

Sustainable and Balanced Growth
Report to the Ordinary Meeting of Council held on Monday 16 April 2018

GR4 – Draft Planning Proposal - No 11 Westminster Place, Razorback

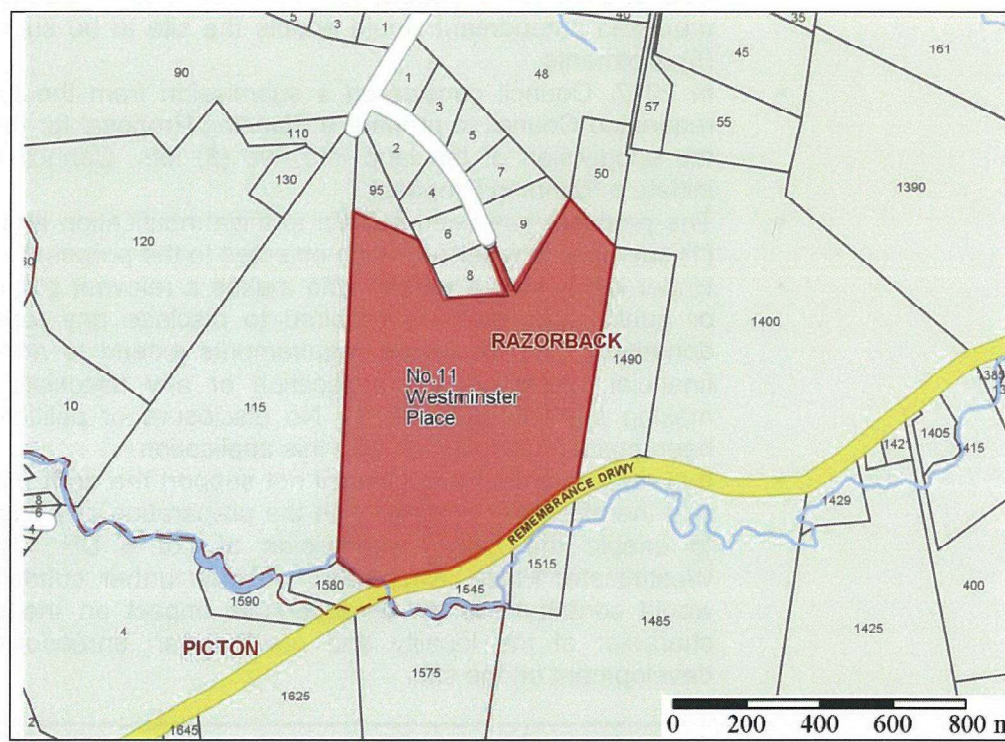
GR4

Draft Planning Proposal – No. 11 Westminster Place, Razorback
260803

TRIM 10166

Applicant:
Owner:

Precise Planning
Mr S and Mrs E Cavanagh



LOCATION MAP N

Stage	Completed
Preliminary notification	22 November, 2017 to 20 December, 2017
Gateway Determination	Not yet completed
Consultation with Public Agencies	Not yet completed
Specialist Studies	Not yet completed
Formal public exhibition	Not yet completed
Referred to Minister for Publication	Not yet completed

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EXECUTIVE SUMMARY

- The purpose of this report is to obtain Council's position on a draft planning proposal to amend the subdivision density controls within *Wollondilly Local Environmental Plan 2011* as they apply to E4 zoned land at Lot 6 DP 1128635, No. 11 Westminster Place, Razorback. The proposed amendment would enable the site to be subdivided into five (5) allotments.
- In 2017, Council considered a submission from the proponent which requested Council to prepare a Planning Proposal for the site to enable the subdivision of the land into five (5) lots. Council resolved not to initiate a Planning Proposal.
- The proposal has been subject to initial notification and there was one (1) submission received which objected to the proposal.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extend to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended that Council not support the draft planning proposal and therefore **not** proceed with the preparation of a Planning Proposal to enable the further subdivision of Lot 6 DP 1128635, No. 11 Westminster Place, Razorback, as any further subdivision of the lot would contribute to an unreasonable impact on the rural landscape character of the locality and result in an unreasonable density of development on the site.

