



Gateway determination report – PP-2022-4334

Cross Street, Tahmoor

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Attachment A – Planning Proposal
Attachment A1 – Urban Design Report
Attachment A2 – Addendum Odour Assessment Report
Attachment A3 – Addendum Biodiversity and Riparian Assessment Report
Attachment A4 – Subsidence Advisory NSW Correspondence
Attachment A5 – SIMEC Correspondence
Attachment A6 – Addendum Noise Impact Assessment
Attachment A7 – Addendum Stormwater Management
Attachment A8 – Addendum Sewer Servicing Strategy
Attachment A9 – Utility Servicing Report
Attachment A10 – Bushfire Assessment
Attachment A11 – Detailed Site Investigation (Contaminated Land)
Attachment A12 – Addendum Traffic Impact Assessment
Attachment A13 – Aboriginal Archaeology Assessment
Attachment A14 – Letter of Offer
Attachment A15 – Social and Health Impact Assessment
Attachment A16 – Agricultural Land Capability Assessment
Attachment A17 – Addendum Biodiversity Certification Report
Attachment A18 – Addendum Biodiversity Stewardship Site Assessment Report
Attachment A19 – Management Action Plan
Attachment A20 – Whole of Infrastructure Delivery Strategy
Attachment A21 – Submission on Draft DCP
Attachment A22 – Economic Benefits Analysis
Attachment A23 – Visual Impact Advice
Attachment A24 – On-Site Effluent Advice Letter

Attachment A25 – Bushfire Memorandum

Attachment A26 – Planning Proposal – Cover Letter

Attachment B – Rezoning Review Request

Attachment B1 – Rezoning Review Submission from Urbis

Attachment B2 – Further advice from The Odour Unit

Attachment B3 – Further advice from Traffix

Attachment C – Council Response to Rezoning Review

Attachment C1 – A Response to Allen’s law firm advice

Attachment C2 – Report from the LPP Meeting – 7 December 2023

Attachment C3 – Minutes from the LPP Meeting – 7 December 2023

Attachment C4 – Report from the Ordinary Council Meeting – 23 July 2024

Attachment C5 – Minutes from the Ordinary Council Meeting – 23 July 2024

Attachment C6 – Transport for NSW’s submission to the draft planning proposal

Attachment D – Rezoning Review Site – Planning Proposal History

Attachment E – Agency Submissions received by Council

Attachment F – Cross St Letter from DPHI to Wollondilly Shire Council – September 2022

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Wollondilly
PPA	Sydney Western City Planning Panel
NAME	Cross St, Tahmoor (281 homes)
NUMBER	PP-2022-4334
LEP TO BE AMENDED	Wollondilly LEP 2011
ADDRESS	5 and 15 Cross Street, 100, 120, 120A, 140 and 250 River Road, and 85 Progress Street, Tahmoor
DESCRIPTION	Lots 1-6 DP 1128745, Lot C DP 374621 and Lot 225 DP 10669
RECEIVED	20/03/2025
FILE NO.	IRF25/1080
POLITICAL DONATIONS	There are no donations or gifts to disclose, and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The objective of this planning proposal is to amend the Wollondilly Local Environmental Plan 2011 (WLEP) to enable low density and large lot residential development at the site. The planning proposal will also ensure the conservation of watercourses, riparian corridors and vegetation to support threatened species present at the site.

The planning proposal has an extensive history which is further discussed in Section 1.6 of this report and throughout the document.

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

1.3 Explanation of provisions

The planning proposal seeks to amend the Wollondilly LEP 2011 per the changes below:

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	RU4 Primary Production Small Lots, C2 Environmental Conservation	R2 Low Density Residential, R5 Large Lot Residential, RE1 Public Recreation, C2 Environmental Conservation, C3 Environmental Management
Maximum height of the building	N/A	Part 6.8m and 9m
Minimum lot size	2 hectares, 450m ² (100 River Road only)	700m ² (R2), 975m ² (R5), 1500m ² (R5), 4000m ² (R5), 1 hectare (C3), 60 hectares (C2)
Natural Resources Water Map	NA	Provide a riparian buffer of 10 metres along the four minor watercourses
Urban Release Area Map	NA	Identify the site as an Urban Release Area
Number of dwellings	Zero	281

It is noted that 100 River Road in the northern extremity of the site is zoned RU4 Primary Production Small Lots with a minimum lot size of 450m². This section of the site is proposed to be rezoned to R2 Low Density Residential and is subject to an increase in minimum lot size to 700m². Also, parts of the southern edge of the site are already zoned C2 Environmental Conservation, however, no land use changes are proposed in this part of the site.

The planning proposal refers to the preparation of a site-specific Development Control Plan (DCP). The previous planning proposal which was determined not to proceed in December 2020 was also supported by draft planning controls for the precinct which were proposed to be incorporated into the Wollondilly DCP 2016. The draft controls were prepared by Council staff and were exhibited from 9 December 2020 to 29 January 2021; however, these controls were not included in the DCP as the planning proposal was not finalised. An updated draft DCP is required to be prepared by the proponent and reported to Council prior to exhibition and be exhibited concurrently with the planning proposal. This forms part of the conditions of the Gateway determination.

The planning proposal seeks to enable a large lot residential development, that preserves and enhances both the local rural character and ecological values of the site (refer to Figure 1).



Figure 1 Site layout plan (source: Urban Design Report)

1.4 Site description and surrounding area

The site has an area of approximately 155 hectares located 2km east of Tahmoor town centre. Bargo River Gorge is directly south of the site, while Ingham's Tahmoor Turkey Processing Facility is adjacent to the west of the site. There is additional RU4 zoned land to the south-west, large lot residential development to the east, and low-density residential development in the East Tahmoor Precinct to the north which has a minimum lot size of 450m². Approximately 400 lots have been registered in the East Tahmoor Precinct with a potential yield of 650 dwellings upon completion.

The southern and southeastern parts of the site contain steep terrain, including cliffs at the interface with the Bargo River Gorge. The topography is variable across the site and the planning proposal notes that significant cut and fill is required for development due to this. Parts of the site are heavily vegetated, particularly along the riparian corridors, the gorge in the south of the site and the western edge of the site adjoining the Turkey Processing Facility. Trees are also scattered across the remainder of the site.

The site was used for intensive poultry farming until 2020 and is currently used for cattle grazing.

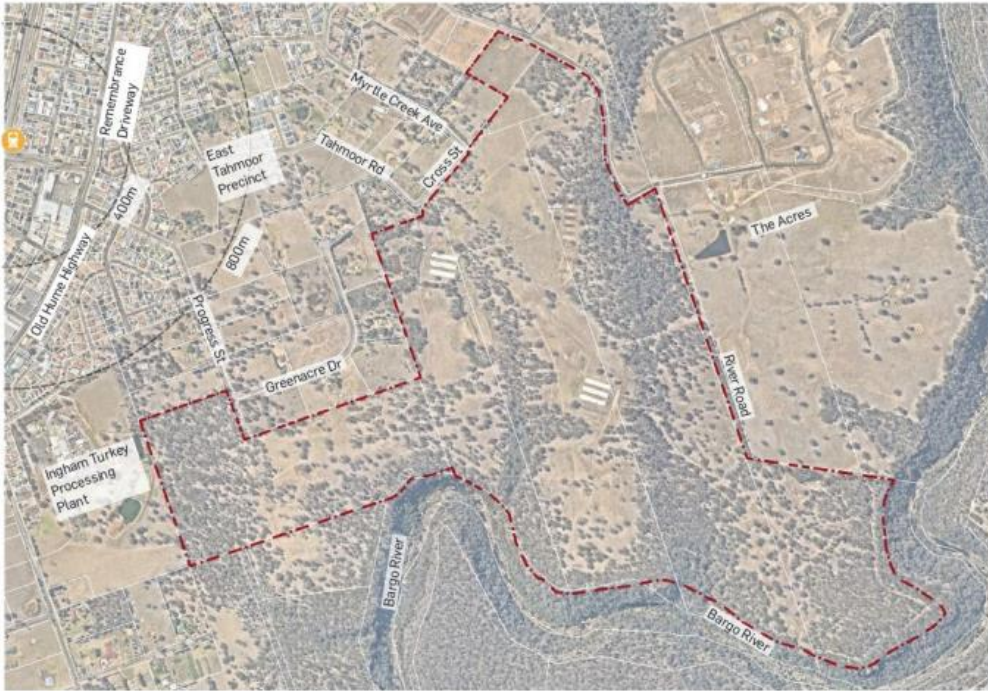


Figure 2 Subject site (Source: Planning Proposal)

