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2 September 2024

NSW Department of Planning, Housing and
Infrastructure
4 Parramatta Square
12 Darcy Street
Parramatta NSW 2150

Dear Sir / Madam

Request for Rezoning Review Planning Proposal for Cross Street and River Road, Tahmoor

We act for Ingham Property Development Pty Limited (**Ingham**), the proponent of the draft Planning Proposal (**Planning Proposal**) for the site at Cross Street and River Road, Tahmoor (the **Site**). On behalf of our client, we request a rezoning review of the Planning Proposal.

1 Summary

1.1 Ingham respectfully submits that the Planning Proposal should proceed to Gateway Determination for the following reasons:

- (a) The Planning Proposal has been demonstrated to have strategic and site-specific merit. This is affirmed by Urbis in the **attached** letter (**Urbis Letter**), which provides a written justification for the rezoning review against the criteria for strategic and site-specific merit under the *Local Environmental Plan Making Guideline (August 2023)*;
- (b) The Planning Proposal is largely the same as a former planning proposal that was supported by Wollondilly Shire Council (**Council**) and received a positive Gateway Determination;
- (c) The Planning Proposal was supported by the Local Planning Panel (**LPP**) and recommended for support by the Council planning officer, subject to conditions;
- (d) Each of the issues that Council has now raised as reasons for its decision not to support the Planning Proposal have either:
 - (i) already been addressed and resolved, including to the satisfaction of the relevant referral agencies, the LPP and the Council planning officer; or
 - (ii) could readily be addressed through further studies or conditions on a Gateway Determination, and in the words of the Council planning officer, are 'not insurmountable' and do not justify Council's refusal to support the Planning Proposal;
- (e) Residential development is already permissible under the existing planning controls applicable to the Site. Ingham currently has a Development Application before the Council for a subdivision scheme for rural-residential lots (**DA Scheme**). As acknowledged in the Council officer's report provided to Council in the meeting agenda for 23 July 2024 (**Council Report**), the Planning Proposal offers a '*far superior*' outcome to the potential development outcome that will be achieved based on current planning controls;

- (f) If the Planning Proposal is refused and Ingham has to pursue the DA Scheme, the significant public benefits associated with the Planning Proposal will not be realised – there will be no public access to the Bargo River Gorge (to be embellished by connected walking trails, picnic areas and viewing points as part of the Planning Proposal), nor public dedication and long-term conservation of 75ha of environmentally significant land in perpetuity. Instead, this land will remain in private ownership, with maintenance falling to individual landowners. The DA Scheme would also not provide the important benefit of freeing up waste treatment servicing capacity at the Picton Wastewater Treatment Plant; and
- (g) The Site is no longer capable of supporting any productive agricultural uses. The Planning Proposal therefore presents an opportunity to allow residential development, being the only viable option for the Site, in a manner that provides considerable public benefit.

2 Introduction and background

- 2.1 There is extensive history in relation to the proposed rezoning of the Site, including a former planning proposal (**Former Proposal**) that was negotiated for over seven years for a broadly similar scheme to the current Planning Proposal. Significantly, the Former Proposal was supported by Council and determined to have strategic planning merit.
- 2.2 The Former Proposal proceeded to positive Gateway Determination and public exhibition, before the Department of Planning and Environment (**Department**) called it in as part of the Planning System Acceleration Program and reversed the Gateway Determination on 21 December 2020.
- 2.3 Since that reversal, Ingham has addressed the matters raised by the Department as reasons for its decision. These matters are discussed further at section 6 below (noting Council has now attempted to rely on these already resolved matters as reasons for refusal of the current Planning Proposal).
- 2.4 On 19 January 2023, Ingham submitted the current Planning Proposal to Council. On 7 December 2023, the Planning Proposal was reported to the LPP.
- 2.5 On 15 December 2023, the LPP published its advice. The LPP resolved 4-nil that, subject to certain amendments, the Planning Proposal could proceed to Gateway consideration. In April 2024, Ingham provided an amended form of the Planning Proposal to Council, which included a number of updated technical reports and confirmed the sewer connection to Picton Treatment Plant.
- 2.6 The Planning Proposal was considered at the Council meeting of 23 July 2024. The Council Report recommended that Council support the Planning Proposal to proceed to Gateway Determination, subject to adjustments, concluding that *'on balance, the positive community benefits of the draft proposal, with some changes, will reasonably outweigh the likely poorer outcome that would be realised through the current planning controls...the proposal does have strategic merit, and will have site-specific merit subject to conditions and changes'*.
- 2.7 Despite this support, and the support of the LPP, on 23 July 2024, Council resolved in Resolution 209/2024 (the **Resolution**) to not support the draft Planning Proposal. Ingham was informed that the Resolution was circulated to the Councillors less than two hours before the Council meeting, with one Councillor noting they felt they had not had sufficient time to consider the Resolution. Ingham further understands this Councillor requested that consideration of the Resolution be deferred to allow the Councillors sufficient time to consider the Resolution. Notwithstanding this, the Resolution was put to a Council vote without further time being afforded for proper consideration.
- 2.8 Ingham now seeks a review of this decision. The Resolution is inconsistent with the conclusions and support of the LPP for the Planning Proposal. The Resolution is also inconsistent with many of the conclusions reached, and the ultimate recommendation made, in the Council Report.