REPORT

1.1 SITE DESCRIPTION

The site is a large parcel located in Razorback. The site has a total area of 55.79 hectares and contains two land use zonings under *Wollondilly Local Environmental Plan 2011* (WLEP 2011). The site contains approximately 16.4 hectares of E4 Environmental Living zoned land in the northern portion of the site which has direct access to Westminster Place, the remaining southern portion of the site contains approximately 39 hectares of land zoned RU2 Rural Landscape. The site slopes gently from north to south before a steep slope forms an escarpment in the portion of the site zoned RU2 Rural Landscape.

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1.2 DESCRIPTION OF PROPOSAL

The Draft Planning Proposal seeks to amend WLEP 2011 to enable the subdivision of land at No. 11 Westminster Place, Razorback into 5 allotments. The Draft Planning Proposal identifies two (2) potential pathways to enable this:

- Amend the Wollondilly Local Environmental Plan Original Holdings Map to exclude the subject land; or
- Amend Schedule 1 (Additional Permitted Uses) of Wollondilly Local Environmental Plan 2011 to permit the subdivision of the land into five (5) lots.

1.3 BACKGROUND

▪ **Wollondilly Rural Lands Report**

In September, 1996, Council completed the Review of Rural Lands Report ("The Rural Lands Report") which led to the introduction of the 7(c) (Environmental Protection (Rural Living) Zone) across certain areas of the Shire.

The Rural Lands Report was heavily focussed on retaining and protecting rural land for agricultural pursuits but also to retain the rural landscape character of certain areas. The objectives of the rural lands study would be achieved by the introduction of three new rural zones:

- 1(a) Agriculture
- 1(b) Agricultural Landscape
- 7(c) Environmental Protection Rural Living

The Rural Lands Report states that "*the 7(c) zone is to provide rural living opportunities within a sensitive environment and that subdivision and dwelling houses must cater for the protection of that sensitive environment*". In order to achieve the intent of the 7(c) (Environmental Protection (Rural Living) Zone) and to ensure that the rural living opportunities were able to be provided it was determined that lots should be developed at a density of 1 lot per 4 hectares.

A 2ha minimum lot size was also introduced to the 7(c) zone "*to allow for a range of lot sizes to be created so that they conform to the landscape and landforms of the area and to provide for a variety in the lots created. It should be pointed out that the primary objective of the zone is to encourage the preservation of the landscape character by ensuring that development does not detract from that character. It is considered that any lesser density would not achieve the objective.*"

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The Rural Lands Report found that there are four (4) areas suitable for the application of a 7(c) Zone within the Wollondilly Local Government Area being:

- Werombi
- Brownlow Hill
- Menangle
- Razorback and Pheasants Nest.

The LEP Amendments that were made to include the findings of the Rural Lands Report are discussed below:

▪ **Wollondilly Local Environmental Plan 1991**

Amendment No. 11 to Wollondilly Local Environmental Plan 1991 (WLEP 1991) was made on 20 September, 1996 which introduced the 7(c) zone and also inserted Clause 13(b) which provided the following in respect of subdivision in the 7(c) zone:

"The total number of lots into which the original holding will be subdivided after subdivision will not exceed the number obtained by dividing by 4, the area (in hectares) of the original holding that is within the 7(c) zone only, the dividend being rounded down to the nearest whole number.

The term original holding referring to a lot in a current plan (within the meaning of Section 327AA (1) of the Local Government Act, 1919) as at the date of publication in the gazette of Wollondilly Local Environmental Plan 1991 (Amendment No. 11)."

This clause had the effect that the area of any original holding lot (i.e. a lot that was in existence prior to 20 September, 1996) which was zoned 7(c) (Environmental Protection (Rural Living) Zone) could not be subdivided to a density of greater than 1 lot per 4 hectares.

