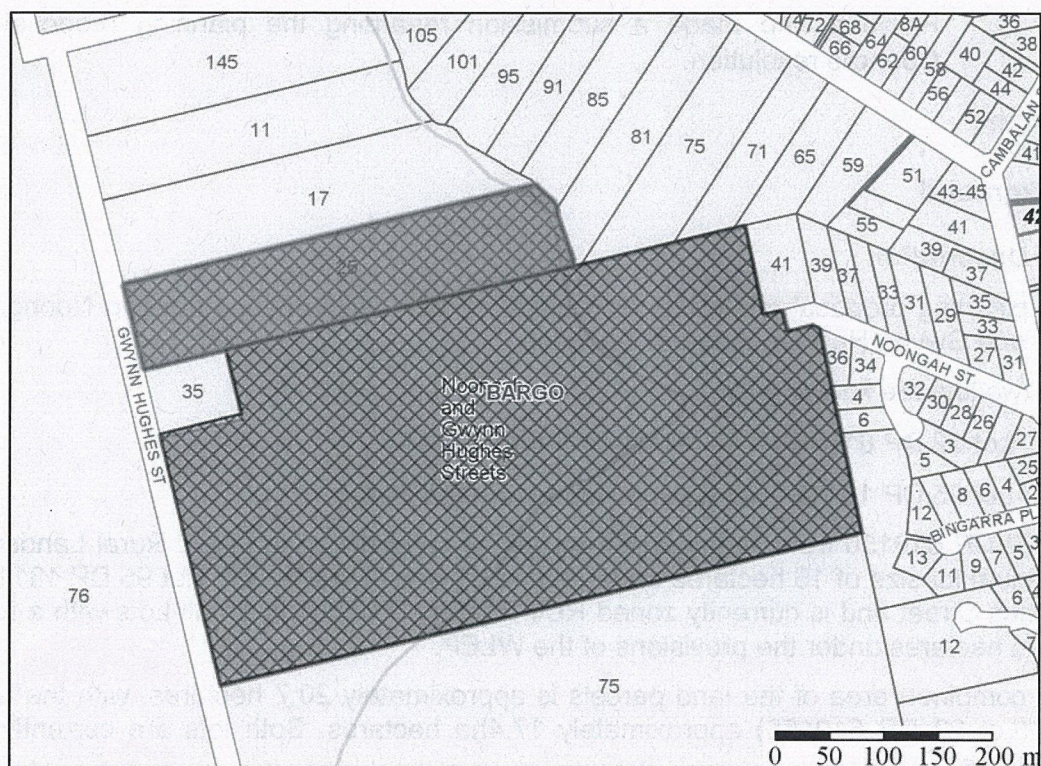
Proposal: Draft Planning Proposal to amend the Wollondilly Local Environment Plan 2011

Current Zoning: RU4 Primary Production Small Lots and RU2 Rural Landscape

Proposed Zoning R5 Large Lot Residential and E2 Environmental Conservation

Preliminary Notification: 29 April – 27 May 2013 & 28 May - 25 June 2014

Submissions: 8

**LOCATION MAP N ↑**

EXECUTIVE SUMMARY

- This report seeks Council's position on the Noongah and Gwynn Hughes Street Planning Proposal received for land at Lot 22 DP 619150 (45 Noongah Street, Bargo) and Lot 95 DP 13116 (25 Gwynn Hughes Street, Bargo).
- The proposal seeks to amend the provisions of the *Wollondilly Local Environmental Plan 2011* (WLEP) to increase the density of residential development on the subject site by rezoning a portion of the land from RU2 Rural Landscape and RU4 Primary Production Small Lots to R5 Large Lot Residential and reducing the minimum lot size for subdivision from two hectares and 16 hectares to 4,000 square metres. E2 Environmental Conservation zone is also proposed in association with the creek line.
- The proposal has been subject to preliminary notification in 2013 and again in 2014. A total of seven submissions were received in response, six in objection and one in support. The proposal has not progressed to formal public exhibition.
- A Gateway determination was issued by the Department of Planning on 29 January 2015 allowing the proposal to proceed subject to a range of conditions.
- This report recommends:
 - Council not support the planning proposal;
 - That a request be sent to the Greater Sydney Commission for an altered Gateway Determination requesting the planning proposal not proceed;
 - The proponent and landowners be notified of Councils decision; and
 - Persons who made a submission regarding the planning proposal be notified of Councils resolution.

REPORT

Background

Site Description

The planning proposal relates to two parcels of land within Bargo fronting Noongah Street to the east and Gwynn Hughes Street to the west.

The two lots are known as;

- Lot 22 DP 619150 – 45 Noongah Street, Bargo
- Lot 95 DP 13116 – 25 Gwynn Hughes Street, Bargo.

Lot 22 DP 619150 front Noongah Street and is currently zoned RU2 Rural Landscape and has a minimum lot size of 16 hectares under the provisions of the WLEP. Lot 95 DP 13116 fronts Gwynn Hughes Street and is currently zoned RU4 Primary Production Small Lots with a minimum lot size of two hectares under the provisions of the WLEP.

The combined area of the land parcels is approximately 20.7 hectares, with the larger of the two lots (Lot 22 DP 619150) approximately 17.4ha hectares. Both lots are currently vacant of built structures.

The site slopes from the west and south east towards Hornes Creek which runs through the site. This watercourse and the associated 30 metre riparian buffer is recognised as "sensitive land" under the provisions of Clause 7.3 of the WLEP. Hornes Creek runs along the eastern boundary of Lot 95 DP 13116 and from the southwest to the northeast with Lot 22 DP 619150. Smaller tributaries flow into Hornes Creek from the south and east.

25 Gwynn Hughes Street is consistently vegetated. 45 Noongah Street is well vegetation along the riparian corridors and lot boundaries but is cleared in the remaining areas.

The subject site is partially bushfire prone as per the relevant Bushfire Prone Lands Map. Lot 95 DP 619150 is identified as being wholly bushfire prone, and the majority of the land within Lot 22 DP 619150 is bushfire prone.

The subject site is identified as being wholly within the proclaimed Mine Subsidence District of Bargo.

Surrounding area

The subject site is within approximately 500m (from the eastern boundary) of Bargo Train Station and the bus stop located along Remembrance Driveway and Noongah Street. The Commercial area of Bargo is located approximately 500m to the east of the site boundary.

Land adjoining the subject site to the north is zoned RU4 Primary Production Small Lots, and appears to be used for predominately residential uses.

