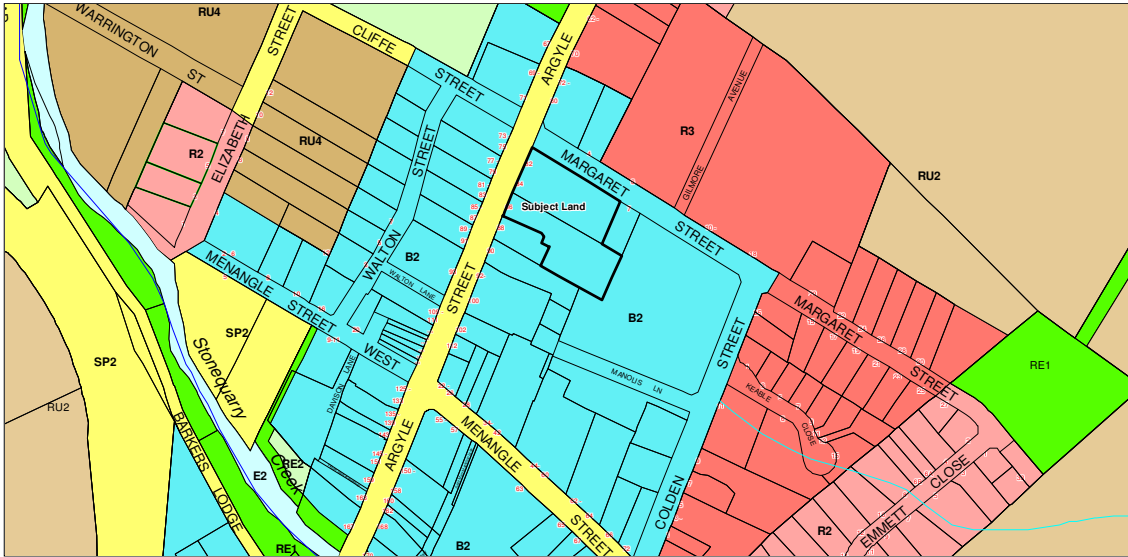


Report to the South West Sydney Regional Planning Panel

| | |
|------------------|---|
| JRPP No. | |
| DA No. | 010.2012.00000552.001 |
| Site | Lot 1 DP 829645, No. 86 Argyle Street, Picton Lot 2 DP 212204, No. 82-84 Argyle Street, Picton |
| Proposal | Subdivision of two lots into three lots |
| Applicant | UGL Services Pty Ltd |

MAPS OF THE SUBJECT LAND



Map 1: Wollondilly Local Environmental Plan 2011



Map 2: Site constraints including, drainage lines, flooding, the heritage conservation area and bushfire prone land (Vegetation Categories 1 and 2)

EXECUTIVE SUMMARY

This report concerns Development Application No 010.2012.00000552.001 for a proposed subdivision of two lots into three lots at Lot 1 DP 829645, No. 86 Argyle Street, Picton.

The application is reported to the Joint Regional Planning Panel as the proposal is a Crown Development and the applicant has not accepted the conditions of consent as required under Section 89 of the Environmental Planning and Assessment Act, 1979.

The subject application was notified to adjoining and nearby land owners in accordance with Council's Development Control. Nil (0) submissions were received.

There have not been any disclosures of political donations made in regard to this application.

It is recommended that the application be approved subject to conditions of consent.

CONSULTATION

The subject Development Application has been referred to the following external and internal parties for comment/approval:

| External Parties | Outcome |
|-------------------------|--|
| None required | Not applicable |
| Internal Parties | Outcome |
| Development Engineer | No objections subject to conditions. |
| Heritage Adviser | Raised concerns which are assessed later in this report. |

PROPOSAL

1.1 Description of site and surrounding area

The site comprises two B2 Local Centre Lots located in the township of Picton. Lot 1 is an irregular shaped allotment with an area of 3152m² square metres in area and a frontage to Argyle Street of 17.58 metres. The lot contains an existing police station and brick garage to the rear of the police station. The lot also contains a large vacant area at the rear of the site.