▪ **Wollondilly Local Environmental Plan 2011**

On 23 February, 2011, WLEP 1991 was superseded by WLEP 2011. The NSW Department of Planning's Standard Instrument (Local Environmental Plan) Order 2006 provided that the land use zone E4 Environmental Living would be used in WLEP 2011 as an equivalent zone to the 7(c) (Environmental Protection (Rural Living) Zone).

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The density control contained in WLEP 1991 also carried over and was contained in clause 4.1B of WLEP 2011 as follows:

"4.1B Subdivision of Certain Land in Zone E4 Environmental Living

- (1) *The objective of this clause is to ensure that certain land within zone E4 Environmental Living is not subdivided to significantly increase the density of development on the land.*
- (2) *The clause applies to land identified as "Original Holdings" on the Original Holdings map.*
- (3) *Despite clause 4.1, development consent must not be granted for the subdivision of land to which this clause applies if the total number of lots comprising the land will exceed 1 lot per 4 hectares as a result of the subdivision.*
- (4) *In this clause, Original Holdings Map means Wollondilly Local Environmental Plan 2011 Original Holdings Map."*

No definition of original holding was included in the LEP as all original holding lots were to be identified on an original holdings map that would form part of WLEP 2011 (as per sub-clause (2) above). The original holding lot needs to be included (and outlined in red) on the original holdings map in order for the density controls in clause 4.1B to apply.

When WLEP 2011 was gazetted by NSW Department of Planning in 2011, some E4 zoned land across Razorback and Menangle was not included on the original holdings maps in error and were therefore not subject to the density provisions in Clause 4.1B of WLEP 2011 until Council undertook a Planning Proposal to correct these mapping errors in 2015/2016.

▪ **Planning Proposal to correct errors in WLEP Original Holdings Maps**

On 20 July, 2015 Council resolved to prepare a Planning Proposal to make amendments to the WLEP 2011 Original Holdings Maps to include E4 zoned land that had previously been excluded from the maps in error.

During the Planning Proposal process, formal public consultation on the proposed amendments was carried out for a period of 28 days from 18 November, 2015 to 16 December, 2015. This included direct written notification to all owners and residents of lots proposed to be added to the original holdings maps. No submissions were received in relation to the Planning Proposal. No submission was received from the proponent or landowner of No. 11 Westminster Place, Razorback.

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The Planning Proposal (known as LEP Amendment No. 21) was gazetted on 27 May, 2016 and any development application not determined by Council before the gazettal date would now be required to comply with clause 4.1B of WLEP 2011.

Subdivision history of the Original Holding and remaining subdivision potential

The original holding lot for this site was known as Lots 6 and 7 DP 260390 and contained 40.15ha of E4 Zoned land and 40ha of RU2 zoned land (the original holding lot can be seen outlined in red and hatched in Attachment 3). The original holding is capable of providing a maximum of 10 E4 zoned lots based on the density controls in the LEP ($40.15\text{ha}/4 = 10$ (rounded down)) and one RU2 zoned lot. The original holding is therefore capable of a subdivision creating a total of 11 lots (10 E4 zoned lots + 1 RU2 zoned lot = 11 lots).

A development application (D321/00) to subdivide the original holding lot was submitted to Council in 2000 and consent was granted for an eleven (11) lot subdivision on 4 September, 2000. It is noted that the subdivision consent provided for a total of 11 E4 zoned lots which exceeded the maximum permissible yield of 10 E4 zoned lots under the WLEP 1991. The rural zoned lot was not subdivided onto its own title as part of this proposal.