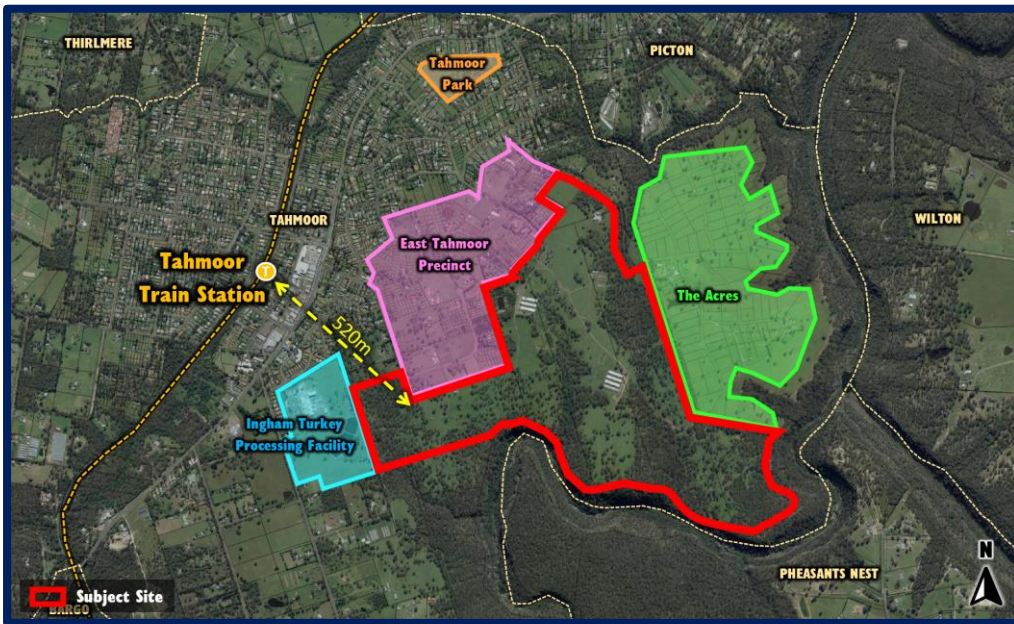


Figure 3 Site context (source: Rezoning Review Briefing Report)

1.5 Mapping

The planning proposal includes mapping showing the proposed WLEP land zoning, height of building, lot size and natural resources – water maps, which are suitable for community consultation. The planning proposal is required to be updated to include current LEP maps. It is noted that the planning proposal also seeks to update the Urban Release Area map to include the site, which is required to be included in the planning proposal prior to exhibition. These requirements form part of the conditions of the Gateway determination.

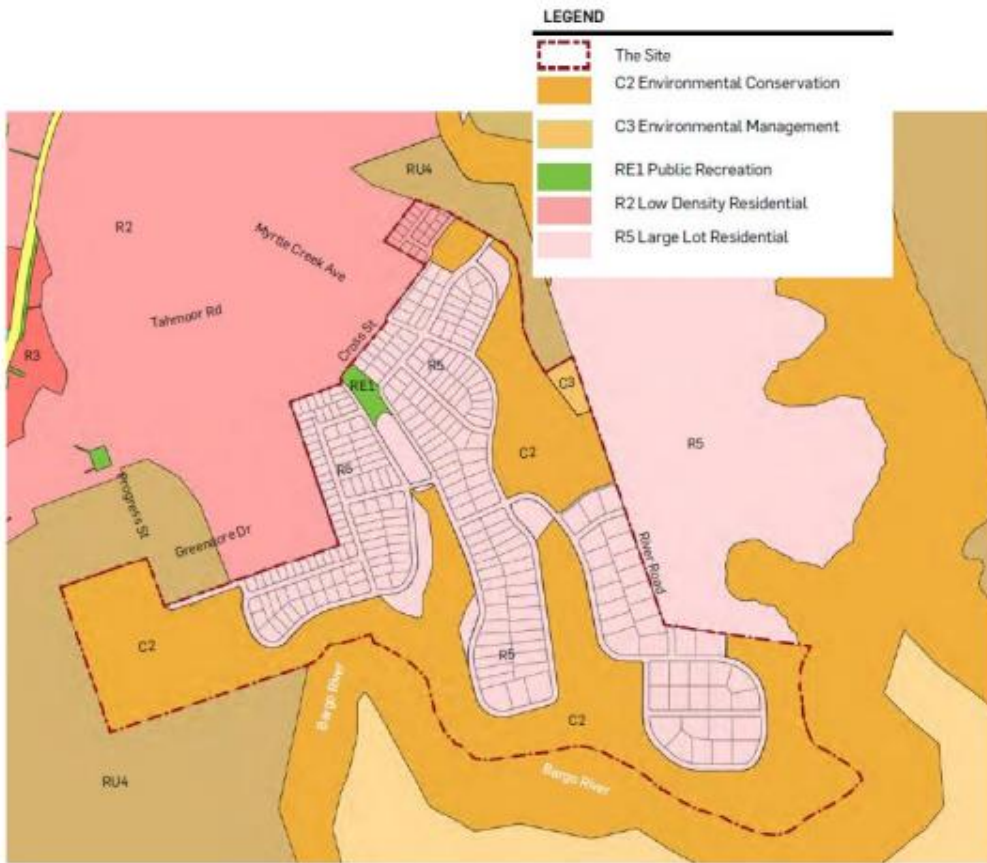


Figure 4 Proposed Zoning map (Source: Planning Proposal)



Figure 5 Proposed Height of Building map (Source: Planning Proposal)

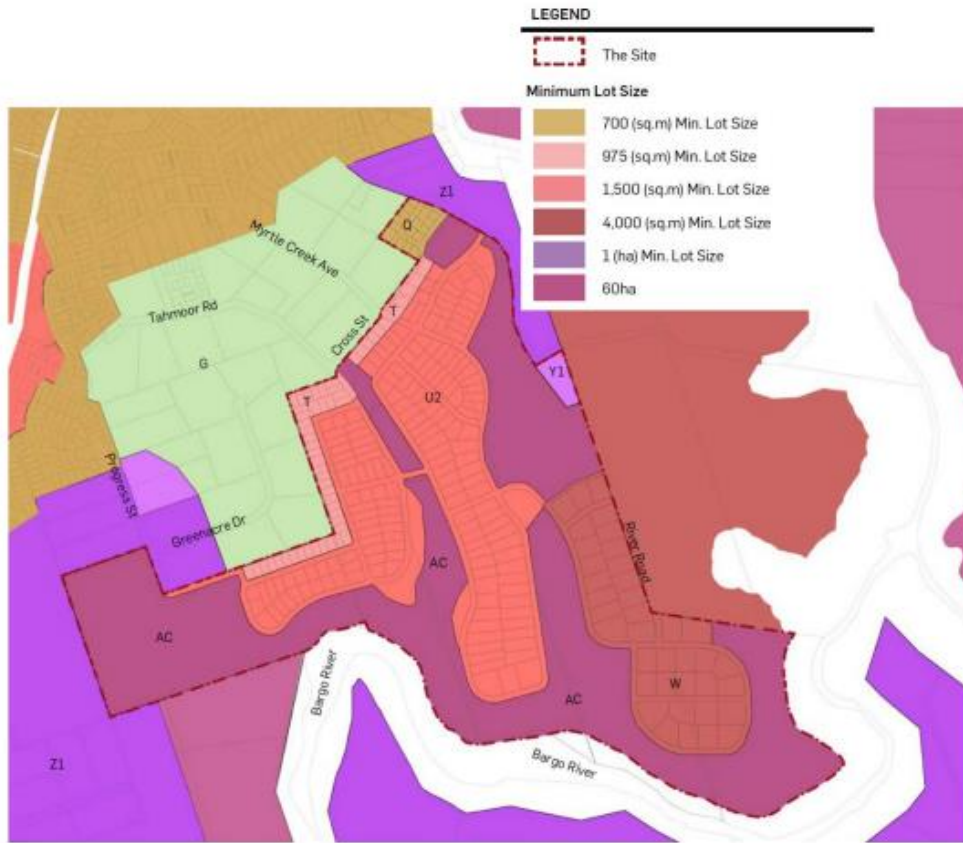


Figure 6 Proposed Minimum Lot Size map (Source: Planning Proposal)

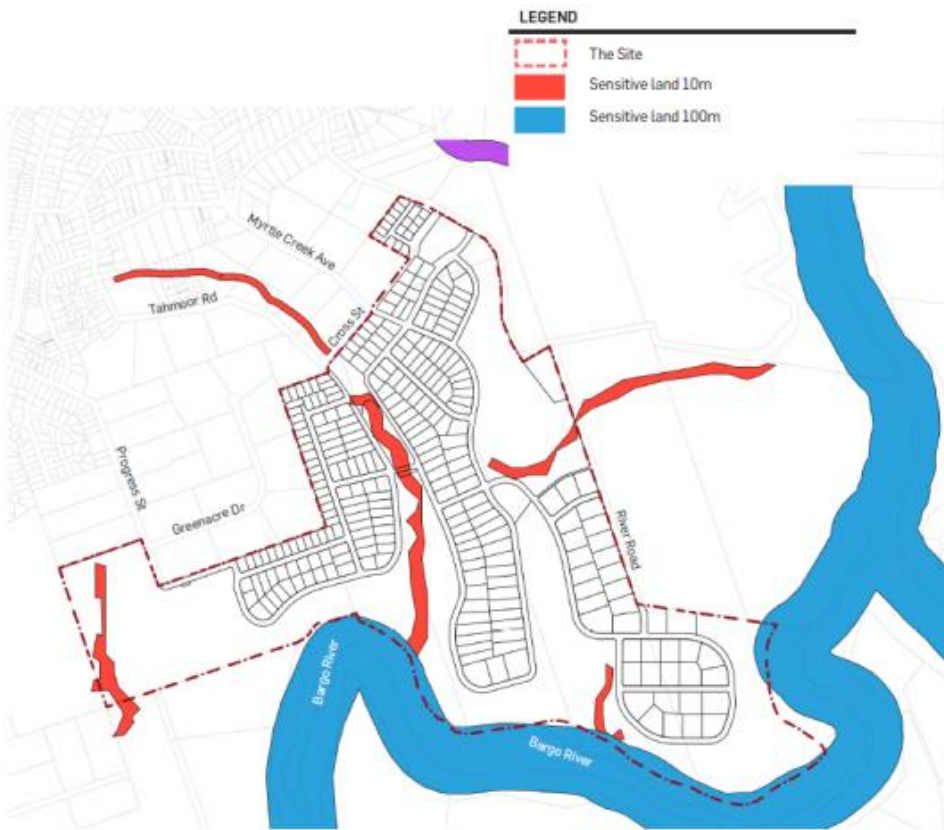


Figure 7 Proposed Natural Resources – Water map (Source: Planning Proposal)

1.6 Background

Previous Planning Proposal 2013-2020

A previous planning proposal seeking a similar outcome at this site was submitted to Council on 24 December 2013, and was ultimately determined not to proceed by the Department on 21 December 2020 due to:

- Inadequate measures for bushfire evacuation to minimise potential risk to life arising from the rezoning of the site,
- Arrangements for offsetting impacts to biodiversity have not been reached,
- Inadequate measures for wastewater servicing to demonstrate an ability for the site to be serviced in an interim or permanent state,
- The proposal is inconsistent with regional, district and local strategic planning frameworks now in place for Wollondilly LGA,
- The planning proposal is inconsistent with Ministerial Section 9.1 Directions 4.3 Planning for Bushfire Protection, 4.6 Mine Subsidence and Unstable Land, 6.1 Residential Zones and 8.1 Mining, Petroleum Production and Extractive Industries.