3 Council's site-specific reasons for refusal

Adequacy of the traffic assessment

- 3.1 The Resolution states the Planning Proposal fails to 'demonstrate by way of an adequate traffic assessment and TMAP that the surrounding road network can properly cater for capacity and evacuation needs'.
- 3.2 The Planning Proposal includes a comprehensive capacity assessment for the local and regional road network. Transport for NSW has accepted that the transport impacts arising from the Planning Proposal are relatively minor in nature. Ingham considers that a TMAP is not required or justified for a development that only generates 220 vehicle movements each way per day, and suspects the reference to a 'revised TMAP' and 'amended TMAP' in the Council Report was an error and should have been a reference to a revised traffic assessment, given that Ingham never submitted a TMAP.
- 3.3 While the Resolution does not articulate what aspects of the traffic assessment are considered inadequate, the Council Report identified nine specific matters that the Council officer considered should be addressed in a 'revised TMAP'. The attached letter from Traffix (**Traffic Letter**) addresses each of these nine matters. In summary, a significant number of those matters are already provided for by the Planning Proposal or under Council's Contributions Plan, and those which are not are either not relevant or can be suitably dealt with at the development application stage.

Existing capacity constraints on Victoria Bridge

- 3.4 Capacity constraints on Victoria Bridge has not previously been raised as a relevant concern for the Planning Proposal. There is no reference to the capacity of Victoria Bridge in the Council Report.
- 3.5 The Traffic Letter identifies that the capacity constraints on Victoria Bridge are existing and will continue regardless of the Planning Proposal. Traffix concludes that future development of the Site can be appropriately managed to minimise impacts in the Picton area, including in relation to Victoria Bridge, such as through staging of the development against the timeframe for planned upgrades within the Picton Town Centre.

Reliance on local road network to service the proposal site

- 3.6 The Council Report identifies that the existing local road network servicing the site consists of only local roads in formation and the current pavement design is primarily to service minor traffic volumes.
- 3.7 While this is correct, it is not a reason not to support the Planning Proposal. The Traffic Letter confirms that the existing road formations at Tahmoor Road, Myrtle Creek Avenue and Progress Street are appropriate for the moderate increase in traffic volumes that will result from the future development of the Site. The Traffic Letter identifies that there will be multiple connections between the Site and the existing local road network, which allows traffic to be distributed, reducing traffic volumes and impacts at any given intersection.
- 3.8 As noted by Traffix, pavement design issues can be appropriately addressed at the DA stage. Ingham has already committed to upgrade Cross Street to a collector road. If further upgrades are required to address demand generated by the Site (which is not expected given the results of comprehensive modelling already undertaken and the modest trip generation) these can readily be addressed by conditions at the DA stage and are not reasons to refuse the Planning Proposal.