The subdivision consent No. D321/00 created Lot 6 DP 1128635 (No. 11) Westminster Place. The site at Lot 6 (No. 11) Westminster Place, Razorback comprises two (2) land use zonings, being E4 Environmental Living and the other RU2 Rural Landscape as can be seen in the map at Attachment 2. The minimum lot size and subdivision potential in each zone is summarised below:

- Lot 6 includes approximately 39ha of RU2 zoned land. The minimum lot size for the portion of lot 6 which is zoned RU2 is 35 hectares. The RU2 portion of Lot 6 could therefore still be subdivided onto its own title with consent.
- Lot 6 includes 16.4 hectares of E4 zoned land. The minimum lot size for the E4 zoned portion of lot 6 is 4ha and therefore **if not for the clause 4.1B density controls** may be capable of creating 4 lots.

Development Application No. 10.2015.775.1 - Five (5) Lot Subdivision

A further Development Application for Lot 6 DP 1128635, No. 11 Westminster Place, Razorback was submitted to Council on 16 October, 2015. The application proposed to subdivide the land into five (5) lots. At the time of lodgement of the development application, the subdivision of the site into five (5) lots was permissible as LEP amendment No. 21 had not been finalised and therefore any subdivision on this site was not subject to the density controls in WLEP 2011.

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The development application was determined after the gazettal of LEP Amendment No. 21 and therefore was required to meet Clause 4.1B in WLEP 2011. The proposed subdivision was unable to comply with this clause and was therefore prohibited and the application was unable to be approved by Council.

The Development Application was refused on 8 December, 2016 for the following reason:

- "1. *The development is contrary to clause 4.1B of Wollondilly Local Environmental Plan 2011, particularly sub-clause (3) whereby approval of the development will result in the total number of lots exceeding the statutory lot yield of the original holding.*"

Relevance of Clause 1.8A of Wollondilly Local Environmental Plan 2011

Clause 1.8A in WLEP 2011 provides that if a development application is lodged prior to, but not determined before the commencement of an LEP, then the development application is to be determined as if the plan had never been made. Clause 1.8A states the following:

"1.8A Savings provisions relating to development applications

If a development application has been made before the commencement of this plan in relation to land to which this plan applies and the application has not been finally determined before that commencement, the application must be determined as if this plan had not commenced."

Two (2) recent court decisions have provided clarification over whether Clause 1.8A relates only to development applications lodged before the commencement date of WLEP 2011 (being 23 February, 2011) or whether it has the ability to protect development applications from amendments to LEP's (i.e. Planning Proposals).

In the case *De Angelis vs Wingecarribee Shire Council (2016)*, the NSW Land and Environment Court ruled on 5 February, 2016 that clause 1.8A of the LEP was to be applied so as to protect development applications from amendments to LEP's, and not solely to the LEP commencement date. However, on 1 August, 2016 the NSW Court of Appeal reversed this decision and held that savings provisions 'deal with a precise point in time, namely the point at which a new legal instrument commences' and did not change over time with subsequent LEP amendments.

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The development application for the five (5) lot subdivision at Lot 6, No. 11 Westminster Place, Razorback therefore could "not be saved" by clause 1.8A in WLEP 2011 as the clause is only to apply to development applications made but not determined before the commencement of WLEP 2011, being on 23 February, 2011.

There was no specific savings clause applied as a result of WLEP Amendment No. 21 to protect development applications lodged with Council before the date of the amendment and therefore the development application for the five (5) lot subdivision at Lot 6, No. 11 Westminster Place was unable to be approved by Council.

A savings clause would not have been considered appropriate given the intention of the amendment was to correct mapping errors to ensure that the opportunity to subdivide without regard to the density controls on certain land was removed.