Lot 2 is a rectangular shaped allotment being 3285 square metres in area and is a corner lot with frontage to Argyle Street and Margaret Street. The lot contains two old cottages with ancillary structures and a large vacant area at the rear of the site. The two cottages are separated from the large open area at the rear of the site by the sealed driveway which leads to lot 1.

1.2 Description of Development

The proposal includes the subdivision of the existing two lots into three lots as follows:

| Proposed Lot | Area | Structures which will be retained |
|--------------|-----------------------|--|
| 1 | 3,430m ² | Will be a vacant site |
| 2 | 1,609m ² | Will contain the two residential houses and ancillary structures |
| 3 | 1,398.5m ² | Will contain the existing police station and ancillary structure |

Proposed lot 3 would be serviced by two access driveways. One which enters the site from Argyle Street and the other which enters the site from Margaret Street and also services proposed lot 2.

ASSESSMENT OF PROPOSAL

2.1 Section 79C Assessment – Matters for Consideration

2.1.1 Provisions of Relevant Environmental Planning Instruments

Environmental Planning and Assessment Act, 1979

Section 89 of the Act states the following in respect of the determination of Crown Development applications:

“(1) A consent authority (other than the Minister) must not:

- (a) refuse its consent to a Crown development application, except with the approval of the Minister, or*
- (b) impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.”*

Council's recommendation is that the development be approved subject to conditions. On 15 May, 2013, the draft conditions were sent to the applicant by Council for comment. The draft conditions included the following recommended conditions of consent:

“2(2) A right-of-carriageway shall be provided over Proposed Lot 2 to the rear of Proposed Lot 3 to ensure the existing access to Margaret St can be retained.

4(4) A Section 88B Instrument shall be prepared which provides for Restrictions on the subject land in accordance with conditions 2(1) and 2(2) of this consent and shall also provide a restriction that Proposed Lot 3 shall not have direct vehicular access to Argyle Street.

The restriction shall also contain a provision that it may not be released, varied or modified without the consent of Council.”

On 24 June, 2013, the applicant wrote to Council advising the following:

We would like condition 2(2) omitted as we will not be using the driveway from Margaret Street to access Lot 3. Instead we will be the existing (sic) driveway off Argyle Street”.

On 18 July, 2013 Council responded by advising the applicant of the following:

“The development application shows that lot 3 would be serviced by the access from Margaret Street. This access burdens lot 2 in favour of lot 3 and therefore a condition requiring the right of carriageway is necessary. The only way for Council to delete the condition would be for an amended plan to be submitted showing an alternate access. However, Council's Engineers do not support Lot 2 being accessed from Argyle Street.”

To date an amended plan has not been received and Council is of the view that the condition is reasonable as an access to lot 3 from Argyle Street only would have an unreasonable impact on the traffic flows in Argyle Street.

State Environmental Planning Policy No. 55 – Remediation of Land

| Question | YES | NO |
|---|-----------------------|-------------------------|
| 1. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)? | Proceed to Question 3 | X Proceed to Question 2 |
| 2. Does the proposal result in a change of | Proceed to | X Assessment |

| Question | YES | NO |
|---|------------|-------------------------------------|
| use (that is the establishment of a new use)? | Question 3 | under SEPP 55 and DCP not required. |

Comments: No change of use is proposed. The development is therefore satisfactory under SEPP 55.

Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River

| Relevant Provisions | Comment |
|--|--|
| 3. Aims of the Plan | The proposal is considered to be consistent with the aims of the plan as the development could occur with no adverse impact on the quality on the river. |
| 6. Planning Policies and Recommended Strategies | |
| (3) Water quality | The development would have no adverse impact on water quality. |
| (10) Urban development | The impacts of the urban development are able to be appropriately minimised as required by the policy. |