Further assessment of these issues is provided throughout this report and forms part of the conditions of the Gateway determination.

The previous planning proposal is fundamentally the same as the current version with some minor differences. The current proposal provides 281 residential lots, up from 253 previously. The increase in yield is a result of the removal of the proposed C3 Environmental Management zone along the western boundary adjoining Greenacre Drive which is now proposed to form part of the R5 Large Lot Residential zone. The environmental, social and infrastructure impacts of the current proposal are also discussed later in this report.

Previous concerns have been addressed by the proponent following completion of additional studies including a Whole of Infrastructure Delivery Strategy (**Attachment A20**), updated Bushfire Assessment (**Attachment A10**), and Sewer Servicing Strategy (**Attachment A8**).

Approved Concept Development Application

The site is subject to a development application which is consistent with the existing land use controls at the site. The Land and Environment Court upheld the proponent's appeal of a Deemed Refusal at the site for construction of 51 rural residential lots with a 2-hectare minimum lot size across the site. However, the proponent's preference is to proceed with rezoning of the site to deliver 281 dwellings and the conservation lands. It is noted that the proponent is entitled to proceed with the development application, however, this is not the preferred outcome of the proponent, Council or the Department. If the planning proposal is not supported, the applicant is likely to proceed with the approved Concept Development Application.

Rezoning Review

Council staff recommended to the Wollondilly Local Planning Panel (LPP) that the planning proposal not be supported to proceed for a Gateway determination. The LPP recommended to Council that the planning proposal could proceed subject to conditions which are discussed in Section 3.4 of this report. At its meeting of 23 July 2024, Wollondilly Shire Council resolved to not support the planning proposal despite Council staff changing its recommendation to support the planning proposal subject to conditions (**Attachment C4**). Following this resolution (**Attachment C5**), the proponent lodged a request for a rezoning review on 2 September 2024. On 5 November 2024, Council submitted its comments regarding the rezoning review (**Attachment C to C6**). Ultimately, on 27 February 2025, the Sydney Western City Planning Panel determined that the planning proposal should be submitted for a Gateway determination because the proponent has

demonstrated strategic merit and site-specific merit. In its determination, the Panel appointed itself as Planning Proposal Authority.

2 Need for the planning proposal

The planning proposal is the best means for achieving the intended outcomes. Rezoning the site will provide additional housing supply while protecting significant environmental values between the East Tahmoor Precinct and the Bargo River Gorge. The approved development application noted above would provide an inferior land use outcome compared to the planning proposal in terms of housing supply, environmental outcome and overall public benefit.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Greater Sydney Region Plan.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
Objective 24: Economic sectors are targeted for success	Given the adjacent residential development to the site, the applicant has ceased poultry farming operations, and the agricultural viability of this site is now limited. This planning proposal is an extension of the Tahmoor urban area.
Objective 27: Biodiversity is protected, urban bushland and remnant vegetation is enhanced	The proposal seeks to rezone biodiversity at the site to C2 Environmental Conservation and C3 Environmental Management to ensure environmental values are enhanced and protected at the site in perpetuity.
Objective 28: Scenic and cultural landscapes are protected	The planning proposal will preserve and maintain significant areas of ecological value across the site through the proposed Biodiversity Stewardship Agreement. The proposal will also provide public access to the scenic and cultural landscapes along the Bargo River Gorge including walking trails and viewing platforms.
Objective 29: Environmental, social and economic values in rural areas are protected and enhanced	It is noted that urban development is inconsistent with the values of the Metropolitan Rural Area. However, the proposal seeks conservation of 75.72ha of high value vegetation adjacent to the Bargo River Gorge and the provision of public access to the northern rim of the Gorge. The significant environmental and social benefit of the planning proposal adequately justifies the inconsistency with Objective 29.

3.2 District Plan

The site is subject to the Western City District Plan 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan as outlined below.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

Table 5 District Plan assessment

District Plan Priorities	Justification
Planning Priority W1 – Planning for a city supported by infrastructure	The planning proposal seeks to extend the services from the existing Tahmoor town centre. However, the capacity of existing infrastructure and provision of new infrastructure to meet the additional demands must be resolved.
Planning Priority W5 – Providing housing supply, choice and affordability with access to jobs, services and public transport	The planning proposal will provide additional local housing in proximity to Tahmoor town centre.
Planning Priority W14 – Protecting and enhancing bushland and biodiversity	The planning proposal will provide a positive biodiversity outcome at the site through the provision of 75 hectares of land via a Biodiversity Stewardship Agreement.
Planning Priority W17 – Better Managing Rural Areas	<p>The planning proposal seeks to rezone land in the Metropolitan Rural Area (MRA) for urban purposes which has not been identified in the strategic planning framework.</p> <p>Action 78 of the District Plan to maintain and enhance the values of the MRA using place-based planning to deliver targeted, social and economic outcomes provides some flexibility for proposals that provide significant public benefit.</p> <p>The biodiversity outcomes that can be delivered by the proposal justify the proposal's inconsistency with the Planning Priority. It is noted that agricultural viability at the site is now significantly limited by adjacent residential development.</p>

3.3 Local

Wollondilly Local Strategic Planning Statement

Table 6 Local strategic planning statement (LSPS) assessment

LSPS Priority	Justification
Planning Priority 3: Establishing a framework for sustainable managed growth	The proposal respects the character, setting and heritage of the Tahmoor village. The proposed lot sizes complement the rural village character of Tahmoor and is appropriate at the site's location. The proposed 6.8m building height in the south-east of the site will reduce visual impacts when viewing across the Bargo River Gorge and larger lot sizes in this part of the site will enable tree retention which will maintain scenic character.

LSPS Priority	Justification
	<p>The rezoning of additional C2 Environmental Conservation land supports the village character and achieves a positive biodiversity outcome.</p> <p>The planning proposal will have a positive effect on Tahmoor's economic and social sustainability. The provision of public access to the Gorge is a significant social benefit and provides recreation opportunities.</p> <p>Council has identified concerns with the proponent's Traffic Impact Assessment (Attachment A12) which is discussed later in this report.</p>
<p>Planning Priority 5: Providing housing options that meet local needs and match the local character of towns and villages</p>	<p>This priority notes that development in the MRA will be limited and must enhance each area's unique character and values. As discussed previously, the proposal's inconsistency with the objectives of the MRA is justified as it can provide appropriate development and outstanding environmental and social benefits.</p> <p>The proponent will be required to provide infrastructure to unlock housing supply.</p>
<p>Planning Priority 16: Enhancing and protecting the diverse values of the MRA</p>	<p>The priority states that fragmentation of rural land will only be supported in limited areas that are identified in the Wollondilly Local Housing Strategy and Rural Lands Strategy. It will only occur if the proposed development will have no adverse impacts on the agricultural, scenic and environmental values of the landscape.</p> <p>The assessment of this planning priority remains consistent with other matters related to the MRA in this report, being the limited agricultural viability of the site, the preservation of scenic landscapes and the environmental outcome delivered by the planning proposal.</p>
<p>Planning Priority 18: Living with climate impacts and contributing to the broader resilience of Greater Sydney</p>	<p>The planning proposal is generally consistent with this priority as it aims to mitigate climate impacts, particularly flooding and bushfire. However, the conditions of the Gateway determination require the proponent to consult with TfNSW and RFS to confirm that future residents at the site can evacuate safely during a significant bushfire event that impacts several parts of the region simultaneously.</p> <p>Further, the planning proposal is required to consider the Probable Maximum Flood (PMF) level, noting the proponent's Stormwater Management Report (Attachment A7) identifies flooding impacts in some parts of the site. Consultation with DCCEE and SES is also required.</p>

Wollondilly Local Housing Strategy (LHS) assessment

In March 2021, Council resolved to adopt the Wollondilly LHS (Resolution 33/2021). When adopting the LHS, Council also provided direction in relation to planning proposals that were active during the development of the LHS. Council resolved to amend the LHS to allow for consideration of appropriate new planning proposals that:

- Were refused during the finalisation period of the LHS,
- Were supported when they were most recently considered by Council prior to their refusal by the Department and,
- Had previously received a Gateway determination to proceed.

This planning proposal meets the above criteria and can therefore demonstrate strategic merit despite inconsistencies with the LHS.