Request to prepare a Planning Proposal to enable subdivision of No. 11 Westminster Place, Razorback

On 5 April, 2017 a request was made by the proponent for Council to initiate and prepare a Planning Proposal in respect of the site to enable the subdivision of the land into five (5) lots. The matter was considered by Council at its Ordinary Meeting held on 21 August, 2017 where Council resolved the following:

- *That Council not prepare a planning proposal to permit the subdivision of the property known as 11 Westminster Place Razorback (Lot 6 DP 1128635) into five (5) lots.*
- *That Council support the submission of an owner-initiated planning proposal to amend the Original Holdings Map or Schedule 1 of Wollondilly LEP 2011 to create the potential for a subdivision of the land into five (5) lots, subject to the proponent meeting all costs related to the LEP amendment. The planning proposal should outline how the amendment would avoid creating an undesirable precedent.*

A Draft Planning Proposal has now been submitted by the proponent on behalf of the landowner to amend WLEP 2011 to enable the further subdivision of the site into five (5) lots. The draft planning proposal submitted to Council is given the relevant consideration below.

Potential Precedent that could be set by the Planning Proposal

The Council Resolution from August last year required the proponent of a future Planning Proposal to demonstrate that the proposal would not create an undesirable precedent. The proponent has provided the following information in order to satisfy this requirement:

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“The subject site is distinguishable from any other in Wollondilly because it was subject to a unique circumstance. The development application lodged with Council on 19 October 2015 (DA 10.2015.775.1) was compliant with the controls in force at the time. However, the subsequent making of Amendment 21 to WLEP 2011 ultimately prevented Council from approving the application. The process of assessing Amendment 21 did not take into account the existence of the undetermined DA 10.2015.775.1. The effect of the judgment in the De Angelis case meant that DA 10.2015.775.1 was not preserved by the savings provision.

DA 10.2015.775.1 was the only development application relating to proposed subdivision that was lodged but not determined at the time of the making of Amendment 21, which had the subdivision permissibility removed by the Amendment 21. Due to this unique circumstance, this planning proposal will not create a precedent or create or change the expectations of other landowners.

Council could respond to any landowner seeking to use this matter as a precedent by clarifying that its support for the planning proposal was because there had been a previous development application on the site at the time of the making of the plan amendment that prevent subdivision of the land and that this did not apply to any other landowner.”

Council Staff Comment: It is acknowledged that this was the only development application that was affected by the LEP Amendment No. 21. However, at the time that the development application was lodged, the further subdivision of land was only permissible through errors in the original holdings maps.

The LEP Amendment was to correct those errors and to proceed with another proposal to enable subdivision beyond the permissible density of the original holding would be contrary to the intent of the previous Planning Proposal and may give an expectation to other landowners in the locality that further subdivision beyond the desired lot density is achievable. If the Planning Proposal were to proceed, Council and the Department of Planning and Environment would need to be satisfied that the proposal has adequate Strategic Planning merit. It is considered that the proposal does not have strategic planning merit for reasons discussed under section 2.7 of this report. Supporting the planning proposal may give other landowners affected by the Original Holdings maps an expectation that departing from the density control in Council's LEP has strategic planning merit and that they could take a similar approach in finding a pathway to being exempt from the application of the density control.

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The proponent also contends that:

"The circumstance applying to this land was unique and is unlikely to be repeated. It was not the timeframe for the determination of the development application that resulted in LEP Amendment 21 preventing the lot from being subdivisible. Rather, it was the peculiar interaction of the De Angelis case with a newly made LEP amendment.

It is assumed that both Council and the NSW Department of Planning and Environment will not repeat the sequence of events that occurred in this case. The relevant staff in both organisations and in the NSW Parliamentary Counsel's office are now aware of the Court's approach to savings provisions in standard instrument LEPs and will be able to ensure LEP amendments are prepared with considerations to their effects of existing DAs".

Council Staff Comment: The findings from the NSW Court of Appeal in the case *De Angelis vs Wingecarribee Shire Council* on 1 August, 2016 held that savings provisions 'deal with a precise point in time, namely the point at which a new legal instrument commences' and did not change over time with subsequent LEP amendments. The application of a savings clause for LEP Amendment No. 21 would not have been appropriate in any case as the intention of the amendment was to close off the opportunity for landowners to apply for subdivision which did not meet the relevant density provisions in clause 4.1B of WLEP 2011 and likewise it is not considered appropriate to support the current Planning Proposal and make an exception for this site based on their original development application being before Council prior to the LEP Amendment. It is acknowledged that following the court decision on 1 August, 2016 that the application of savings clauses is much clearer, however, this would not prevent an undesirable precedent being set should the current draft planning proposal be supported by Council, as other landowners would have the opportunity to follow the same path and lodge Planning Proposals for their own sites to have the density control removed.