Wollondilly Local Environmental Plan, 2011

Characterisation: Subdivision of Land (as defined under the Act)
Zone of land: B2 Local Centre
Permissibility: Permitted with consent
Zone objectives:

| Objective | Comment |
|---|--|
| <u>B2</u> | |
| • <i>To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.</i> | The proposed additional commercial allotment would create an opportunity for a retail, business, entertainment, or community use in the locality to serve the needs of the local area. |
| • <i>To encourage employment opportunities in accessible locations.</i> | The additional commercial allotment would increase the potential for uses which create employment opportunities in the area. |
| • <i>To maximise public transport patronage and encourage walking and cycling.</i> | The development would not be contrary to this objective. |
| • <i>To provide for appropriate residential development in the form of shop top housing to support the vitality of the local area.</i> | Not applicable. |

LEP Clauses

| Clause | Comment |
|---|---|
| Part 2 Permitted or prohibited development | |
| 2.6 Subdivision—consent requirements | The clause states that subdivision of land may only be carried out with consent. The appropriate consent has been sought and the requirements of the clause are achieved. |

| Clause | Comment |
|---|--|
| Part 4 Principal development standards | |
| 4.1 Minimum subdivision lot size | There is no minimum allotment size for the site under the minimum lot size map. |
| Part 5 Miscellaneous provisions | |
| 5.10 Heritage conservation | <p>The site is located within the Picton Heritage Conservation Area.</p> <p>The proposal places the key heritage items on a single parcel. This is considered to be a positive outcome from a conservation perspective particularly given the probably long life of the use of the police station.</p> <p>The applicant's heritage report has suggested that an 88B instrument be included as a condition of consent to require the retention and protection of the two cottages on the land. This suggestion has not been adopted by Council's Heritage Adviser who does not see sufficient benefit in the retention of the cottages to warrant their conservation.</p> <p>It is considered that the subject site is significant in the context of the Picton Commercial precinct and its future use for commercial activities with appropriate activated frontages would give a far greater benefit than the conservation of the cottages which are not presently heritage listed and for which Council has no adopted position to heritage list them in the future.</p> <p>A condition was also recommended by Council's Heritage Advisor requiring that a building envelope be added to lot 1 and 2 to ensure that future development is not of a bulk and scale in comparison to the police station on proposed lot 3. It is considered that a building envelope on the lots would be unnecessarily restrictive given that the site is within a commercial zone. The site is within a zone which typically allows a zero boundary setback. It is considered that this is an issue that would be a matter of consideration at the time in which a development application is lodged for either lot 1 or 2.</p> |
| Part 7 Additional local provisions | |
| 7.1 Essential services | Facilities for the adequate disposal of water and sewer are available to the site. Conditions are recommended requiring all buildings on the site which generate wastewater to be connected to reticulated sewer prior to the issue of any Subdivision Certificate. |
| 7.4 Flood planning | The site sits slightly outside the 1 in 100 AEP Stonequarry Creek flood layer. The proposal will not increase risk associated with flood and does not imply any inappropriate future development of the site. |

Any Draft Environmental Planning Instrument

There are no draft Environmental Planning Instruments to which the development applies.

Any Voluntary Planning Agreement

There are no Voluntary Planning Agreements to which the development applies.

Any Development Control Plan

| DCP Volume | Relevance |
|--|-----------|
| Volume 1 – General | X |
| Volume 2 – Primary agricultural and Rural uses | |
| Volume 3 – Residential and Tourist uses | |
| Volume 4 – Commercial and Community uses | X |
| Volume 5 – Industrial and Infrastructure uses | |
| Volume 6 – Camden Park | |
| Volume 7 – Wilton | |

Volume 1 – General

| Relevant Provisions | Comment |
|---|--|
| 1.2 Aims of Plan | The proposal is consistent with the aims of the plan. |
| 1.11 Request for Variation | The development does not include any request for variation to any control in the DCP. |
| 2.1 Advertising and Notification of Development Proposals | The proposal was notified in accordance with the requirements of the plan. |
| 2.2 Heritage Conservation | Satisfactory as discussed above under LEP clause 5.10. |
| 2.7 Flood affected land | Satisfactory as discussed above under LEP clause 7.4. |
| 2.10 Land slip and subsidence | The site is not identified as being subject to landslip. The concurrence of the Mine Subsidence Board has been obtained. |