Council Resolution 33/2021 also requires any relevant planning proposals to:

- Resolve any known planning or infrastructure issues previously identified for the site,
- Include appropriate road infrastructure upgrades for proposals that include rezoning to R2 Low Density Residential,
- Be consistent with the character of the surrounding area, consistent with the LSPS and would otherwise meet the definition of local growth

The Department's assessment concludes that the proposal is consistent with local character and has justified any inconsistency with the LHS. Since Resolution 33/2021, the proponent has identified a solution for wastewater servicing constraints which can also benefit other sites but requires a commercial agreement with Sydney Water. Transport matters are required to be addressed in consultation with TfNSW as part of the conditions of the Gateway determination prior to public exhibition.

Wollondilly Rural Lands Strategy

The Department issued a letter to Council on 9 September 2021 outlining its support for Action 6.1 of the Strategy to not rezone any further land outside the existing village footprints for further residential purposes, unless:

- **It is compatible with the Metropolitan Rural Area as identified in the Greater Sydney Region Plan** – the proposal is justified as it will preserve significant areas of ecological values and scenic areas throughout the site. The applicant proposes to enter into a Biodiversity Stewardship Agreement to protect 75 hectares of environmentally significant land at the site.
- **It is consistent with Council's Agricultural Viability Study recommendations** – the Study is yet to be completed.
- **An infrastructure strategy can be implemented to support further development** – this is subject to further consultation with key State agencies including Sydney Water and TfNSW.
- **It is consistent with Council's Hazards Analysis and Emergency Management Study recommendations** – as above, subject to further consultation with key State agencies including DCCEEW, RFS, SES and TfNSW.

Section 4.6 of the planning proposal assesses the proposal against relevant directions of the Wollondilly Rural Lands Strategy in detail. The strategy considers the demand for rural land uses and the opportunities to establish certainty for rural enterprises in Wollondilly LGA.

Principle A – Develop and promote agricultural resources and the rural economy

Given the adjacent development of the East Tahmoor Precinct, the site no longer provides opportunity for any form of intensive agriculture such as poultry farming. The physical characteristics of slope, soil fertility and lack of a permanent water supply makes the site unviable for protected cropping and market gardens. Additionally, the overall site conditions and site area are not appropriate for the establishment of large-scale cattle grazing.

Principle B – Reduce land use conflicts

The proposed urban development at the site is an extension of the Tahmoor urban footprint. Land use conflict with Ingham's Turkey Processing Plant is mitigated by the distance from the facility to the nearest residential development proposed at the site, noting existing development is located within 200 metres of Ingham's facility. Consultation with EPA is required as a condition of the Gateway determination to confirm support of the planning proposal.

Principle C – Managing pressure for rural living opportunities

As the site no longer provides opportunities for viable agricultural uses, rezoning of the site can appropriately provide housing supply.

Focus Area 3 – Manage the rural community, economy and services

Mining is a major industry in Wollondilly Shire. The proponent has undertaken appropriate consultation with Subsidence Advisory NSW and SIMEC (proponent of Tahmoor South Mine), however, the Department of Primary Industries did not respond to the proponent’s initial consultation. Confirmation of support from Department of Primary Industries is required as a condition of the Gateway determination.

Focus Area 5 – Managing places with special landscape, rural and scenic value

The planning proposal seeks to protect areas of ecological and scenic value at the site. Provision of infrastructure such as pathways, picnic areas and viewing vantage points will be provided to enhance the landscape and scenic value.

Focus Area 6 – Balancing environmental outcomes on rural lands

The focus area aims to ensure that development on rural land responds to extreme weather events, avoids hazards and retains important biodiversity values of the land. Further consultation is required with DCCEEW, RFS and SES to demonstrate consistency with the focus area.

3.4 Local planning panel (LPP) recommendation

The LPP noted that the proposal is technically inconsistent with the strategic planning framework, however, it could be submitted for a Gateway determination subject to several matters being addressed. The proponent has since submitted further information to respond to the Panel’s advice which is assessed throughout this report, including Table 7 below. The LPP also noted that the site and its draft planning proposals have previously been considered to have strategic merit. The LPP supported the proposal unanimously.

Table 7 Assessment of matters raised by the LPP

LPP Matter	DPHI Assessment
On site effluent disposal should not be supported to meet short- or long-term wastewater disposal requirements. However, the purple pipe system and ‘take more than you give concept’ solutions appear worthy of further consideration. A servicing agreement with Sydney Water that reflects this requirement should be sought by the proponent.	On site effluent disposal is supported on large lots in the east of the site. The conditions of the Gateway determination require the proponent to consult with Sydney Water to determine the servicing of the remaining dwellings.
Operational site requirements, including the location of asset protection zones, are to be located outside the proposed conservation area and clearly shown in future plans and documents seeking biodiversity related approvals or agreements.	Consultation with the Department of Climate Change, Energy, the Environment and Water (DCCEEW) and the NSW Rural Fire Service (RFS) is required as part of the conditions of the Gateway determination.
Ownership of land necessary to support future development (including detention basins) and associated management requirements, need to be confirmed and agreed with relevant parties.	Consultation with the relevant State agencies and Council is required in relation to acquisition matters.

LPP Matter	DPHI Assessment
<p>Ownership and management requirements for the proposed conservation area need to be confirmed and agreed with relevant parties.</p>	<p>DCCEEW and Council are required to be consulted with regarding the proposed Biodiversity Stewardship Agreement.</p>
<p>The width of the conservation area along the ridge of the Bargo River Gorge should be extended to enable the proposed passive recreation facilities to be accommodated without negatively impacting the conservation outcomes. While the Panel considers the proposed recreation outcomes are positive and worthy of support, they must be complementary to, and not at the expense of, conservation outcomes.</p>	<p>As above, DCCEEW is to be consulted.</p>
<p>The urban footprint of the indicative masterplan is considered to provide an unnecessarily lengthy interface with the high value natural vegetation which will create adverse biodiversity edge effects and increase the extent of the bushfire asset protection zones. The length and extent of this interface should be reduced.</p>	<p>As above, DCCEEW is to be consulted.</p>
<p>It is recognised that the above items may result in a smaller residential zoned area. However, the panel has no concerns if the same lot yield is achieved in a smaller urban footprint. In this regard, the potential lot yield is best determined by environmental and infrastructure constraints and capacities.</p>	<p>As above, DCCEEW is to be consulted.</p>
<p>The Traffic and Transport Study should be updated to address the objectives of Local Planning Direction 5.1 Integrating Land Use and Transport made under section 9.1(2) of the Environmental Planning and Assessment Act 1979. It is noted that the Panel considers the site's proximity to existing rail and future bus public transport linkages and the town centre of Tahmoor would give good reason for the site to be justifiably inconsistent with the Local Planning Direction.</p>	<p>The planning proposal's inconsistency with Local Planning Direction 5.1 Integrating Land Use and Transport remains an outstanding matter which requires consultation with TfNSW as part of the conditions of the Gateway determination.</p>
<p>An assessment of the visual impact of the proposed development on the Metropolitan Rural Area be undertaken and provided as part of the planning proposal. This should include the visual impact when viewing the site from the southern side of the Bargo River Gorge.</p>	<p>The Department is satisfied with the visual impact analysis (Attachment A23) provided with the proposal, which concludes that the 6.8m building height in the south-eastern portion of the site (compared to the proposed 9m for the rest of the site) appropriately mitigates visual impacts.</p>

LPP Matter	DPHI Assessment
The applicant must demonstrate through appropriate documentation prepared in consultation with Council and emergency service agencies that the outcomes identified by the Hazard Analysis and Emergency Management Study (HAEMS) under preparation by Wollondilly Shire Council will not be detrimentally impacted.	Consultation with TfNSW and RFS is required as a condition of the Gateway determination to confirm the appropriateness of the proposed evacuation measures.
All other outstanding infrastructure, servicing and environmental management issues (noise and odour) being satisfactorily progressed to resolution.	<p>The applicant provided additional information to address noise and odour impacts since the EPA's letter was provided on 8 March 2023. Consultation with EPA is required to confirm that all noise and odour concerns have been addressed by the proponent.</p> <p>Infrastructure and servicing matters are assessed further below.</p>

3.5 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 8 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Justified inconsistency	Key objectives of the Greater Sydney Region Plan are assessed in Section 3.1 of this report. The Department determines that the planning proposal's inconsistencies with the Greater Sydney Region Plan are minor and justified.
3.1 Conservation Zones	Inconsistent – further justification required	<p>The planning proposal seeks to rezone a significant portion of the site to C2 Environmental Conservation and C3 Environmental Management.</p> <p>However, a large portion of the biodiversity is proposed to be removed. The planning proposal intends to mitigate the biodiversity impact through a Biodiversity Certification and Biodiversity Stewardship process, but this application has since been withdrawn by Council.</p> <p>Confirmation is required on whether a new Biodiversity Certification and Biodiversity Stewardship process is sought to protect biodiversity with Council or separately by the proponent. These references in the planning proposal must be updated prior to exhibition. Consultation with DCCEE is required.</p>
3.2 Heritage Conservation	Consistent	No heritage items are listed on the site. The proponent's Aboriginal Archaeology Assessment (Attachment A13) located three rock shelters with potential archaeological