CONSULTATION

2.1 FORMAL CONSULTATION WITH COUNCIL STAFF THAT PROVIDE SPECIALIST COMMENT

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

Infrastructure Planning

No objections raised.

Environmental Services

No objections raised.

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2.2 CONSULTATION WITH PUBLIC AGENCIES

No consultation has been undertaken with any public agency. It is anticipated that consultation with the following public agencies will be required in the case that the proposal should proceed and receive a Gateway Determination:

- NSW Rural Fire Service
- OEH
- NSW Office of Water.

2.3 COMMUNITY CONSULTATION

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

A total of one (1) submission was received which objected to the proposal.

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

Issue Raised	Assessment Comment
Increasing the current access driveway to full public road and adding independent driveways will have a major impact.	Council's Engineers have advised that traffic impacts from any development of the site to create five (5) lots could be managed. It is considered however, that the additional overall development would detract from the character of the area that was originally envisaged through the application of the density control in the E4 land at Razorback.
The original development by Westminster Holdings did not allow for further development of 11 Westminster Place.	The lot at No. 11 Westminster Place is a much larger lot than the other lots created from the original holding in recognition of the relevant constraints of the site. This approach was consistent with the original intent of the density control in the LEP which was to provide a range of lot sizes which conform to the landscape and landforms of the area.
Allowing further development of number 11 Westminster Place will greatly affect the current feel and ambience of the street.	It is agreed that the development of No. 11 Westminster Place to create a five lot subdivision would impact the current landscape character of the area and result in a density that is out of character with E4 land at Razorback.

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Issue Raised	Assessment Comment
	The development of the site for five lots would result in the original holding having a lot density 50% greater than what would be allowed by the LEP density control.
Allowing the proposal to proceed would be an injustice to the current owners in the street.	It is noted that current owners of land in Westminster Place may have purchased with a view that no further subdivision of No. 11 would have been allowed, however, this is not deemed to be a consideration for this Planning Proposal.

2.4 PREPARATION OF A PLANNING PROPOSAL

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

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

Council's options are:

1. Resolve to support the proposal in its original form and prepare a Planning Proposal accordingly.
2. Resolve that a Planning Proposal be prepared in a form different to the application.
3. Resolve not to support a Planning Proposal for this site. The proponent can choose to apply for a Pre-Gateway Review as a result of this option.

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

Option **3** is the recommendation of this report.

2.5 SECTION 117 MINISTERIAL DIRECTIONS

Ministerial Direction 2.1 Environmental Protection Zones

This Ministerial Direction applies when a Relevant Planning Authority prepares a Planning Proposal. As per the LEP Practice Note (PN09-002) an E4 Environmental Living zone is considered to be an Environmental Protection zone for the purpose of the Ministerial Direction.

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Clause (5) of this direction states that “a Planning Proposal that applies to land within an environmental protection zone or land otherwise identified for environmental protection purposes in an LEP must not reduce the environmental protection standards that apply to the land.”

The proposal is considered to be inconsistent with this Ministerial Direction as it would reduce a density standard which applies across all original holdings lots within the E4 zone across the shire.