Land adjoining the subject site to the east is R2 Low Density Residential, and a RE1 Public Recreation zone, identified as Berrico Playground.

Land adjoining the south of the subject site is zoned RU2 Rural Landscape and is consistently vegetated with exception of one area containing a shed like structure.

To the west, the subject site shares three boundaries with a lot containing a dwelling and associated structures. The subject site also adjoins a crown road, which is not formed in its entirety. Land more generally to the west of the subject site is consistently vegetated, and predominately undeveloped.

Description of Proposal

The planning proposal (as amended) seeks to enable development of the land for large lot residential development and environmental conservation purposes. It seeks to do this through the following process:

- Amend the WLEP Land Zoning Map from zone RU2 Rural Landscape and RU4 Primary Production Small Lots to E2 Environmental Management for the riparian corridor of Hornes Creek and R5 Large Lot Residential for the remainder of the site. A current zoning map is provided in attachment 1 of this report.
- Amend the WLEP Lot Size Map from 16 hectares and 2 hectares to 4,000 square metres for the R5 zoned portion of the site and no minimum lot size for the E2 zoned portion of land.
- Amend the WLEP Height of Building Map to include a 9m height limit across the site.

This is illustrated in attachment 2 to this report.

Gateway Determination

The Gateway Determination was issued by the NSW Department of Planning & Environment on 29 of January 2015. The Gateway Determination also included approval to an inconsistency with Section 117 Direction 1.2 Rural Zones on the basis that it was generally consistent with the Draft South West Subregional Strategy.

The original Gateway Determination was issued for the proposal to seeking rezone the land from R5 Large Lot Residential and E3 Environmental Management, and included advice that an appropriate lot size was to be determined following the completion of the specialist studies and consultation with Sydney Water to establish the servicing capacity of the site.

The proposal was amended following completion of the specialist studies and consultation with Sydney Water. The current form of the proposal is included in attachment 1 and proposes a minimum lot size of 4000 square metres in the R5 zoned portion of the site. An E2 Environmental Conservation Zone is also now proposed in lieu of the originally proposed E3 Environmental Management zone.

The planning proposal has not proceeded to public exhibition and therefore Condition 1 and 6 of the Gateway Determination have not yet been satisfied.

Additional studies and consultation with the prescribed public authorities as outlined in Condition 2 and 3 were undertaken, and have informed the recommendations of this report.

An altered Gateway determination was granted on 10 April 2017 to extend the timeframe for completion of Council's assessment.

Community Strategic Plan

The Create Wollondilly Community Strategic Plan 2033 (CSP) is Council's highest level long term plan. It identifies and expresses the aspirations held by the Community of Wollondilly and sets strategies for achieving those aspirations.

An assessment on the suitability against the CSP is included as Attachment 3.

Of particular note, the planning proposal raises environmental concerns regarding flooding and the impact of development on the riparian corridor.

The proposed development of the south eastern area of the site is heavily constrained due to flood constraints, and this would result in an isolated segment of rural zoned land being retained between the existing village and the proposed R5 zoned land to the west of Hornes Creek. This type of resulting development would be inconsistent with the desired pattern of development in the locality

Wollondilly Growth Management Strategy 2011 (GMS)

Council's Growth Management Strategy 2011 (GMS) sets directions for accommodating growth in the Shire over the next 25 years.

The GMS contains Key Policy Directions which form the overarching growth strategy for Wollondilly. An assessment of the suitability against the GMS is included in Attachment 4.

Greater Sydney Region Plan and Western City District Plan 2018

The Greater Sydney Commission's A Metropolis of Three Cities – the Greater Sydney Region Plan and the Western City District Plan were finalised by the Greater Sydney Commission in March 2018. These 20-year plans with a 40-year vision are a bridge between regional and local planning. They inform local environmental plans, community strategic plans and the assessment of planning proposals.

There are over 100 actions between these plans, many of which are relevant to Wollondilly. These plans are structured around strategies for:

- Infrastructure and Collaboration; supportive infrastructure, use of public resources such as open space and community facilities, working through collaboration.
- Liveability; social infrastructure, healthy communities, housing supply and affordability, great places,
- Productivity; the 30 minute city, land use and transport infrastructure, leveraging from the Western Sydney Airport and Badgerys Creek Aerotropolis, jobs.
- Sustainability; green spaces and landscape, tree canopy, using resources efficiently, managing rural areas, resiliency, bushland and biodiversity, waterways, green grid
- Implementation; local strategic planning statements, monitoring and reporting.

While the Plans do not provide strong direction regarding the order of Planning Priorities, a dominant focus for Wollondilly throughout the plan is the Metropolitan Rural Area (MRA).

Metropolitan Rural Area

The concept of the MRA was introduced by A Plan for Growing Sydney which was the region plan for the Greater Sydney area prior to the current A Metropolis of Three Cities.

The MRA is A Plan for Growing Sydney was relatively silent on the issue of housing growth and the MRA. By comparison, the current region plan has taken a much stronger stance. For example, the MRA is a core spatial element now shown on high level mapping throughout the document that part of Greater Sydney which is generally outside the established and planned urban area. For Wollondilly it takes in the whole Shire with the exception of the Wilton Growth Area and areas in Appin within the draft Greater Macarthur Growth Area. The objective of the MRA is to protect and enhance the wide range of environmental, social and economic values in rural areas across Greater Sydney. The 'values' to be enhanced and protected will vary from Council to Council and within local government areas depending on the areas characteristics and so the Region and District Plan's focus is on the need for 'place-based planning' so that outcomes can be targeted.

The Plans do, however, provide clear direction on the role of the MRA in terms of urban development. This is illustrated by statements within these documents shown in the table below:

Greater Sydney Region Plan	Western City District Plan
<i>"Urban development is not consistent with the values of the metropolitan rural area."</i>	<i>"Urban development in the Metropolitan Rural Area will only be considered in the urban investigation areas."</i>
<i>"This Plan identifies that Greater Sydney has sufficient land to deliver its housing needs within the current boundary of the Urban Area.... This eliminates the need for the Urban Area to expand into the Metropolitan Rural Area."</i>	<i>"Rural residential development is not an economic value of rural areas and further rural residential development is generally not supported."</i>
<i>"Restricting urban development in the Metropolitan rural area will help manage its environmental, social and economic benefits."</i>	<i>"Limited growth of rural residential development could be considered where there are no adverse impacts on the amenity of the local area and the development provides incentives to maintain and enhance the environmental, social and economic values of the MRA"</i>
<i>"Maintaining the distinctive character of each rural and bushland town and village is a high priority."</i>	<i>"Ongoing planning and management of rural towns and villages will need to respond to local demand for growth".</i>
	<i>"Rural and bushland towns and villages will not play a role in meeting regional or district scale demand for residential growth".</i>

Rural Lands Technical Working Group;

In response to the release of the District Plan councils are now required to complete a review and update of their Local Environmental Plan against the relevant district plan. Wollondilly has been identified as a high growth area and is required to complete this review within an accelerated timeframe of two years.