Traffic links to key destinations at capacity

- 3.9 As noted in the Traffic Letter, this is an existing problem that will exist regardless of the Planning Proposal. While intersection upgrades are indeed required to a number of key intersections along Remembrance Driveway, the demand for these upgrades is not a result of this Planning Proposal.
- 3.10 Furthermore, these intersection upgrades are already provided for by the Wollondilly Contributions Plan 2020. Council has collected contributions to fund these upgrades for a number of years in

connection with the development of the rezoned (R2) lots in East Tahmoor, which rezoning was enabled by Ingham's voluntary release of the protective odour buffers associated with the former poultry production on the Site. Council currently holds over \$45 million in unspent funds collected under its Contributions Plan, a significant portion of which is for key road upgrades.

- 3.11 Section 7.11 contributions in the amount of \$20,000 per lot will also be payable in connection with any future development of the Site in accordance with the Planning Proposal. Ingham will therefore make a proportionate contribution towards these upgrades.
- 3.12 The Traffic Impact Assessment (**TIA**) that accompanied the Planning Proposal and Traffic Letter demonstrate that the traffic generated by the Planning Proposal can be accommodated by the planned road infrastructure upgrades without adversely impacting the performance of key intersections and roads in the area. The Traffix modelling results demonstrate that these key intersections, once upgraded, will continue to operate at an acceptable level of service 'A' or 'B' during AM and PM peak periods after the development of the Site.
- 3.13 Ingham accepts that the timing of the development of the Site will need to be coordinated with the staged delivery of the intended infrastructure upgrades by the roads authority. The Traffic Letter, notes this is achievable, given the extended timeframe of rezoning the land and securing an approved DA. This should therefore not be a reason to refuse the Planning Proposal.

Adequacy of proposed buffer between the development and Bargo River Gorge

- 3.14 The LPP recommended that the width of the conservation area on 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'.
- 3.15 Ingham considers that there is no justification for implementing a 200 metre buffer to the Bargo River. As set out in the Planning Proposal Report, the buffer was only ever intended to enable, via dedicated walking trails, public access to select 'vantage points'. The impacts associated with these walking trails are negligible, and the existing proposed buffer therefore provides sufficient area for flora and fauna to thrive within the site.
- 3.16 Ingham considers that the Planning Proposal results in an exemplar environmental conservation outcome on the Site. Ingham notes that a 200 metre buffer would impact on bushfire Asset Protection Zones and result in smaller rural lots that are contrary to the negotiated outcome with the local community representatives of the National Parks Association of NSW, and have the result that the recycled water treatment solution is unviable because the lots would become too small to support the '*take more than you give*' recycled water system design solution. As outlined in the Planning Proposal Report, the development results in 'positive biodiversity, bushfire and stormwater outcomes, whilst ensuring no detrimental visual, traffic, servicing or land compatibility impacts'.

Assessment of odour impacts

- 3.17 The Council Report recommended that Ingham be required to undertake 'an updated odour study that adequately considers the current operations of the turkey processing plant including the anaerobic ponds that are still in operation'. An updated odour impact assessment was provided as part of the April 2024 amendments to the Planning Proposal. This assessment confirmed that there has been no change to the mode of operation of the Ingham Turkey Processing Plant since the 2021 Odour Report that accompanied the Planning Proposal, and the 2021 and 2013 reports are satisfactory to rely on.
- 3.18 The assessment confirms that the Planning Proposal will not result in any land use conflict or adverse odour impacts to the Development. The Council Report noted that concerns raised by the EPA related to odour and noise impacts have been addressed by way of further information from the proponent.

- 3.19 The suitability of the assessment of odour impacts is also confirmed in the **attached** letter from The Odour Unit (**Odour Letter**), which confirms that the odour emission data provided in the Planning Proposal is reliable for the purposes of the Planning Proposal assessment.

Scale of the proposal could not reasonably be considered small natural scale growth of Tahmoor Village as required under the Wollondilly LSPS

- 3.20 One of the key reasons given in the Council Report for finding that the Planning Proposal has strategic merit is 'the proximity and continuation of Tahmoor'. It therefore appears to have been accepted by the Council assessing officer that the Planning Proposal represents logical incremental growth of the Tahmoor Village.
- 3.21 The Urbis Letter records Urbis' expert opinion that the Proposal can be considered small, natural scale growth for Tahmoor village due to its varied lot sizes, which align with the existing character of the area and reflect a logical transition in lot sizes between residential and rural residential settings to the east and west of the Site. The Site is now adjoined on three sides by new 350 to 700 square metre residential lots. The Planning Proposal would add a further 281 lots ranging in size from 700m² to 4,000m², while retaining approximately 50% of the total site area as undeveloped land.