2.6 WOLLONDILLY GROWTH MANAGEMENT STRATEGY

Council's GMS was adopted by Council in 2011. The 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 and are outlined as follows:

Key Policy Direction	Comment
General Policies	
P1 All land use proposals need to be consistent with the key Policy Directions and Assessment Criteria contained within the GMS in order to be supported by Council.	The proposal would not be consistent with the key policy directions in the GMS, in particular the policy directions 5, 10, 19 and 22.
P2 All land use proposals need to be compatible with the concept and vision of “Rural Living” (defined in Chapter 2 of the GMS).	The proposal is to enable a five lot subdivision. The minimum lot size for the site is 4ha, so future lots will appear rural in nature; however it will not achieve the desired density and planned character of the locality.
P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.	Preliminary Community notification was undertaken in respect of this proposal and one submission was received. The concerns raised in the consultation process is addressed in section 2.3 of this report.
P4 The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.	The personal financial circumstance of the landowner has not been given consideration in this process.

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Key Policy Direction	Comment
P5 Council is committed to the principle of appropriate growth for each of our towns and villages. Each of our settlements has differing characteristics and differing capacities to accommodate different levels and types of growth (due to locational attributes, infrastructure limitations, geophysical constraints, market forces etc.).	It is considered that the proposal to enable a further five lot subdivision in this lot would be contrary to this policy direction and would be inconsistent with the desired character of the area that was identified in rural lands study. The proposal would enable 50% more environmental lots within the original holding than is enabled under the density clause in the LEP. The density clause is critical to shaping the built environment and landscape character of the area and it is considered that this should not be departed from for this site.
Housing Policies	
P6 Council will plan for adequate housing to accommodate the Shire's natural growth forecast.	The proposal would provide for additional housing, however, the Razorback area is not one that has been identified for future growth beyond that currently enabled through compliance with the LEP Planning controls.
P8 Council will support the delivery of a mix of housing types to assist housing diversity and affordability so that Wollondilly can better accommodate the housing needs of its different community members and household types.	The proposal would contribute to housing variety but only on a small scale. The possible provision of housing variety would not overcome the impact on rural character in the area.
P9 Dwelling densities, where possible and environmentally acceptable, should be higher in proximity to centres and lower on the edges of towns (on the "rural fringe").	The proposal would result in higher dwelling density than is desired in the area, however it would not occur within a town centre as desired by this policy direction.

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Key Policy Direction	Comment
P10 Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.	The proposal would result in a higher housing density on the site than what is currently enabled by the LEP controls. The proposal would result in the desired density for the site potentially being exceeded by 50%. As this growth would not be located adjacent to any town centre or village the proposal would not be consistent with this policy direction.
Macarthur South Policies	
Key Policy Directions P11, P12, P13 and P14 are not applicable to this planning proposal. The subject land is not within the Macarthur South area.	Not Applicable.
Employment Policies	
P15 Council will plan for new employment lands and other employment generating initiatives in order to deliver positive local and regional employment outcomes.	Not Applicable.
P16 Council will plan for different types of employment lands to be in different locations in recognition of the need to create employment opportunities in different sectors of the economy in appropriate areas.	Not Applicable.
Integrating Growth and Infrastructure	
P17 Council will not support residential and employment lands growth unless increased infrastructure and servicing demands can be clearly demonstrated as being able to be delivered in a timely manner without imposing unsustainable burdens on Council or the Shire's existing and future community.	It is likely that infrastructure and servicing demands at the site could support 5 additional lots.

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Key Policy Direction	Comment
P18 Council will encourage sustainable growth which supports our existing towns and villages, and makes the provision of services and infrastructure more efficient and viable – this means a greater emphasis on concentrating new housing in and around our existing population centres.	The proposal is not located near any existing population centre.
P19 Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.	The proposal would result in the growth occurring on a dispersed basis and not within any population centre.
P20 The focus for population growth will be in two key growth centres, being the Picton/Thirlmere/Tahmoor Area (PTT) area and the Bargo Area. Appropriate smaller growth opportunities are identified for other towns.	Not applicable.
Rural and Resource Lands	
P21 Council acknowledges and seeks to protect the special economic, environmental and cultural values of the Shire's lands which comprise waterways, drinking water catchments, biodiversity, mineral resources, agricultural lands, aboriginal heritage and European rural landscapes.	The Rural Lands report acknowledges that land within the environmental zones across the Shire including Razorback are within a sensitive environment and that their character would be determined by the land being developed at a density of 1 lot per 4 hectares with a range of lot sizes to be provided. The subdivision of land in Razorback without regard to the control would therefore be contrary to the environmental values of the landscape.
P22 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.	The proposal would lead to incremental growth in the area which would be contrary to this policy objective.