To assist Councils with this work the NSW Department of Planning & Environment along with the Greater Sydney Commission have facilitated a series of Technical Working Groups on key themes. On 20 July 2018 a Technical Working Group dedicated to rural lands was held.

In terms of 'local growth' and taking a 'place-based planning' approach the following points from the technical working group are considered relevant in providing direction:

- Local growth is about meeting the needs of the local community and achieving economic, social and environmental sustainability through identifying specific targeted outcomes (for

example a need to accommodate demographic shift, supporting or sustaining infrastructure or achieving a specific environmental outcome). This should be set out in a vision.

- Local growth needs to be defined in the context of the local area because it's different for each community. Subsequently, there is no consistent approach that can be applied across Council areas.
- Communities generally tend to grow at 1-2% per year in terms of population.
- Forward planning needs to be evidence based and needs to rely on a solid understanding of the current and future demographic direction.
- The Metropolitan Rural Area boundary is fixed in the short term and can only be changed by a decision of government.
- Housing delivery in the short term (i.e. 0-5 years) will be delivered from land already zoned and serviced. i.e. decisions already made about land use.

Planning Proposals with Council currently being progressed (i.e. land not yet rezoned) generally deliver housing for the mid to long term (i.e. 6 years +). Housing delivery in the short term is typically delivered through land that is already zoned and serviced.

Earlier this year Council wrote to the Greater Sydney Commission seeking guidance on the application of the MRA for existing planning proposals at an advanced stage. Greater Sydney Commission's response in May 2018 provides some additional direction to the points noted above.

- Towns and villages in the MRA will not play a role in meeting regional or district scale demand for residential growth. This is a fundamental consideration for any planning proposal in the Metropolitan Rural Area.
- Growth and infrastructure should be aligned. This is particularly relevant given the capacity of growth centres in Wollondilly and other nearby local government areas.

Where are we at now?

Further work is required to determine appropriate 'local growth' for villages and towns across Wollondilly. Given the direction in the Region and District Plan and the outcome of the Rural Lands Technical Working Group it is clear that this work involves a coordinated and holistic approach to establish what 'local growth' is in the Wollondilly context. It cannot be determined on an ad hoc basis through consideration of individual landowner or developer led proposals for rezoning land to enable residential development.

This view is consistent with Council's resolution to agenda item GR4 on 19 June 2018 that 'local growth' should be defined *through the preparation of a housing strategy and Local Strategic Planning Statements (LSPS) that will outline sustainable local growth for our villages.*

Recent amendments to the *Environmental Planning & Assessment Act 1979* embed a statutory requirement for Councils to review their Local Environmental Plans as soon as practicable after a District Plan is made. The recent amendments also introduced new requirements for councils to prepare and make Local Strategic Planning Statements (LSPS). Both the review of the WLEP and the LSPS need to be informed by a housing strategy.

The NSW Department of Planning & Environment have published an indicative timeframe for this review which includes the preparation of studies (including a housing study) and the preparation and exhibition of the draft LSPS by May/June 2019. Council is in the preliminary stages of this work at present.

Subsequently, given the significance of the MRA in determining the suitability of growth throughout Wollondilly and the difficulties in determining local growth, it is considered that draft planning proposals seeking to enable residential housing growth are premature and cannot be supported.

For planning proposals that have already received a Gateway determination, a different approach needs to be taken. These proposals have been considered by Gateway to have some broad

strategic merit and been allowed to proceed for further assessment, On this basis, it is important for the values of the MRA to be upheld and considered in each case.

Relevance of Noongah and Gwynn Hughes Street Planning Proposal to the Regional and District Plan and MRA provisions

Although the proposed level of development is not substantial in comparison to the other draft planning proposals reported on to Council over the past few months, the scenic landscape and character of land located along the rural fringe of Bargo presents a rural outlook for future houses located in the surrounding area and is worth retaining for its conservation, buffering and aesthetic value.

Section 9.1 Ministerial Directions

9.1 Directions apply to planning proposals lodged with the Department on or after the date the particular direction was issued. Below is assessment of the planning proposal against 9.1 Ministerial Directions. The proposal is deemed to be inconsistent with Directions

- 4.3 Flood Prone Land and
- 4.4 Planning for Bushfire.

Given that the proposal was updated to reflect the studies that were carried out, and agency consultation has not been carried out an assessment against each if the directions is provided below.

Ministerial Direction 1.2 Rural Zones (effective 14 May 2016)

The planning proposal would allow for the rezoning of land from a rural zone to an urban zone which would also enable an increase in density of the land which is inconsistent with the Ministerial Direction. The Gateway Determination acknowledged that the planning proposal is inconsistent with this direction, however the variation is of minor significance and is justified and therefore the planning proposal is able to proceed.

Ministerial Direction 1.3 Mining, Petroleum Production and Extractive Industries (effective 1 July 2009)

As per the Gateway Determination, Council consulted with NSW Trade and Investment (Division of Resources and Geoscience (DRG)). Advice provided from the Geological Survey of NSW Division states the following:

The planning proposal area is located within Consolidated Coal Lease (CCL) 747 held by Bargo Collieries (a subsidiary of Tahmoor Coal) and lies within the immediate vicinity of proposed longwall panels scheduled by the Tahmoor South Coal Project for which SEARs were issues on 9 June 2017. The site may be subject to subsidence impacts from longwall extraction of coal and is within the Bargo Mine Subsidence District. With recent changes to Mine Subsidence legislation, the subsequent cost of property repairs potentially represents a significant financial disincentive to mining companies seeking to operate in areas that will be subject to further intensification of urban development.

Accordingly, the Division has concerns regarding the location of the rezoning application and objects to the planning proposal because it is considered to be inconsistent with Section 9.1 Direction 1.3 Mining, Petroleum and Extractive Industries as it has the potential to restrict the development of coal resources. The Division supports sequential development of the area with rezoning of surface lands to facilitate residential development taking place after completion of longwall mining of underground coal seams.