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		deposits. The shelters are located within the proposed C2 Environmental Conservation zone, with the width of the C2 zone allowing for a 50m buffer around identified sites. Therefore, the proposal appropriately facilitates heritage conservation.
4.1 Flooding	Inconsistent – further justification required	The Stormwater Management Report (Attachment A7) identifies that part of the proposed residential area is impacted by the Probable Maximum Flood (PMF) event. The conditions of the Gateway determination require the planning proposal to include assessment of the PMF level and consultation with DCCEEW and SES is required regarding flooding.
4.3 Planning for Bushfire Protection	Inconsistent – further justification required	<p>The land is mapped as bushfire prone, however, the NSW Rural Fire Service (RFS) provided in-principle support for the planning proposal, based on:</p> <ul style="list-style-type: none"> • The four identified pinch points will have an additional 10-metre-wide inner protection area established on the hazard side of the road to ensure safe access and egress, and • The management of any proposed asset protection zones will be funded via a finalised Biodiversity Stewardship Agreement (BSA), which is required to include an ongoing Bushfire Management Plan (BMP). <p>It is noted that evacuation matters require further consultation with TfNSW to address any road network capacity limitations during a significant bushfire event. Additionally, the biodiversity measures have changed therefore re-consultation with RFS is required.</p>
4.4 Remediation of Contaminated Land	Consistent	The planning proposal is consistent with this direction. Contamination is discussed further in Section 3.6.
4.6 Mine Subsidence and Unstable Land	Consistent	The site is located within the Bargo Mine Subsidence District. Subsidence Advisory NSW stated that future development of the subject site will require further approval. The coal title holder (SIMEC) raised no objections to the planning proposal and as such, the Department is satisfied that the planning proposal is not inconsistent with Direction 4.6.
5.1 Integrating Land Use and Transport	Inconsistent – further justification required	TfNSW's letter dated 2 March 2023 provided preliminary comments on the proposal noting that the planning proposal does not demonstrate consistency with the location and design guidelines for 'housing' contained in the DPE Improving Transport Choice – Guidelines for planning and development, in particular:

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<ul style="list-style-type: none"> • Households should be within an 800-1000 metres walk of an existing or programmed metropolitan railway station or equivalent mass transit node, served at least every 15 minutes, or within a 400 metre walk of a bus route, accessing a metropolitan railway station, or equivalent mass transit node, served at least every 20-30 minutes – in denser urban areas with higher frequency services, the walking catchment may be 600-800 metres. • New residential areas should be substantially within five kilometres of an existing or programmed railway station or equivalent mass transit node, such as a transitway stop, served at least every 15 minutes in the peak hour, and conform to the accessibility criteria outlined above. <p>The planning proposal's inconsistency with this direction remains an outstanding matter which requires consultation with TfNSW as part of the conditions of the Gateway determination.</p>
6.1 Residential Zones	Inconsistent – further justification required	<p>The previous version of the planning proposal was inconsistent with this planning direction due to unidentified solutions for the provision of infrastructure upgrades, particularly wastewater and road network upgrades.</p> <p>While information has been provided to demonstrate the site can be adequately serviced, further consultation with Sydney Water and TfNSW regarding the extent and delivery of upgrades are required as part of the conditions of the Gateway determination.</p>
8.1 Mining, Petroleum Production and Extractive Industries	Inconsistent – further justification required	<p>The site is located within the Tahmoor South Coal Project. Council consulted with the Secretary of the Department of Primary Industries as required by the Direction, however, no response was received.</p> <p>The proponent also contacted SIMEC to understand existing and proposed mining operations in the vicinity of the site. SIMEC advised that no planning approval has been sought for the extension of the Tahmoor South Coal Project, noting the Nepean fault line runs through the planning proposal site, which presents viability challenges for any future mining operations in the area.</p> <p>SIMEC confirmed that its operations will not materially impact the subject site. However, a response from DPI is required to confirm consistency.</p>
9.1 Rural Zones	Justified inconsistency	<p>The planning proposal is inconsistent with the direction as it will rezone rural land to a mix of residential and environmental zoned land.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<p>The proponent has undertaken an Agricultural Land Capability Assessment (Attachment A16) which demonstrates that the site is no longer able to support viable agricultural uses following development of the East Tahmoor Precinct adjacent to the site. The LEP odour buffer also limits the site's agricultural viability.</p> <p>The site is currently used for cattle grazing; however, this is a minor economy in the region and is economically unviable.</p> <p>Therefore, the planning proposal's inconsistency with Direction 9.1 is justified.</p>
9.2 Rural Lands	Justified inconsistency	<p>The planning proposal is inconsistent with the direction as it will impact land in an existing rural zone and changes the existing minimum lot size on land within a rural or conservation zone.</p> <p>The Agricultural Land Capability Assessment notes that Wollondilly Shire is not a significant producer of beef cattle, and the site itself is unable to support a significant number of cattle. Therefore, development of the site will not have an impact on the value of agriculture to NSW or the Wollondilly Shire. Agricultural opportunities are also limited by the site's previous use for intensive poultry farming. Market gardening or protected cropping are realistic uses following poultry farming; however, poor soil fertility, site slope and a lack of permanent water supply limit the viability of these land uses.</p> <p>Cattle grazing is also not an economically viable use at the site; therefore, it is unrealistic that the site can be used for viable agricultural enterprises in the future.</p> <p>The planning proposal demonstrates consistency with this direction in terms of protecting environmental and heritage values as discussed previously in this report. The proposal also appropriately considers the physical constraints of the land and proposes to certify suitable land for urban development, with the remaining land to be zoned for conservation.</p> <p>Future residential development at the site is unlikely to contribute to land use conflict given the proximity of existing residential uses.</p> <p>The planning proposal has appropriately justified its inconsistency with this direction.</p>

3.6 State environmental planning policies (SEPPs)

The planning proposal is inconsistent with the Biodiversity and Conservation and the Transport and Infrastructure SEPPs as discussed in the table below. Outstanding transport matters are recommended to be resolved via consultation with TfNSW as a condition of the Gateway determination.

Table 9 Assessment of planning proposal against relevant SEPPs

SEPPs	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Biodiversity and Conservation	Inconsistent	<p>The proposed Biodiversity Stewardship agreement requires further discussions between Council and the proponent.</p> <p>The NSW Office of the Chief Scientist and Engineer requires that a 390m wide koala corridor from the top of the bank is provided at the site as it is located on a major river. It is noted that a buffer width of 390m is not practical at this site and a 100m buffer is currently proposed. Consultation with DCCEE is required to determine an appropriate buffer width.</p>
Housing	Consistent	The planning proposal does not contain provisions that undermine the application of the SEPP.
Resilience and Hazards	Consistent	The site has been used for poultry farming and cattle grazing which have the potential to cause contamination. A Detailed Site Investigation found potential Asbestos Containing Material (ACM) in some areas affected by previous demolition. Contamination risk can be effectively managed at development application stage.
Resources and Energy	Consistent	Council received a submission from Tahmoor Coking Coal (SIMEC) during its preliminary notification process. SIMEC did not object to any future development at the site that meets the requirements of <i>Subsidence Advisory NSW – Surface Development Guideline 6 – Active mining areas – Minimal predicted subsidence impact</i> .
Transport and Infrastructure	Inconsistent	<p>The planning proposal was referred to TfNSW as it is ‘traffic generating’ development as per Schedule 3 – Chapter 2 of the SEPP.</p> <p>TfNSW’s letter dated 2 March 2023 which is summarised in Table 7 of this report outlines several matters to be addressed by the proponent.</p> <p>Council also notes the following:</p> <ul style="list-style-type: none"> • The existing local road network servicing the site, namely, Tahmoor Road, Myrtle Creek Avenue and Progress Street are local roads that have current pavement designs built to service minor traffic volumes that are not suitable to service increased volumes • The Myrtle Creek Avenue and Remembrance Driveway intersection is currently at capacity

SEPPs	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<ul style="list-style-type: none"> • The Traffic Report does not model or assess the intersection of River Road and Moorland Road • River Road is not line marked or signposted and has no status as a major collector road. <p>While the planning proposal has outstanding transport matters, the Department has determined that these can be addressed following further consultation with TfNSW as per the conditions of the Gateway determination.</p>

4 Site-specific assessment

4.1 Environmental

Biodiversity

If the proposal is supported, it would result in the conservation and enhancement of 75.72 hectares of environmentally significant land on the site in perpetuity.

The current planning proposal requires significant vegetation clearing to achieve the proposed lot layout. As such, it is recommended that DCCEEW is consulted with as a condition of the Gateway determination regarding the development footprint and the buffer width from the Bargo River Gorge. This may reduce the lot size of some proposed R5 Large Lot Residential development and would provide an improved environmental outcome.

The planning proposal is supported by a Biodiversity and Riparian Assessment (**Attachment A3**), Biodiversity Assessment Report and Biocertification Strategy (**Attachment A17**) and a Biodiversity Stewardship Assessment Report (**Attachment A18**). Four Plant Community Types (PCTs) were identified on the site which will be impacted, two of which are Critically Endangered Ecological Communities (PCT 849 Grey Box – Forest Red Gum Grassy Woodland and PCT 1395 Narrow Leaved Ironbark). The planning proposal intends to mitigate the biodiversity impact through the Biodiversity Certification process. The Biodiversity Assessment Report and Biocertification Strategy identify lands proposed to be certified for urban development, land proposed to be conserved via a Biodiversity Stewardship Agreement and land proposed to be conserved by zoning (**Figure 8**).