Volume 4 – Commercial and Community Uses

| Relevant Provisions | Comment |
|---|---------|
| There are no subdivision controls in this volume. | |

The Likely Impacts of That Development

| Head of Consideration | Comment |
|-----------------------|--------------------------------|
| Natural Environment | No adverse impacts anticipated |
| Built Environment | No adverse impacts anticipated |
| Social Impacts | No adverse impacts anticipated |
| Economic Impacts | No adverse impacts anticipated |

The Suitability of the Site for the Development:

It is considered that the site is suitable for the development. There are no physical constraints on the site which impede the development and the resultant lot layout would be enable future development of the lots to be consistent with the existing commercial precinct.

Any Submissions Made in Accordance With This Act or the Regulations:

Form of Exhibition: Notified
Submissions Received: Nil (0)

Consideration of submissions:

| Submitter Comment | Assessor Comment |
|-------------------|------------------|
| N/A | N/A |

Section 94 and 94A Assessment

| | |
|------------------------------------|------------------|
| Date of Lodgement | 17 October, 2012 |
| Relevant Contributions Plan | 2011 Plan |

Section 94 Contributions

| Development Type | Applicable | Condition Required |
|---|------------|-------------------------|
| Subdivision (Residential / Rural / Water Catchment Zones) <i>Excludes subdivision of an existing dual occupancy or rural worker's dwelling</i> | No | No |
| Multiple Dwellings, Medium Density, Mixed Use Development (eg. Shop Top Housing, RFB's, Care takers dwellings) | No | No |
| Seniors Living (self contained dwellings and in-fill self-care housing) | No | No |
| Rural Worker's Dwelling | No | No |
| Secondary Dwelling (Granny Flat) | No | No Contribution Payable |

Section 94A Contributions

| | |
|----------------------------|-----|
| Cost of Development | N/A |
|----------------------------|-----|

| Description | Levy | Applicable | Condition Required |
|---|------|------------|--------------------|
| <i>Development:</i> a) for the purpose of disabled access, b) for the sole purpose of affordable housing, c) for the purpose of reducing the consumption of mains-supplied potable water, or reducing the energy consumption of a building, d) for the sole purpose of the adaptive reuse of an item of environmental heritage, or e) other than the subdivision of land, where a condition under section 94 of the Act has been imposed under a previous development consent relating to the subdivision of the land on which the | NONE | | |

| Description | Levy | Applicable | Condition Required |
|---|------|------------|--------------------|
| <i>development is proposed to be carried out."</i> | | | |
| Non-residential development with proposed cost between \$100,001 and \$200,000. | 0.5% | No | No |
| Non-residential development with proposed cost exceeding \$200,000. | 1.0% | No | No |

The Public Interest

It is considered that the development would not have any detrimental impact to the public interest nor the interest of any government agency representative of the public interest and would be beneficial to the long term development of the Picton Commercial precinct.

RECOMMENDATION

That the development application No. 010.2012.00000552.001 be approved subject to the following conditions of consent:

1. COMPLIANCE

These conditions are imposed to ensure that the development is carried out in accordance with the conditions of consent and the approved plans to Council's satisfaction.

- (1) Development Consent is granted for the subdivision of two (2) allotments into three (3) allotments at Lot: 1 DP: 829645 No. 86 Argyle Street, Picton and Lot: 2 DP: 212204, No. 82- 84 Argyle Street, Picton.
- (2) Development shall take place in accordance with the endorsed plans prepared by Geoff Swalwell Surveyors and submitted in respect of Development Application No. 010.2012.00000552.001 dated 19/9/2008, except where varied by the following conditions:
- (3) Unless permitted by another condition of this consent, there shall be no tree clearing unless the vegetation is:
 - (a) Within the footprint of an approved building, access driveway or other structure; or
 - (b) Within three (3) metres of the footprint of an approved building; or
 - (c) Preventing the achievement of the minimum asset protection zone requirements under the relevant planning for bushfire protection guidelines.

In this condition ***Tree Clearing*** has meaning as described in Clause 5.9(3) of Wollondilly Local Environmental Plan, 2011.