Comment: The proposal is not consistent with Ministerial Direction 1.3 and is therefore unable to be supported.

Ministerial Direction 2.1 Environmental Protection Zones (effective 1 July 2009)

The subject site includes sensitive land as identified in the Natural Resources – Water Map under the LEP. The riparian buffer zone is mapped along Hornes Creek that transverses the subject site. It is proposed that an E2 Environmental Conservation Zone be applied to this land, and be held in private ownership.

The Office of Environment & Heritage (OEH) raised concerns about the proposed zoning and the future protection of significant vegetation on the land. OEH recommended the environmental land be zoned E2 Environmental Conservation and be held in public ownership to ensure protection in perpetuity.

These issues have not been resolved due to the cumulative impacts of flooding, bushfire and on-site waste water management.

Ministerial Direction 2.3 Heritage Conservation (effective 1 July 2009)

The subject site does not include any listed heritage items or conservation areas. An Aboriginal Cultural Heritage Assessment was submitted to Council, date 10 March 2017. The report identifies a number of Aboriginal artefact scatters and isolated objects within the subject site, including artefacts identified within subsurface deposits associated with Hornes Creek. The report notes that the zoning and subsequent development of the site would most likely directly impact on surface and subsurface deposits.

No comments have been received from Councils Heritage Officer nor OEH. Further consultation is required to ascertain the planning proposals consistency with this direction.

Ministerial Direction 4.2 Mine Subsidence and Unstable Land (effective 12 April 2016)

As of 13 March, 2015 Mine Subsidence Board had no objections to the proposed rezoning. As mentioned under Direction 1.3 recent developments within the mining context may have an impact on the proposal's consistency with this Direction. Further advice from the Department of Planning and Environment is pending.

Ministerial Direction 4.3 Flood Prone Land (effective 1 July 2009)

The planning proposal is deemed to be inconsistent with this ministerial direction.

The subject site is flood prone, with the 1 in 100 year flood level contained predominately within the proposed E2 zoning. The Probable Maximum Flood level will include the proposed R5 zone.

The Ministerial Direction provides that a planning proposal to rezone land must not contain provisions that apply to flood planning areas which:

- Permit development in floodway areas;
- Permit development that will result in significant flood impacts to other properties;
- Permit a significant increase in the development of the land.

The south eastern portion of the site has been identified as being within a floodway area and also being fully inundated in the Probable Maximum Flood scenario. It has also been identified that there would likely be an impact on upstream flood levels from any creek crossing. OEH have also made comment that the south eastern area of the site would have its access cut to Noongah Street in the 5% AEP flood. The proposal is therefore inconsistent with the Ministerial Direction. The Office of Environment & Heritage have also raised significant concerns regarding the flooding matters on this site and their response is provided in Attachment 7.

Ministerial Direction 4.4 Planning for Bushfire Protection (effective 1 July 2009)

It is considered that the proposal is inconsistent with this Ministerial Direction.

RFS raised no objections to the proposal subject to the consideration of a range of issues, as summarised below:

- Access: the planning proposal should contain provisions that will ensure future residential subdivision will provide a 'through' road scenario from Gwynne Hughes Street to Noongah

Street. The proponent has proposed a gated emergency access/egress road across Hornes Creek linking the public roads. RFS does not support this, instead recommends the egress is un-gated to allow unimpeded evacuation for future residents in the event of a bushfire emergency, and that such egress includes suitable flood immunity. Further any revegetation of the riparian buffer may increase the likelihood of access being blocked during a bush fire event.

- Access: the subject site is subject to a significant bushfire risk due to adjacent land including large strands of unmanaged vegetation. The proposal does not currently contain a perimeter road that complies with Planning for bushfire Protection 2006, as required by RFS.
- Asset Protection Zones: RFS recommends that APZs of BAL 29 or less be provided for all proposed lots. RFS advised in July 2018 that prior to the progression of the planning proposal Council should be satisfied that suitable areas for future residential development complying with BAL 29 construction can be achieved on all lots.

OEH raised concerns with the impact of the provision of APZs on land identified as moderate ecological constraint and encroachment into the riparian corridor. OEH states that APZs and/or perimeter roads should be located to protect and avoid clearing the moderate ecological constraint vegetation.

Due to the ecological and flooding constraints of the subject site, Council is not satisfied that sufficient outcomes can be achieved in regard to Bushfire protection with particular reference to access and the provisions of suitable APZs. Also, the land filling required to provide the low level crossing in the form of a public road across Hornes Creek, which is required to achieve the RFS requirements also poses a risk of increased flood impact.

Consultation

Consultation with Council Staff that Provide Specialist Comments

The following comments on the planning proposal were received from Council staff:

Investigation & Design Engineer

There has been extensive collaboration with Council's Design Engineer to work through the flooding issues and progress the planning proposal. The extent of flooding is shown in Attachment 6, highlighting the impact on the subject site and Kader Street Bridge.

A summary of correspondence is below:

- The 1% AEP flood modelling has identified impacts on exiting residential areas upstream on the eastern stream and any road access across the creek will necessitate filling and potentially increasing the upstream flood levels. As such the rezoning of the central/south eastern portion of the site should not proceed;
- The north-east portion of the site may be suitable for rezoning but OEH concerns must be reviewed and addressed;
- Access to the remaining two portions of residential development be separated by the riparian corridor (a shared path link across with low flood immunity would be acceptable) with vehicle access from either side. Furthermore that the flood immunity of the existing Kader St Bridge be assessed and upgrading considered if appropriate.
- The north east portion of the site is probably ok for rezoning. However OEH's submission needs to be reviewed as they have raised concerns about this part of the site. We will need to address this submission and this may require further investigation by the proponent.
- A road connection is required from the western portion of the site over the creek to connect with Noongah Street in response to feedback from NSW RFS.
 - A low level crossing (for example a causeway) could be provided over the creek but upgrades would be required to the bridge on the alternative evacuation route.

- Alternatively a bridge could be provided over the creek but this may have flow on impacts on the flooding behaviour in the area. Further investigations would be required to establish what impacts there would be on flooding and where these were acceptable or could be effectively be mitigated.
- If a low level crossing is provided over the creek then the bridge at Kader Street would need to be re upgraded to provide a higher level of flood immunity (i.e. potentially demolished and rebuilt).
- Existing overland flow path from Noongah Street towards the creek, may exacerbate the risk of property/dwelling inundation in the area.