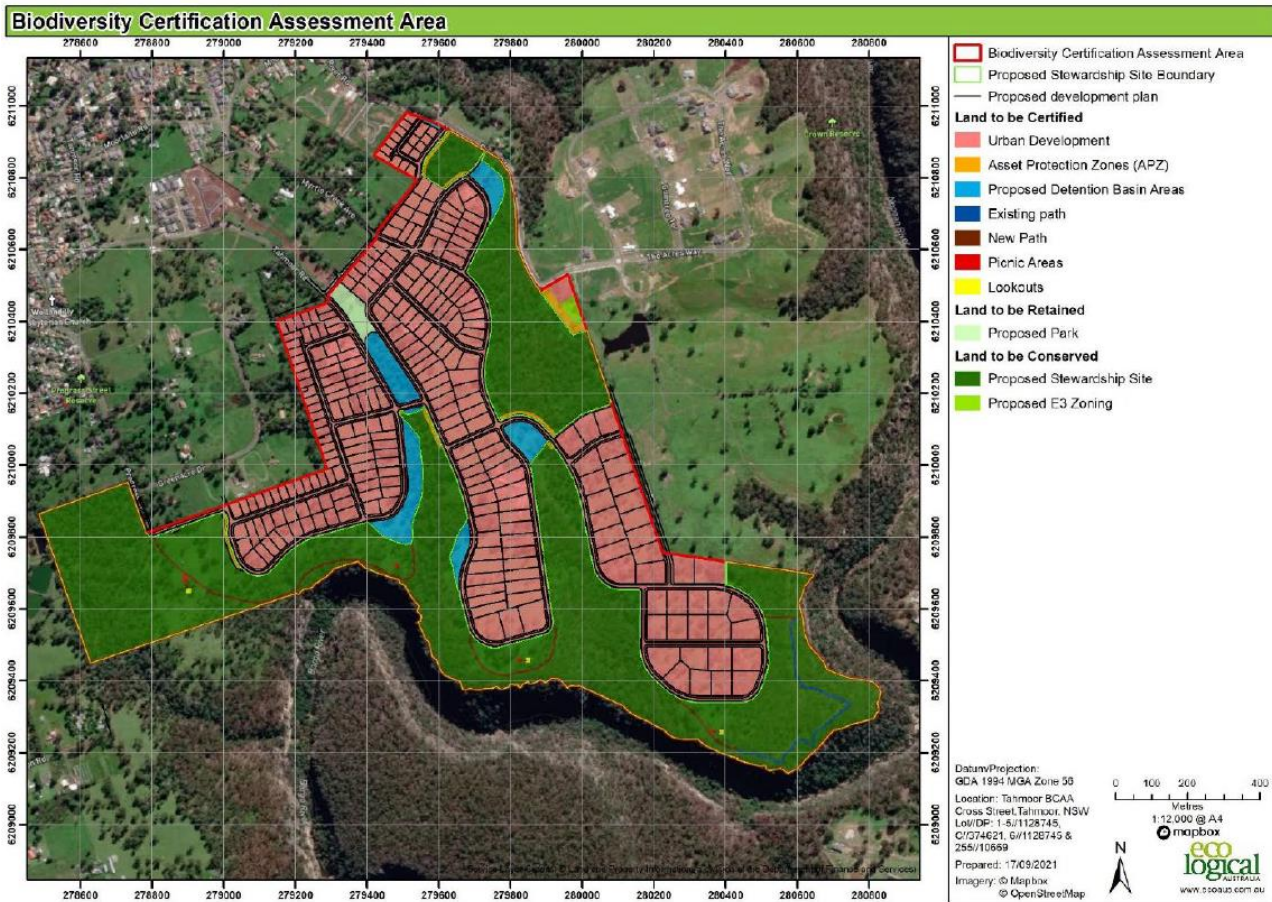


Figure 8 Proposed Biodiversity Certified and proposed Biodiversity Stewardship site (Source: Biodiversity and Riparian Assessment)

The proposed biodiversity certification includes:

- Biodiversity certification of the proposed residential land (certification area of 81.98ha)
- 38.17ha of native vegetation will be impacted and will require the retirement of species and ecosystem credits
- The establishment of a Biodiversity Stewardship Agreement (75.72ha of land) over the conservation lands, which is expected to generate sufficient credits to offset the land to be certified.

Of the 75.72ha subject to the Biodiversity Stewardship Agreement (BSA), 73.69ha will generate biobanking credits which comprises 66.92ha of vegetated land and the remaining 6.77ha of land is to be revegetated. The 2.03ha of land which won't generate biobanking credits will comprise 1.27ha of asset protection zones, 0.64ha for recreation tracks and 0.12ha is occupied by existing dams.

However, Council resolved to withdraw the Biodiversity Certification application that was previously submitted for the site, and the negotiations for between Council and the proponent for a Biodiversity Stewardship need to be confirmed.

The proponent is yet to consult with DCCEEW as part of the planning proposal process, which is recommended as a condition of the Gateway determination.

Flooding

The planning proposal is required to consider the Probable Maximum Flood (PMF) level to demonstrate that risks are appropriately mitigated. It is noted that the Stormwater Management

Report (**Attachment A7**) identifies some lots are impacted by the PMF event. Consultation with DCCEEW is also required regarding flooding.

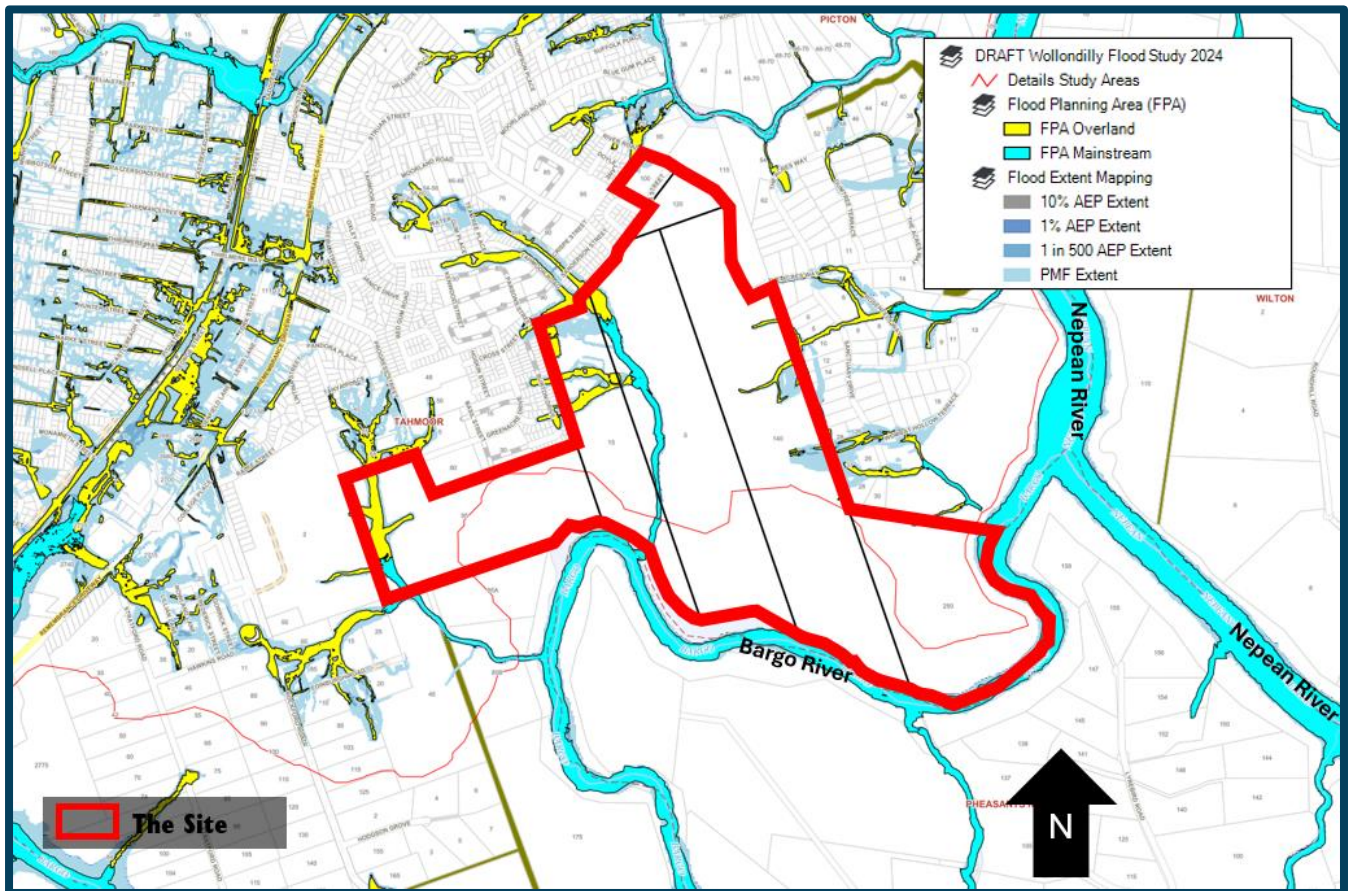


Figure 9 Flood Mapping (source: Draft Wollondilly Flood Study 2024)

Odour

Odour impact from the Turkey Processing Facility to the west of the site has been raised as an issue previously. Vegetation in the western part of the site provides an adequate buffer, with the nearest proposed development at the site located approximately 500 metres from the anaerobic ponds at the facility, which are the major source of odour. It is noted that there is existing development within 200 metres of the ponds. The proponent has provided additional information since the EPA raised concerns in its letter dated 8 March 2023. Consultation is required with EPA to confirm all odour issues have been addressed.

Bushfire

The site is mapped as bushfire prone land, however, the NSW Rural Fire Service (RFS) provided in-principle support for the proposal on the basis that:

- The four identified pinch points will have an additional 10-metre-wide inner protection area established on the hazard side of the road to ensure safe access and egress, and
- The management of any proposed asset protection zones will be funded via a finalised Biodiversity Stewardship Agreement (BSA), which is required to include an ongoing Bushfire Management Plan (BMP).