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2.7 OVERALL STRATEGIC PLANNING CONSIDERATION

The intent of the development standard is to control subdivision in a manner that preserves the rural landscape character whilst providing a flexible approach to lot sizes having regard to topographic features and constraints. Any further subdivision of the E4 zoned portion of the site would be detrimental to that rural landscape character and the intent of the area. The development of the site for four (4) additional E4 zoned lots on the site would give an overall total of 15 E4 lots within the original holding which is 50% higher than the envisioned density of ten (10) E4 zoned lots for that holding.

It is acknowledged that a previous development application was submitted for a five (5) lot subdivision on the site was submitted to Council prior to LEP Amendment No. 21. However a subdivision of the land now or in the future would be contrary to the intent of the Planning Proposal which led to the LEP Amendment.

The Draft Planning Proposal states that *“the implications of the Planning Proposal not proceeding are that the large rural residential lots will not be delivered. This will result in a decrease in housing choice and demand may reveal itself in other locations where potential environmental impacts and infrastructure demands may be more significant.”*

Enabling the further subdivision of this original holding for the purposes of housing variety would be contrary to the intent of Clause 4.1B of WLEP 2011. It is considered that the benefit of any increase in housing variety would not be sufficient to overcome the increase in the density of dwellings in the locality as the construction of the dwellings will be at a higher density than on other original holdings within the area.

A subdivision of the site would result in a dwelling density that is inconsistent with the desired future character of the locality. Proposed growth in other areas will be considered on its own merits, however, the Razorback area is not an area identified for future growth in Council’s Growth Management Strategy or any other strategy.

Council’s Growth Management Strategy and the Draft Western City District Plan also do not identify a need for additional housing in this area. Housing targets in Council’s Growth Management Strategy are currently being achieved through growth in other more suitable areas (such as Picton, Tahmoor, Thirlmere and Silverdale). There may also be an opportunity for the further subdivision on other titles in the E4 zoned land across the Shire which are capable of meeting the desired density controls which could provide for further lot types such as those that would be generated through this proposal.

Sustainable and Balanced Growth
Report to the Ordinary Meeting of Council held on Monday 16 April 2018

GR4 – Draft Planning Proposal - No 11 Westminster Place, Razorback

2.8 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP 2011)

Following consideration of responses from initial consultation and notification and a preliminary assessment of the application, it is considered inappropriate to amend the existing provisions of WLEP, 2011 as they apply to this site.

FINANCIAL IMPLICATIONS

This proposal is not expected to have any impact on Council's budget or forward estimates. The relevant Planning Proposal Application Fee has been paid in accordance with the requirements of the Council Resolution of 21 August 2017.

ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET

1. Council Resolution in respect of the proposal – 21 August, 2017
2. Map showing zoning of subject land
3. Map showing Original Holding Lot outlined in red

RECOMMENDATION

That Council not proceed with the request to prepare a Draft Planning Proposal to enable the further subdivision of Lot 6 DP 1128635 (No. 11) Westminster Place at Razorback for the following reasons:

- The proposal would contribute to a density of development which is undesirable in the locality and is inconsistent with surrounding development
- The proposal would be contrary to the desired character of the area due to the exceedance in the desirable subdivision density for the locality
- The proposal is not consistent with Clause (5) in Ministerial Direction 2.1 (Environmental Protection Zones) as it would not facilitate the protection and conservation of land within the E4 Environmental Living zone in Razorback
- The proposal is not consistent with Wollondilly's Growth Management Strategy 2011
- The proposal would create an adverse precedent for other landowners to pursue subdivision of land bound by Clause 4.1B of WLEP 2011.