Comment: the subject site is significantly constrained by flooding issues. The Flood study (see Attachment 6) highlights the extent of flooding, particularly across the south east portion of the site. The provision of a crossing has the potential to exacerbate the flooding impact, and influence the flood immunity level of the exiting Kader Street Bridge, further limiting the capacity of residents to evacuate in a flood event. OEH raised similar concerns, these have been outlined later in the report. These issues are further exacerbated when combined with the bushfire constraints of the site.

Environmental Outcomes

Councils Environmental Outcomes department raised a number of concerns in reference to the planning proposal as summarised below:

- E2 Zoning is recommended for the creek line and associated habitat corridor. The E3 zoning is not supported on ecological grounds alone.
- The Natural Resources Biodiversity Layer should be applied to all land identified as satisfying the definition of Shale Sandstone Transition Forest.
- The Flora and Fauna report notes a koala sighting in close proximity to the subject site in 2016. Consideration of provisions under SEPP 44 is required.
- Design and location of building envelopes and associated ancillary items to avoid impact on land where the Natural Resources Biodiversity mapping is recommended to be applied based on the Avoid/Minimise/Mitigate approach of Clause 7.3 of WLEP

Comment: the subject site contains a number of ecological constraints. OEH raised similar concerns, as outlined later in this report.

Facilities and Recreation

No concerns raised with the zoning proposal so long as the E3 land remains within private ownership and that the development contributes towards improvements to existing drainage problems at the existing RE1 Council land.

It was also recommended that consideration should also be given to how the development can best connect to the RE1 land to facilitate access between the development and Bingarra Place enabling new residents to walk to Bargo Sportsground.

Environmental Health Officer

Councils Environmental Health Officer provided the following comments:

- All lots should be provided with a minimum effluent application area of 600 square metres, located above the 5% AEP flood level.
- A 40 metre buffer shall be provided to all lots to the intermittent creek from all effluent disposal areas

Comment: A concept subdivision plan (which is indicative only) has been provided which demonstrates that the effluent disposal areas are able to be provided outside the 1% AEP area and also achieve the 40m buffer from the watercourse on the site.

Consultation with Public Agencies

The Gateway Determination required consultation with the following Public Agencies:

- Department of Trade and Investment – Resource and Energy
- Office of Environment and Heritage
- Greater Sydney Local Land Service
- Mine Subsidence Board
- Rural Fire Service
- Sydney Water;
- NSW Office of Water;
- State Emergency Services;
- Endeavour Energy; and
- Local Aboriginal Land Council.

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

Department of Trade and Investment – Resource and Energy

NSW Trade & Investment – Geological Survey of New South Wales has no issues to raise with the proposal as per correspondence date 7 April 2015.

A further request for comment was made on 28 September 2018. No response has been received.

Office of Environment and Heritage (OEH)

OEH raised concerns regarding the impact the planning proposal would have on the ecological value of the subject site and floodplain risk management. The most recent response is contained in Attachment 7.

Biodiversity concerns are summarised:

- The high ecological constraint land along Hornes Creek should be E2 Environmental Conservation zone, rather than E3 Environmental Management.
- Land identified as high ecological constrain on the northern boundary is not proposed to be E2 land but proposed to be subdivided as R5 Large Lot Residential land.
- areas of high ecological value should be zoned E2 and consideration should be given to ensuring these areas are retained in a single parcel of land to be managed in perpetuity under a biobanking or via a community title scheme
- APZ zones encroach and impact on vegetation identified as moderate ecological constraint
- Proposed plan of subdivision shows the perimeter road 2 and APZ are located within the riparian extent of Hornes Creek and does not appear to have been offset.

Flood Plan Management Concerns are summarised below:

- The north-east side (along Noongah Street and proposed road 3) becomes isolated in the 1% AEP flood event which indicates no safe route is available. The south-east side along proposed road 3 has its access through Noongah Street cut off at 5% AEP which indicates that to ensure safe evacuation residents in the south-east area would evacuate in every flood event equal or larger than 5% AEP. The PMF developed scenario map shows this area fully inundated in the PMF. OEH supports Councils recommendation not to support the rezoning of the south-east area along Road 3.
- The flood immunity at the end of Noongah Street appears to be cut off in a 1% AEP event;

- Flood immunity of the existing Kader Street Bridge and the proposed river crossing at the end of Noongah Street has not been assessed;
- The 1% AEP appears to encroach on proposed lots or close to some proposed lots. New development should be above the 1% AEP plus 0.5m freeboard – this should be mapped and level adhered to as minimum floor levels for any future development.

Comment: the subject site is significantly constrained by environment and flood plain management. The proposed environmental land is to remain in private ownership, with the land too small to be effectively offset through a bio banking scheme.

Greater Sydney Local Land Service

No response provided.

Mine Subsidence Board

No objections as per correspondence dated 13 March 2015. Future development subdivision or construction subject to approval.

Rural Fire Service

The Rural Fire Service has not explicitly opposed the planning proposal but raised a number of concerns regarding emergency access to the western side of the subject side. More specifically, in correspondence dated 25 July 2018 RFS provided the following comments:

The proposal for a gated emergency access/egress road linking the public roads as depicted in additional information, does not adequately address the comment previously raised. The RFS advise that prior to progression of the planning proposal Council should be satisfied that the linking road;

- *Can be constructed to the standards of a public road in accordance with PBP 4.1.3(1) and*
- *Is un-gated to allow unimpeded egress for future residents evacuating in the event of a bush fire emergency, and*
- *Construction of the road includes suitable flood immunity.*

Comment: The proposed gated fire trail raises concerns of potential access issues in the case of emergency. The proposal does not provide a road which would provide greater certainty and would preferably be separate from the surrounding allotments rather than through. Further, the cumulative flood and bushfire impacts, particularly in cases of emergency make the proposal undesirable.

Sydney Water

The subject site is currently service by an existing water main in Kader Street and Noongah Street. Any future development would require the amplification of the existing system.

The subject site is located outside the subsidised service area for the Bargo Priority Sewerage Program. As such there is limited to no capacity to connect to the existing sewerage infrastructure.

Comment: The Sydney Water advice led to the alteration of the minimum lot size provision for the proposal, increasing the proposed minimum lot size from 1500 square metres to 4,000 square metres to allow for on-site waste water management.