It is noted that evacuation matters require further consultation with TfNSW to address any road network capacity limitations during a significant bushfire event. Additionally, the biodiversity measures have changed therefore re-consultation with RFS is required.

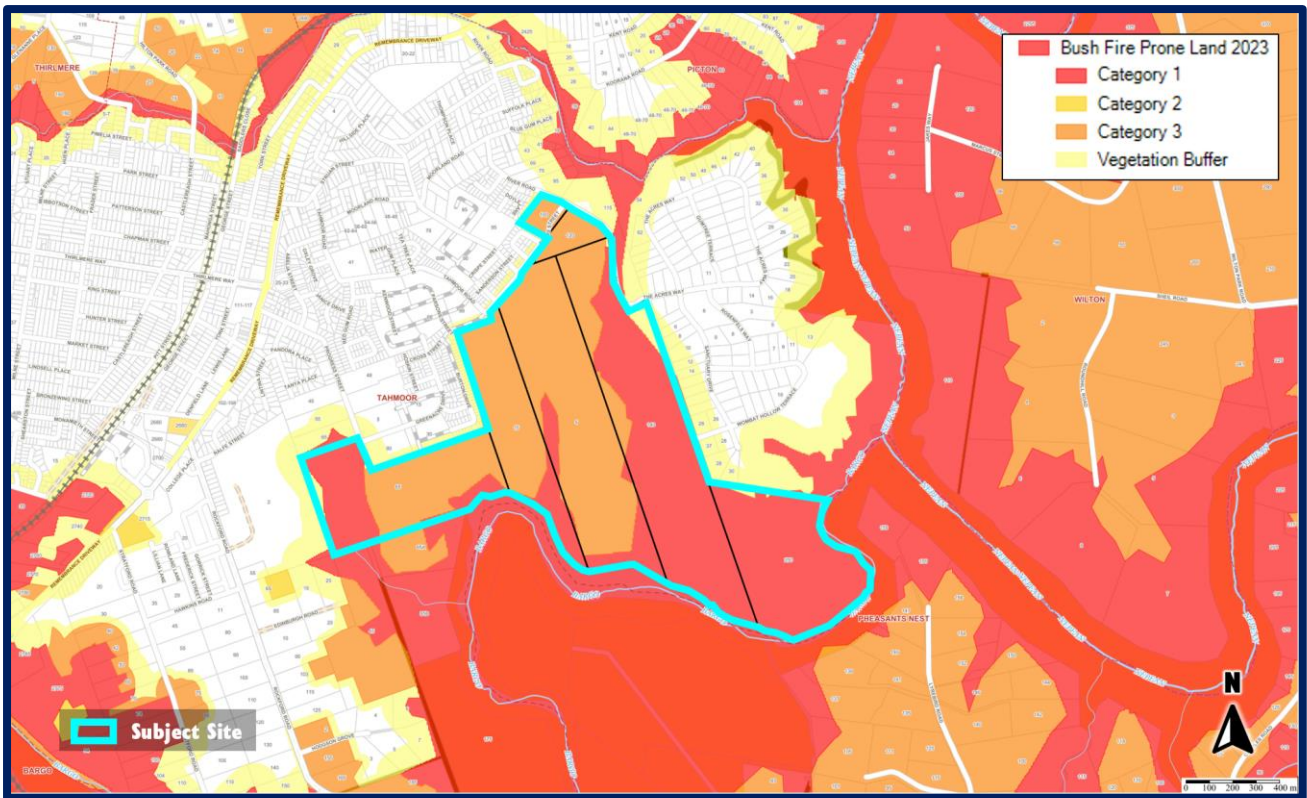


Figure 10 Bushfire Prone Land Map (Source: Rezoning Review Briefing Report)

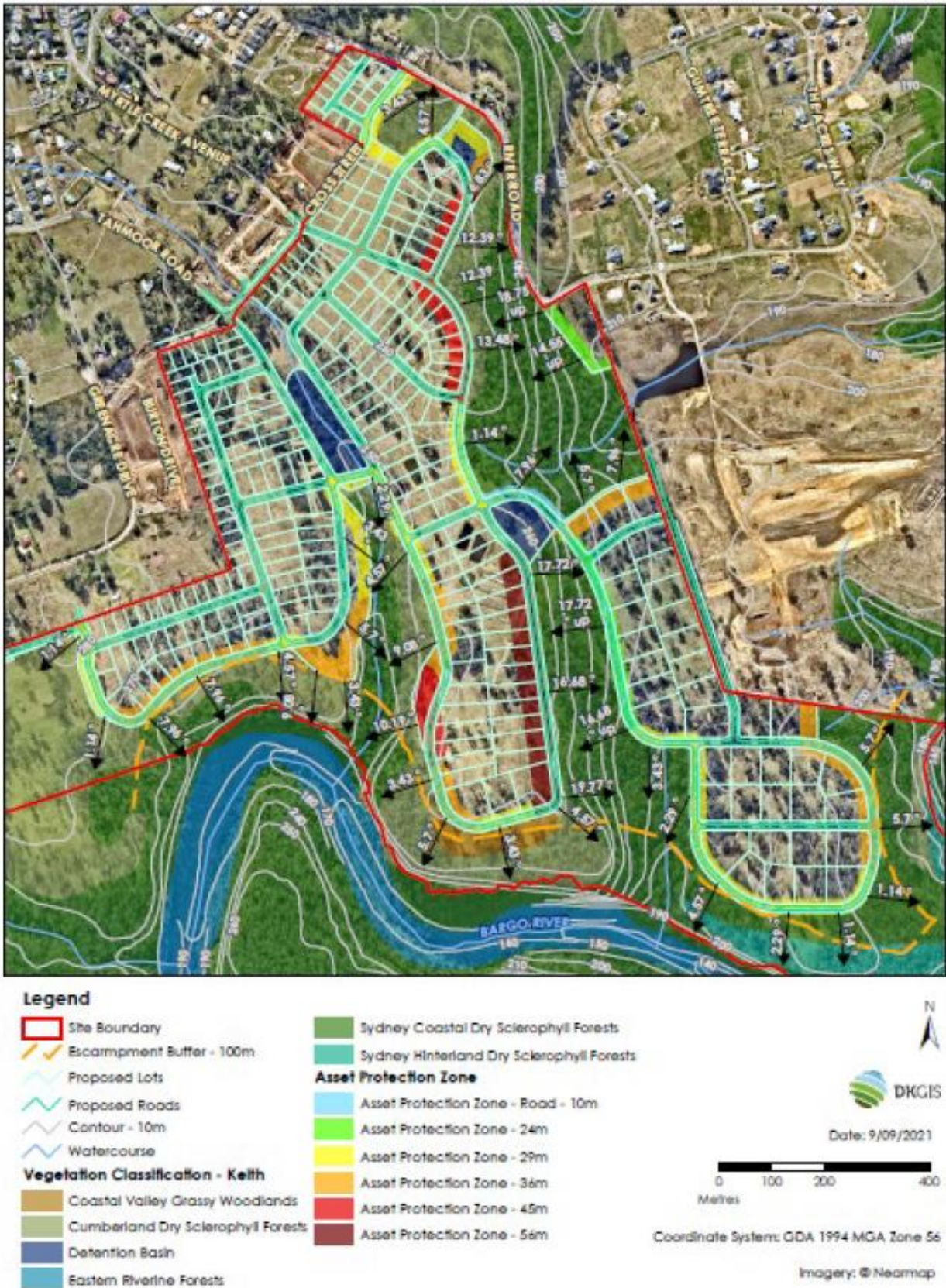


Figure 11 Proposed Asset Protection Zones (source: Planning Proposal)

4.2 Social and economic

Land dedication and open space

The planning proposal seeks to enable public access to the Bargo River Gorge which will be embellished by connected walking trails, picnic areas and viewing points. It was intended to dedicate the land to Council and this needs to be confirmed and updated in planning proposal prior to exhibition.

Visual impact

The planning proposal includes the application of a 6.8 metre building height limit in the southeastern portion of the site to reduce any visual impact when viewed from the opposite side of the Bargo River Gorge. The proponent has provided a Visual Impact Assessment (**Attachment A23**) which appropriately informs the proposed height limits at the site.

Tourism

As noted previously in this report, the provision of environmentally significant land in proximity to the Bargo River Gorge provides local tourism opportunities for Tahmoor which has the potential to benefit the local economy.

4.3 Infrastructure

A key issue with the planning proposal is the current lack of capacity available at Sydney Water's Picton Water Resource Facility. The proponent has prepared a Sewer Servicing Strategy (**Attachment A8**) to support the planning proposal. Sydney Water's letter to Council on 4 June 2024 advised that it cannot support the proposed rezoning in its current form without further ongoing work with the proponent and confirmation from Council on its overarching growth strategy. Sydney Water has since revised its advice to demonstrate willingness to work with the proponent on a wastewater servicing strategy at no cost to Government and no cost to customer approach.

Council's report of 23 July 2024 (**Attachment C4**) identifies that the key difference between the previously refused proposal and the current version is the progress made by the proponent and Sydney Water to address wastewater servicing constraints. While not completely resolved at this point, there has been a pathway identified to provide adequate wastewater servicing at the site.

The site will be serviced via connection to the Picton Treatment Plant either by Sydney Water's capacity improvement works and/or delivery of a treated recycled effluent pipeline. If required, the pipeline would be delivered under a commercial agreement with Sydney Water.