Infrastructure Delivery Plan

- 3.22 The Resolution asserts the Planning Proposal lacks an adequate infrastructure delivery plan that provides certainty on funding, timing and delivery of key infrastructure.
- 3.23 The Planning Proposal was accompanied by an Infrastructure Delivery Plan. Council voted to support the version of this plan that accompanied the Former Proposal (which was substantially the same) on three separate occasions. Ingham asserts there are no key infrastructure items missing from the existing plan – as set out in the Infrastructure Delivery Plan and the TIA, the Wollondilly Contributions Plan 2020 already provides for the upgrade of the key Remembrance Drive intersections, and there are no intersection upgrades required as a result of traffic generated by the Planning Proposal.

Intersection upgrades at River Road and Remembrance Drive, and Progress Street and Remembrance Drive

- 3.24 The Resolution asserts there is a lack of suitable arrangements for delivery of intersection upgrades at River Road and Remembrance Drive, and Progress Street and Remembrance Drive. As stated at 3.9, the Wollondilly Contributions Plan 2020 provides for the upgrade of these intersections.
- 3.25 This was acknowledged in correspondence from TfNSW dated 28 September 2022, which notes that the transport impacts arising from the Planning Proposal are relatively minor in nature and while continued growth in the vicinity of the Site may require future improvements to Remembrance Drive, these have been addressed via developer contributions under Council's Contributions Plan.
- 3.26 Ingham accepts that the timing of the development of the Site will need to be coordinated with the staged delivery of the intended infrastructure upgrades by the roads authority. However, this should not be a reason that the Planning Proposal not proceed to Gateway Determination.

Local road upgrades and pedestrian links outside the proposal site

- 3.27 The Planning Proposal was accompanied by an Amended Letter of Offer to enter into a Voluntary Planning Agreement. As part of this offer, Ingham would provide funding towards a new pedestrian link to Tahmoor town centre. As stated in the Traffic Letter, Ingham has also committed to upgrade Cross Street to a collector road. Should any additional road upgrades be required to address demand generated by the Site (which, as noted in 3.8, is not expected given the results of comprehensive modelling already undertaken and the modest trip generation) these can readily be addressed by conditions at the DA stage and are not reasons to refuse the Planning Proposal.

Lack of a current planning agreement offer

- 3.28 The Planning Proposal was accompanied by an Amended Letter of Offer to enter into a Voluntary Planning Agreement dated 29 July 2022. However, the Council Report states this letter has expired under Council's Planning Agreements Policy due to its age (being older than six months).
- 3.29 This is a procedural matter that can be readily dealt with via a condition on the Gateway certificate and is not a reason for refusing to support the Planning Proposal. Ingham has not withdrawn the offer and remains committed to delivering the significant public benefits provided for in the offer, including dedication of significant land for environmental conservation, delivery of infrastructure and public works, and monetary contributions.
- 3.30 It is also notable that Council voted to support a similar VPA offer that accompanied the Former Proposal on 17 November 2020, thereby indicating Council's acceptance that the offer is appropriate.

Arrangements for ongoing maintenance and management of land covered under the Biodiversity Stewardship Site proposed to be dedicated to Council

- 3.31 Ingham will be responsible for maintaining the Biodiversity Stewardship Site until registration of the subdivision of the last lot created as part of the Development or for a period of 5 years, whichever is later. Ingham forecasts the registration of the last lot will occur in May 2032. Following that, maintenance will be the responsibility of the Council, however this will be fully funded by Ingham under a voluntary planning agreement (discussed at 3.28). Ingham's current VPA offer includes the provision of a maintenance fund to the value of \$4.3 million (to be indexed to the date of delivery).