NSW Office of Water

Riparian corridors are to be managed in accordance with the Controlled Activity Guidelines for riparian corridors on waterfront land. Public ownership is recommended to ensure the ongoing and effective management of the riparian corridors located within the subject site. The Office of Water is supportive of the management of wastewater via a communal wastewater treatment system –

this will minimise potential risks to surface and groundwater quality that would otherwise result from locating multiple individual effluent disposal areas.

Comment: NOW are supportive of the 4,000 square metre minimum lot size which would allow for improved outcomes for onsite waste water management in lieu of the originally proposed 1,500 square metres minimum lot size. Riparian buffer zone to be contained within E2 Environmental Management zoning. As per the proposed plan of subdivision, two (2) proposed lots will include the E2 land, and be burdened with a restriction on title. This is not considered an appropriate outcome as per the recommendations of NSW Office of Water.

State Emergency Services

No response received

Endeavour Energy

No specific comments or concerns, generalised safety advice only.

Local Aboriginal Land Council.

No response received

Community Consultation

In accordance with Council's notification policy, initial (pre-Gateway Determination) community consultation was undertaken between 29 April and 27 May 2013. The application was made available on Council's website and letters were sent to owners and occupiers of adjoining and potentially affected properties.

A total of seven submissions were received in response, six in objection and one in support.

The issues raised in submissions that are relevant to the assessment of the application are summarised below, further detail is provided in attachment 3.

Following the requested amendment to the planning proposal by the proponent, this proposal was again placed on preliminary consultation from 28 May to 25 June 2014.

A total of eight submissions were received in response, four in objection, one in support and three neutral. A summary of the main issues raised include:

- Loss of agricultural land
- Loss of rural character – lot sizes too small
- Traffic impacts
- Indigenous Significance of the land
- Environmental impact/degradation of Hornes Creek
- Stormwater management and drainage infrastructure

A submission was received from Tahmoor Coal that did not explicitly support or object to the proposal. This submission drew attention to the following 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 longwall mining of the coal resource from within CCL747.
- 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 & Infrastructure a Preliminary Environmental Assessment (PEA) and obtained Director General's Requirements (DGRs) for the Tahmoor South Project. The PEA provides details

of the proposed underground mining operation and longwall mine plan and outlines potential subsidence impacts.

Key Issues with the planning proposal

- The south eastern portion of the site is wholly inundated in the probable maximum flood event. The flood modelling also shows that the eastern part of the site has its access cut to Noongah Street in the at 5% AEP which indicates that to ensure safe evacuation residents in the south-east area would evacuate in every flood event equal or larger than 5% AEP. The south eastern portion of the site is therefore not able to be supported.
- Not proceeding with the south eastern portion of the site would result in a fragmented area of rural zoned land being retained within the site and the remaining proposed R5 zoned land to the west of the watercourse not achieving any connectivity with the existing village of Bargo.
- The site is bushfire prone land and currently only contains one entry/exit point from a public road (being from Gwynne Hughes Street). The RFS has stated that they do not support a creek crossing being provided by way of a gated emergency access/egress road. A low level creek crossing could be provided by way of a formed road, however, this would require significant upgrades to the Kader Street Bridge to ensure that an evacuation path can be provided for residents on the western side of the site in a flood event. Filling of land to provide the creek crossing on the site could also increase flood issues off site.
- The proposal is not consistent with the principles of place based planning outlined in the district plan given that there will be a fragmented area of land between the existing village and area of the site outside the PMF flood area.

Conclusion

The planning proposal seeks to alter the zoning and minimum lot size maps as contained within the WLEP and as relevant to the subject site. The proposal will allow for R5 Large Lot Residential and E3 Environmental Management Land with a minimum lot size of 4,000 square metres.

The subject site is located on the western residential border and rural fringe of Bargo. The GMS does not indicate this area as a location for future growth.

Further to this, the site is significantly constrained in regard to ecological value and the cumulative impacts of bushfire and flooding threats. Hornes Creek significantly impacts on the evacuation ability of future residents in a bushfire or flood event, with the proposed egress across the creek considered to be an inappropriate solution. Further flood studies show the south-east portion on the subject site becomes wholly inundated in the probable maximum flood event.

The nature of Hornes Creek divides the subject site into what can be considered two (2) separate entities. This creates fragmented development with the western portion of the site have restricted access to the Bargo town centre. The proposal would also result in an isolated rural lot.

Options for Moving Forward

Council's options are:

1. Resolve to not support the continuation of this planning proposal and request an altered Gateway determination for the proposal not to proceed, noting that the proponent has the right to seek a Gateway review.
2. Resolve to support the progress of the planning proposal in the form as described in this report. With this option, an altered Gateway determination may be required in respect of an E2 Environmental Conservation Zone being applied to the Riparian Corridor in lieu of the previously proposed E3 Environmental Management zone.. All other issues with flooding, bushfire, mining coexistence and infrastructure would need to be satisfactorily addressed and resolved.
3. Resolve to support the planning proposal in another form. With this option an altered Gateway determination may be required








Option 1 is the recommendation of this report.

Financial Implications

Funding for this project to date has been partially offset through the adopted planning proposal fees and charges.

It is noted that no voluntary planning agreement or offer has been made to Council in respect to local infrastructure arrangements.

ATTACHMENTS

1. **Current zoning of Planning Proposal site and surrounds** 
2. **Noongah Gwynne Hughes Street Planning Proposal - Subdivision Concept Plan (Rev C)** 
3. **Assessment of Proposal against the Community Strategic Plan** 
4. **Assessment of Proposal against the Growth Management Strategy 2011** 
5. **Table of submissions recieved at preliminary consultation** 
6. **Extracts from Flood Study** 
7. **Office of Environment and Heritage referral response** 

RECOMMENDATION

That in relation to the Noongah and Gwynn Hughes Streets Planning Proposal:

1. Council not support the planning proposal;
2. That a request be sent to the Greater Sydney Commission for an altered Gateway Determination requesting the planning proposal not proceed;
3. The proponent and landowners be notified of Councils decision; and
4. Persons who made a submission regarding the planning proposal be notified of Councils resolution.

11.5 PLANNING PROPOSAL - NOONGAH AND GWYNN HUGHES STREETS - POST GATEWAY REPORT TO COUNCIL

At 7:20 pm, Cr Matthew Deeth returned to the meeting.

At 7:20 pm, Cr Matthew Gould left the meeting.

At 7:22 pm, Cr Matthew Gould returned to the meeting.