The planning proposal also includes a letter of offer (**Attachment A14**) from the proponent to enter into a Voluntary Planning Agreement (VPA) with Council. Council's report identifies that the offer has expired due to its age and a new letter of offer is required to be submitted to address matters raised in the council report. The Department notes that these matters can be negotiated between Council and the proponent prior to public exhibition. It is recommended that the endorsed VPA is exhibited concurrently with the planning proposal which forms part of the conditions for the Gateway determination.

An Infrastructure Delivery Plan (**Attachment A20**) has been prepared to support the planning proposal, which:

- Describes the required infrastructure by type and responsibility,
- Outlines infrastructure delivery and the legislative mechanisms that can be used to ensure provision,
- Outlines a preliminary staging schedule for the infrastructure that aligns with the development of the land for housing and other uses,

- Identifies the local infrastructure and monetary contributions that are intended to be included in a Planning Agreement between the proponent and Council.

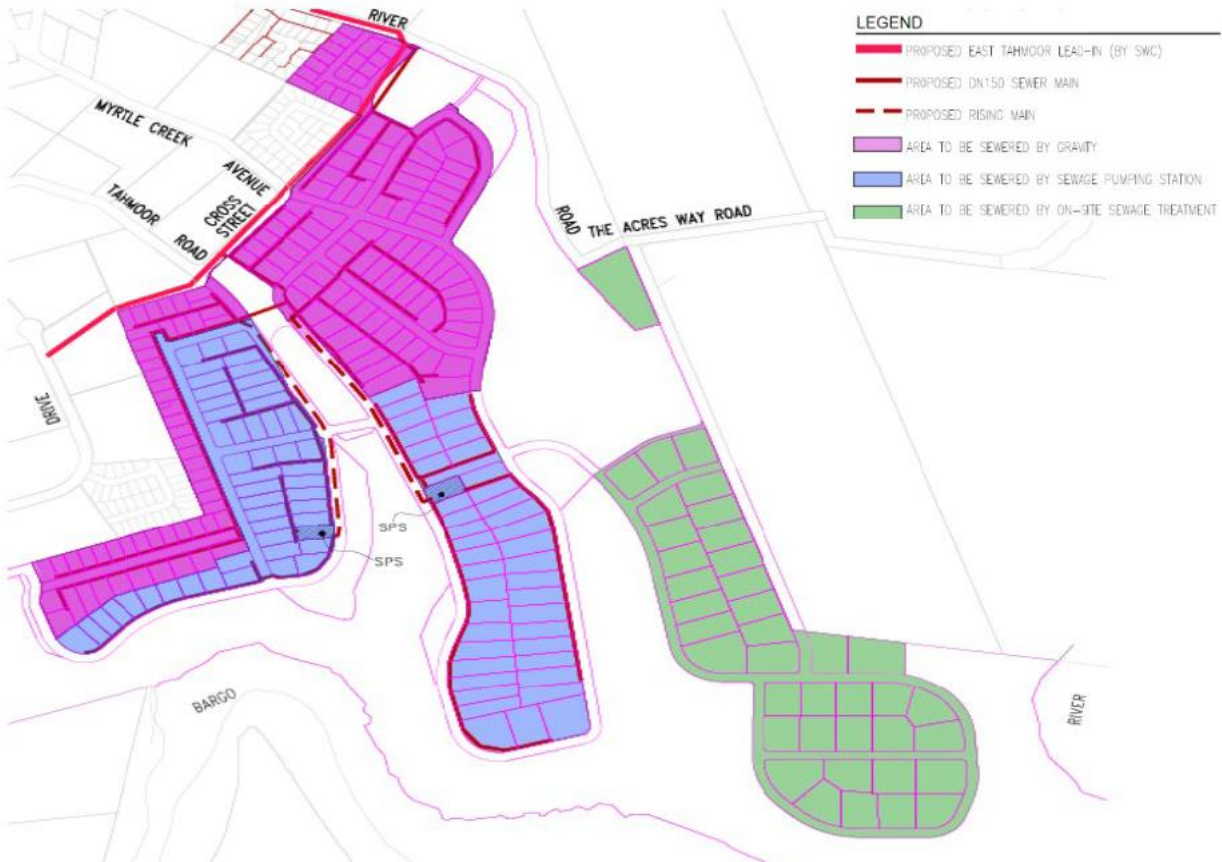


Figure 12 Sewer Servicing Strategy (source: Planning Proposal)



Figure 13 Infrastructure Delivery Plan (source: Planning Proposal)

The planning proposal seeks to identify the site as an Urban Release Area (URA) to ensure adequate provision of state and local infrastructure. Further discussion is required in the planning proposal to identify the infrastructure matters this intends to address. A condition to this effect is included as part of the conditions of the Gateway determination.

Consultation with Transport for NSW (TfNSW) is included as a condition of the Gateway determination to address transport infrastructure requirements generated by the planning proposal.

5 Consultation

5.1 Community

Preliminary consultation was undertaken by Council from 8 February to 8 March 2023. 62 community submissions were received, comprised of 33 opposing the proposal, 25 being neutral and 5 in support. The key issue raised in submissions was the need for road quality and traffic congestion to be addressed across Tahmoor and Picton. Other issues raised include a general lack of support for rezonings of this scale until the Picton Bypass is completed, lack of local infrastructure such as schools, shops, open space and health facilities, emergency evacuation arrangements, environmental impacts and the development being contrary to the concept of rural living. The key themes for support include the proposed conservation lands, proposed lot sizes and the tourism opportunity presented by providing public access to the Bargo River Gorge.

The planning proposal is categorised as complex under the LEP Making Guidelines (August 2023). Accordingly, a community consultation period of 30 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 40 working days to comment:

- Department of Climate Change, Energy, the Environment and Water (DCCEEW),
- Sydney Water,
- Transport for NSW (TfNSW).
- NSW Environment Protection Authority (EPA)
- NSW Rural Fire Service (RFS)
- NSW State Emergency Service (SES)
- Subsidence Advisory NSW
- Department of Primary Industries
- Wollondilly Shire Council

6 Timeframe

Council resolved not to support the planning proposal and therefore did not provide a timeframe to complete the LEP.

The LEP Plan Making Guideline (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as complex.

The Department recommends a LEP completion timeframe of 12 months from the date of the Gateway determination in line with its commitment to reducing processing times and regarding the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

As this planning proposal was subject to a rezoning review, Council is unable to be the local plan-making authority in this instance. As such, it is recommended that the Department is the local plan-making authority.

8 Assessment summary

If the planning proposal is to be supported, some matters are required to be further addressed to avoid and minimise adverse impacts. The positive community benefits of the planning proposal generally provide a balanced outcome between increased housing supply and environmental conservation. The proposal demonstrates strategic merit, but site-specific merit is required to be addressed via conditions and amendments to the planning proposal.

The planning proposal provides appropriate local housing supply and significant social and environmental outcomes, while proposing to supply the infrastructure needed to support housing development.

Some matters remain outstanding; however, these can be appropriately addressed through agency consultation and further updates to the planning proposal prior to public exhibition.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 1.1 Implementation of Regional Plans, 9.1 Rural Zones and 9.2 Rural Lands are minor and/or justified.
- Note that the consistency with section 9.1 Directions 3.1 Conservation Zones, 4.1 Flooding, 4.3 Planning for Bushfire Protection, 5.1 Integrating Land Use and Transport, 6.1 Residential Zones and 8.1 Mining, Petroleum Production and Extractive Industries are unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following conditions are recommended to be included on the Gateway determination:

1. Prior to public exhibition, the planning proposal is to be updated to:
 - Include current land use mapping that applies to the site, and current and proposed Urban Release Area (URA) mapping.
 - Include mapping and provide an assessment of the Probable Maximum Flood (PMF) extent at the site.
 - Update the project timeline.
 - Include consultation with Sydney Water on the timing and delivery of wastewater servicing through Sydney Water's network or a private servicing network, including the "take more than you give design", capacity for new connections to development, and details of any commercial agreement.
 - Include consultation with Transport for NSW regarding the road network's ability to accommodate the future demand created by development at the site, as well as the appropriateness of bushfire evacuation arrangements and the need for a Transport Management and Accessibility Plan.
 - Include consultation with the Department of Climate Change, Energy, the Environment and Water regarding the development footprint of the planning proposal including the buffer

width from Bargo River Gorge, proposed asset protection zones, biodiversity certification of the site and flooding.

- Include consultation with Wollondilly Shire Council regarding the appropriate mechanisms for local infrastructure including the dedication of land for open space, detention basins and the Biodiversity Stewardship Agreement.
2. Prior to exhibition, the planning proposal is to be amended to address condition 1 and forwarded to the Minister under s 3.34(6) of the Act for approval.
 3. Prior to public exhibition, consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9.1 of the Act:
 - Department of Climate Change, Energy, the Environment and Water (DCCEEW),
 - Sydney Water,
 - Transport for NSW (TfNSW).
 - NSW Environment Protection Authority (EPA)
 - NSW Rural Fire Service (RFS)
 - NSW State Emergency Service (SES)
 - Subsidence Advisory NSW
 - Department of Primary Industries
 - Wollondilly Shire Council
 4. The planning proposal should be made available for community consultation for a minimum of 30 working days.
 5. The planning proposal should be exhibited concurrently with a draft Development Control Plan.
 6. The planning proposal must be reported to the Planning Secretary, as the Local Plan Making Authority, for a final recommendation within 9 months from the Gateway determination.
 7. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act.
 8. The timeframe for completing the LEP is to be within 12 months from the date of the Gateway determination.



2/7/2025

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