4 Council's strategic planning reasons for refusal

- 4.1 In considering the strategic planning reasons given by Council for refusing to support the Planning Proposal, it should be noted that the original draft Wollondilly Local Environmental Study and Wollondilly Growth Management Strategy (2011) identified the Site as a potential residential growth area. The LPP acknowledged that the 'nominated urban growth status of the site has changed in various iterations of local and regional strategic planning documents'. The LPP also acknowledges that 'the interface between the site and adjoining residential development [appears] to indicate that future urban development was previously contemplated for at least some parts of the site'.
- 4.2 Importantly, the LPP observed that 'the site history, changes to strategic planning documents and investment in studies/plans *should not* be determining factors for identifying next steps for this planning proposal. Rather, the draft Planning Proposal should be considered on merit based on the information available and the planning outcomes that can be achieved' (emphasis added). The LPP further observed that the Site's non-identification in the LSPS appears to be more of a procedural matter than a strategic planning merit assessment and that, as such, this alone should not be seen as a reason for not supporting the Planning Proposal.

Greater Sydney Region Plan – Objective 29

- 4.3 The Resolution states that the Planning Proposal is inconsistent with key items in the strategic planning framework, including Objective 29 of the Greater Sydney Region Plan (**Regional Plan**), and has not adequately justified a departure from these provisions.
- 4.4 The Site is within the Metropolitan Rural Area (**MRA**) under the Regional Plan. The Urbis Letter demonstrates that the Planning Proposal is compatible with the values of the MRA.
- 4.5 Objective 29 of the Regional Plan expressly contemplates that 'limited growth of rural-residential development could be considered [in the MRA] where there are no adverse impacts on the amenity of the local area and where the development provides incentives to maintain and enhance the environmental, social and economic values of the Metropolitan Rural Area'. The Regional Plan

further observes that this could include the creation of protected biodiversity corridors and protection of scenic landscapes.

- 4.6 Ingham submits the Planning Proposal is precisely the type of proposal that the Regional Plan contemplates could be considered in the Metropolitan Rural Area. The delivery of a 75ha biodiversity conservation area, half of the total 152 ha site, is a significant benefit that will not be realised if the Planning Proposal does not proceed. Ingham has demonstrated that the Planning Proposal can go ahead with no adverse impacts on the amenity of the local area and that it will in fact provide enhanced amenity for existing adjoining residential areas, including a 5,000m² public park and public access to the scenic qualities of Bargo River Gorge.
- 4.7 The Planning Proposal will also serve to enhance the economic values of the area, noting the Site is no longer capable of supporting agricultural uses as a result of Ingham having agreed to the lifting of the odour buffer that previously applied, and due to encroaching residential development.

Western City District Plan – Priority W5 and W17

- 4.8 The Resolution states that the Planning Proposal is inconsistent with Priorities W5 and W17 of the Western City District Plan.
- 4.9 As set out in the Planning Proposal Report and the Urbis Letter, the Planning Proposal achieves the intent of W5 by providing housing supply, choice and affordability with easy connection to the local road network, existing transport links and the amenities of Tahmoor village centre.
- 4.10 As outlined above and in the Planning Proposal Report, the Planning Proposal will also enhance environmental and economic values in the area, consistent with Priority W17. The Urbis Letter concludes that the Planning Proposal is consistent with the District Plan.

Direction 5.1 – Integrating Land Use and Transport

- 4.11 The Resolution suggests the Planning Proposal is inconsistent with Local Planning Direction 5.1 – Integrating Land Use and Transport. The Council Report identifies that TfNSW objected to the Planning Proposal on the basis of inconsistency with this Direction in regard to walkable catchments and access to public transport.
- 4.12 Notably, its pre-lodgement advice on the Planning Proposal dated 28 September 2022, TfNSW did not raise any concerns about access to public transport. While TfNSW subsequently (and inconsistently with its earlier advice) raised concerns regarding access to public transport, these concerns were based on incorrect information. As outlined in the Traffic Letter, the Site is within 800m of existing rail services. The LPP expressly noted the Site has 'good proximity to existing (rail) and future (bus) public transport linkages and the town centre of Tahmoor'. TfNSW correspondence of 16 November 2022 also noted that Cross Street is identified as a future bus route.
- 4.13 The Traffic Letter considers the consistency of the Planning Proposal with each of the objectives of Direction 5.1 and demonstrates that these are satisfied by the Planning Proposal. The concerns of TfNSW and Council in this regard are therefore clearly unfounded.