RESOLUTION 70/2018

Moved: Cr Matthew Deeth

Seconded: Cr Matthew Gould

That in relation to the Noongah and Gwynn Hughes Streets Planning Proposal:

- 1. Council not support the planning proposal;**
- 2. That a request be sent to the Greater Sydney Commission for an altered Gateway Determination requesting the planning proposal not proceed;**
- 3. The proponent and landowners be notified of Councils decision; and**
- 4. Persons who made a submission regarding the planning proposal be notified of Councils resolution.**

On being put to the meeting the motion was declared **CARRIED 5/3**

In Favour: Crs Michael Banasik, Matthew Deeth, Matthew Gould, Noel Lowry and Matt Smith

Against: Crs Judith Hannan, Robert Khan and Simon Landow



NSW RURAL FIRE SERVICE



The General Manager
Wollindilly Shire Council
PO Box 21
PICTON NSW 2571

Your reference: 7325 mr:mr
Our reference: R18/271 & L11/0003

25 July 2018

Attention: Mark Ruddiman

Dear Sir,

PLANNING PROPOSAL TO REZONE LAND AT LOT 22 DP 619150 (No. 45) NOONGAH STREET AND LOT 95 DP 13116 (No. 25) GWYNNE HUGHES STREET, BARGO

Reference is made to Council's correspondence dated 6 July 2018 seeking comment in relation to additional information provided for the above Planning Proposal which seeks to rezone the above land. Reference is made to RFS comments provided 12 July 2017.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the additional information provided with regard to Section 4.4 of the directions issued in accordance with Section 117(2) of the *Environmental Planning and Assessment Act 1979*.

The objectives of the direction are:

- (a) *to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and*
- (b) *to encourage sound management of bush fire prone areas.*

The direction provides that a planning proposal must:

- (a) *have regard to Planning for Bushfire Protection 2006,*
- (b) *introduce controls that avoid placing inappropriate developments in hazardous areas, and*
- (c) *ensure that bushfire hazard reduction is not prohibited within the APZ.*

Based upon an assessment of the information provided, NSW RFS raises no objections to the proposal subject to the following comments in relation to future subdivision of the land and compliance with *Planning for Bush Fire Protection 2006*.

Postal address

NSW Rural Fire Service
Planning and Environment Services
Locked Bag 17
GRANVILLE NSW 2141

T 1300 NSW RFS
F (02) 8741 5433
E records@rfs.nsw.gov.au
www.rfs.nsw.gov.au

Access

RFS comments provided 12 July 2017 include the following:

- To ensure unimpeded access/egress for future residents and fire fighters responding in a bush fire emergency, the planning proposal should contain provisions that will ensure future residential subdivision will provide a 'through' road scenario from Gwynne Hughes Street to Noogah Street.

In response, the proposal for a gated emergency access/egress road linking the public roads as depicted in additional information, does not adequately address the comments previously raised. The RFS advise that prior to progression of the planning proposal Council should be satisfied that the linking road;

- Can be constructed to the standards of a public road in accordance with PBP 4.1.3(1), and
- Is ungated to allow unimpeded egress for future residents evacuating in the event of a bush fire emergency, and
- Construction of the road includes suitable flood immunity.

Asset Protection Zones

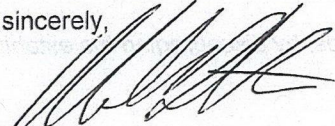
RFS comments provided 12 July 2017 include the following:

- RFS recommends that APZs be calculated to afford future residents the ability to construct to BAL 29 or less under AS3959-2009 (this would result in increased APZs).

Whilst the amended proposal has not depicted APZs for BAL 29 construction under AS3959-2009, RFS advise that prior to progression of the planning proposal Council should be satisfied that suitable areas for future residential development complying with BAL 29 construction, can be achieved on all lots, in particular those constrained by APZs, riparian zones, siting of effluent disposal and biodiversity lands.

If you have any queries regarding this advice, please contact Anna Jones, Development Assessment and Planning Officer, on 1300 NSW RFS.

Yours sincerely,



Martha Dotter

A/Team Leader Development Assessment and Planning



Office of Environment & Heritage

DOC18/56401
7325

Mr Mark Ruddiman
Senior Strategic Planner
Wollondilly Shire Council
PO Box 21
PICTON NSW 2571

Dear Mr Ruddiman

OEH comments on Planning Proposal – 45 Noongah Street and 25 Gwynne Hughes Street, Bargo – revised planning proposal

Thank you for your letter of 4 January 2018, requesting further advice from Office of Environment and Heritage (OEH) on the revised Planning Proposal for 45 Noongah Street and 25 Gwynne Hughes Street, Bargo in relation to the flood affectation of the site and impacts on vegetation.

OEH has reviewed the following documents:

- Plan of Proposed Subdivision – Revision B (6 December 2017)
- Specialist Study Bushfire Hazard Risk Assessment (4 December 2017)
- Preliminary Flood Study (Martens, 2015)
- Additional Information 1252 - Flood Modelling and preliminary regrading report – Revision B (Martens, 2017)
- Your email of 6 February 2018 with comments from Council's flood engineer

and provides comments in Attachment A.

Should you have any queries regarding this matter, please contact Janne Grose on t:8837 6017 or e: janne.grose@environment.nsw.gov.au

Yours sincerely

S. Harrison 13/03/18

SUSAN HARRISON
Senior Team Leader Planning
Greater Sydney
Regional Operations

Attachment A

**OEH comments on Planning Proposal – 45 Noongah Street and 25 Gwynne Hughes Street,
Bargo – revised planning proposal**

Reference is made to the Office of Environment and Heritage (OEH) previous submissions of 14 December 2016 and 20 April 2017 on the Planning Proposal for this site. OEH has reviewed the following documentation:

- Plan of Proposed Subdivision – Revision B (6 December 2017)
- Specialist Study Bushfire Hazard Risk Assessment (4 December 2017)
- Preliminary Flood Study (Martens, 2015)
- Additional Information 1252 - Flood Modelling and preliminary regrading report – Revision B (Martens, 2017)
- Your email of 6 February 2018 with comments from Council's flood engineer

and provides the following comments.

Biodiversity

OEH notes the Flora and Fauna Assessment report (FFAR) provided with the revised planning proposal is the same version of the report (dated 7 March 2017) that was reviewed previously by OEH. The following comments are in addition to advice previously provided by OEH on native vegetation at the site.