- (4) Where any work associated with this consent has the potential to disturb neighbours through the generation of noise, dust, odour, vibration or through deliveries to the site the person with control over the works shall advise the occupants of all adjoining and potentially affected properties of the timing and duration of such works. The land owner has the ultimate responsibility for ensuring that anybody undertaking works under this development consent on their behalf is aware of this requirement and completes the task required by this condition.

2. ENGINEERING REQUIREMENTS

These conditions have been imposed to ensure suitable easements and rights of carriageway are provided for the lots

- (1) An interallotment drainage system shall be provided for those lots not able to discharge stormwater by gravity flow to the road gutter or suitable Council drainage system. This system shall be located within a drainage easement not less than 3.0 metres wide which confers appropriate drainage rights. The easement is to be located in accordance with the approved plans.
- (2) A right-of-carriageway shall be provided over Proposed Lot 2 to the rear of Proposed Lot 3 to ensure the existing access to Margaret St can be retained.
- (3) An 8m by 8m splay corner shall be dedicated to Council from the corner of the site located at the intersection of Margaret and Argyle Streets to facilitate adequate sight distances and vehicular access.

3. SERVICES

These conditions have been imposed to ensure that an adequate level of services is provided for the development:

- (1) Electricity supply is to be made available to all proposed lots in accordance with the requirements of Endeavour Energy. In this regard, written confirmation from Endeavour Energy that suitable arrangements have been made shall be submitted to the Principal Certifying Authority prior to the release of the Subdivision Certificate.
- (2) Provision is to be made for the supply of telephone services to all proposed lots in accordance with the requirements of Telstra. In this regard, written confirmation from Telstra Australia that arrangements have been made shall be submitted to the Principal Certifying Authority prior to the release of the Subdivision Certificate.
- (3) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Co-ordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of any Subdivision Certificate for the development.

- (4) All buildings capable of generating waste water shall be connected to the reticulated sewerage system prior to the release of the Subdivision Certificate. Certification that the subject buildings have been connected is to be provided with the Subdivision Certificate application.

4. SUBDIVISION PLANS

These conditions have been imposed:

- (a) **To outline the minimum development standards and provide design guidelines for the subdivision of land in the Shire.**
- (b) **To outline Council's requirements on work standards for the construction of land subdivision:**
 - (1) A letter from a Registered Surveyor shall be submitted to Council certifying that no services of Public Utility or waste water disposal presently connected to existing buildings straddle proposed boundaries after subdivision.

- (2) Submission to Council of the Linen Plan of Subdivision together with nine (9) copies suitable for certification by the General Manager and lodgement at the Lands Titles Office. A fee for the release of the Subdivision Certificate applies.
- (3) The development shall be completed in accordance with the relevant plans and conditions of consent prior to the release of the Subdivision Certificate.
- (4) A Section 88B Instrument shall be prepared which provides for Restrictions on the subject land in accordance with conditions 2(1) and 2(2) of this consent and shall also provide a restriction that Proposed Lot 3 shall not have direct vehicular access to Argyle Street.

The restriction shall also contain a provision that it may not be released, varied or modified without the consent of Council.

5. PRESCRIBED CONDITIONS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979.

These conditions are imposed as they are mandatory under the Act.

- (1) SIGNS TO BE ERECTED ON BUILDING, SUBDIVISION AND DEMOLITION SITES
 - (a) In accordance with Section 80A (11) of the Environmental Planning & Assessment Act, 1979, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) Showing the name, address and telephone number of the Principal Certifying Authority for the work; and
 - (ii) Showing the name of the Principal Contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
 - (iii) Stating that unauthorised entry to the work site is prohibited.
 - (b) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
 - (c) This Clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

6. ADVICES

- (1) The following service providers should be contacted before commencement of construction to establish their requirements:
 - Dial before you dig (various services) 1100
 - Telstra (telephone) 1 800 810 443
 - Endeavour Energy (electricity) 131 081
 - AGL (gas) 131 245
 - Sydney Water (water & sewer) 132 092