Plan of Proposed Subdivision

OEH supports the Plan of Proposed Subdivision (PPS) zoning the high ecological constraint land along Hornes Creek as E2 Environmental Conservation zone (rather than E3 Environmental Management zone). This is consistent with advice previously provided by OEH that areas of high ecological value are most appropriately protected by the application of an E2 zone (rather than an E3 zone).

Comparing the PPS with Figure 3.19 in the FFAR, OEH notes the rectangular area of land identified as high ecological constraint on the northern boundary has not been zoned E2 and is still proposed to be subdivided as R5 large lot Residential. It is noted this area of land has a 'restriction on use of land variable width'. Details need to be provided on what this means. OEH recommends the PPS is amended to apply an E2 zoning to this area.

OEH seeks clarification on who will own and manage the E2 zoned land at the site in the long term. OEH previously recommended the areas of high ecological value are managed in perpetuity under a biobanking agreement or via a community title. Details are required on this.

Some of the proposed lots, the perimeter road and Asset Protection Zone (APZ) would impact vegetation that has been identified as moderate ecological constraint in the FFAR. A scaled plan which overlays the PPS and the ecological constraint vegetation would be useful. The proposed location of perimeter road 2 and APZ would result in the clearing of moderate ecological constraint vegetation. OEH recommends the planning proposal is in accordance with the *OEH Principles for the Use of Biodiversity Offsets in NSW* which can be found at the following link: <http://www.environment.nsw.gov.au/biodivoffsets/oehoffsetprincip.htm>. The first principle outlines that impacts to native vegetation are avoided first by using prevention and mitigation measures. If impacts are unavoidable, offsets then must be used to address any remaining impacts to native vegetation that is proposed to be removed. The perimeter road/APZs should be located to protect and avoid clearing the moderate ecological constraint vegetation.

The PPS shows the perimeter road 2/APZ are located within the riparian extent of Hornes Creek. OEH recommends DoI Water is consulted on this to ensure the planning proposal complies with the DPI Office of Water (2012) guidelines for controlled activities. OEH understands encroachment of APZs/roads into the outer vegetated riparian zone needs to be offset by an equivalent area adjoining the riparian corridor along the creek. Encroachment into the riparian corridor does not appear to have been offset.

The PPS shows APZs are to be located adjacent to the E2 zone and that lots 106, 116 and 126-131 adjoin the APZ. The Bushfire Hazard Risk Assessment (BHRA) notes the APZs would be conditioned within the development consent to be managed as fuel free/fuel reduced areas for the life of the project (page 22). It indicates the general maintenance requirements (APZ vegetation management) would be conducted by the building owners/tenants in due course (section 2.7, page 22). It is unclear what measures will be used on the site to ensure that future residents will not clear beyond the 25m wide APZ and potentially clear/disturb/degrade the high ecological constraint vegetation. It is important the residents can distinguish on the ground between the APZ and the adjoining E2 zoned land so that it is not cleared. OEH preference is for perimeter roads to be provided between the development lots and native vegetation that is to be protected on the site.

The PPS shows the location of the building envelope on some lots but not all. It is unclear why this detail is not provided for all lots and clarification is required on this.

It is noted for lot 116 the indicative location of the dwelling is immediately adjacent to the APZ. Comparing the PPS with Figure 3.19 in the FFAR, the building envelope appears to impact moderate ecological constraint vegetation. It is recommended the location of the building envelopes avoid the need to clear moderate ecological constraint vegetation

Floodplain Risk Management

The primary objective of the NSW Government's Flood Prone Land Policy is to reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone property, and to reduce private and public losses resulting from floods. The most appropriate method to assess the development of flood prone land is through the floodplain risk management process, which is a risk based assessment detailed in the NSW Floodplain Development Manual (2005).

Section 117 Direction 4.3 'Flood Prone Land' of the Environmental Planning and Assessment Act 1979, applies to the subject site. A primary objective of this Direction is to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.

The Preliminary Flood Study (Martens, 2015) provides brief discussion on the hydrologic and hydraulic model set up, though it includes no discussion about the flooding characteristics near the site, the impacts of flooding on the proposed development or the impacts of the development on flooding and on adjacent properties.

The Additional Info 1252 – Flood modelling and preliminary regrading report (Martens, 2017) provides maps that show the flooding characteristics for the 20% AEP, 5% AEP, 1% AEP and the Probable Maximum Flood (PMF) for existing and developed scenarios.

Comments on the above provided information:

- The 1% developed scenario maps show that the proposed rezoned area on the north-east side (along Road 3 and Noongah Street) becomes isolated in the 1% AEP flood event which indicates no safe evacuation route is available. The south-east side along Road 3 has its access through Noongah Street cut off at 5% AEP which indicates that to ensure safe evacuation residents in the south-east areas would evacuate in every flood event equal or larger than the 5% AEP. The PMF developed scenario map shows this area fully inundated in the PMF. Accordingly, OEH supports the recommendation made by Wollondilly Shire Council not to rezone the south-east area along Road 3 i.e. lots marked 127 to 131 in the proposed subdivision Plan.
- The flood immunity at the end of Noongah Street should be investigated as it appears to be cut in a 1% AEP event. The depth of water over Noongah Street is unclear in drawing "Site 1% AEP Proposed Flood Depth (m) and Level" and should be clarified.

- The flood immunity of the existing Kader Street bridge and the proposed river crossing at the end of Noongah Street has not been assessed. OEH agrees with Council that only the Gwynne Hughes Street access is necessary. The Kader Street bridge should have at least a 1% AEP immunity for evacuation purposes. The current immunity of the bridge is unclear from the information provided. Discussion on evacuation and a suitable evacuation plan should be provided.
- The proposed Subdivision Plan shows the 1% AEP extent encroached or is close to some proposed lots. New development should be allocated in areas above the 1% AEP plus 0.5m freeboard. The 1% AEP event plus 0.5m freeboard planning level should be mapped and levels adhered to as the minimum floor level for the properties.
- An Emergency Response Plan (ERP) should be prepared for the proposed development in consultation with the State Emergency Service to ensure safe evacuation. Available information on the proposed RFS crossing and on evacuation routes cut-off time is prudent in the preparation of the ERP for the site.

Relevant Policies and Guidelines

- NSW Government Flood Prone Land Policy (1984) as set out in the Floodplain Development Manual (2005)
- Section 117(2) Local Planning Direction 4.3 "Flood Prone Land"

(END OF SUBMISSION)