Wollondilly LSPS

- 4.14 The Resolution states that the Planning Proposal is inconsistent with Planning Priorities 3, 5, 16 and 18 of the Wollondilly Local Strategy Planning Statement (**LSPS**).
- 4.15 Ingham acknowledges that the Site is not identified as a location for growth in the LSPS. However, the LPP identified that the non-identification of the Site in the LSPS 'appears to be more of a procedural matter than a strategic planning merit assessment', and 'as such, this alone should not be seen as a reason for not supporting the draft proposal'. The Council Report acknowledges that the Former Proposal had been acknowledged in the draft LSPS as 'Future Housing Under Consideration (Planning Proposals)'. That map was removed in the final version of the LSPS.

- 4.16 The Planning Proposal Report adequately addressed the consistency of the Planning Proposal with the specific LSPS planning priorities identified in the Resolution as follows:
- (a) Planning Priority 3 – the Planning Proposal respects the character, setting and heritage of Tahmoor through a large lot residential typology and the dedication of significant areas of open space to the public. Notably, the Planning Proposal received two statements of support from the National Parks Association of NSW.
 - (b) Planning Priority 5 – the Planning Proposal delivers housing options in a range of sizes that matches the surrounding areas. This outcome was carefully negotiated and supported by the local community and Council's planning officers.
 - (c) Planning Priority 16 – the Site is no longer capable of supporting agricultural uses, such that Planning Priority 16 is not relevant. Use of the site for rural purposes moving forward would only create greater land use conflict, given the surrounding residential developments on three sides.
 - (d) Planning Priority 18 – the Planning Proposal responds to the applicable bushfire and flooding evacuation strategies and is designed to be resilient in extreme weather events. The Rural Fire Service supports the Planning Proposal. Ingham has collaborated with that agency to ensure the final design will meet Planning for Bushfire Protection 2019 (**PBP 2019**).

Local Housing Strategy and Rural Land Strategy

- 4.17 The Resolution states the Planning Proposal is inconsistent with the Local Housing Strategy (**LHS**) and Rural Land Strategy. As outlined in the Urbis Letter, the Department provided an LHS Approval Letter to Council in September 2021 that outlined 5 criteria that must be satisfied before expanding existing urban villages. The Urbis Letter provides a detailed assessment of the Planning Proposal against this criteria. With respect to the Rural Land Strategy, the Urbis Letter also notes that the 'Rural Lands Strategy Findings report also recognised the Site's shift to some form of residential land use due to its sterilisation and transition from agricultural production'.
- 4.18 Significantly, the Council Report also concluded that a new planning proposal for the Site can be considered, despite partial inconsistencies with the Local Housing Strategy.

5 Currency of information

- 5.1 The Resolution states that the Odour Impact Assessment, Noise Impact Assessment and Traffic Impact Assessment are based on 'outdated information and cannot be relied upon for assessment under the current planning framework'.
- 5.2 Section 3.17 above addresses why the odour reports provided with the Planning Proposal sufficiently address odour-related matters. This is also confirmed in the **attached** Odour Letter.
- 5.3 As outlined in the **attached** supplementary letter from GHD, the amended Planning Proposal submitted to Council in April 2024 was accompanied by an updated Industrial Noise Intrusion Impact Assessment dated 5 March 2024 (**Updated Noise Assessment**). As part of that assessment, noise modelling was conducted at the Site in February 2024. That modelling confirms that the residential development subject of the Planning Proposal will achieve the appropriate level of acoustic amenity and no further acoustic mitigation measures are required. Notably, the Council Report did not raise any concerns about the currency of information in the Updated Noise Assessment.
- 5.4 As stated in the Traffic Letter, updated traffic surveys were undertaken in November 2023. Given the TIA uses traffic modelling from 2023, it is unclear why the Resolution asserts the information is outdated.

6 Resolution of DPE's previous concerns

- 6.1 The Resolution asserts that the Planning Proposal has 'not yet resolved the known planning and infrastructure issues that led to the Department's refusal of the Former Proposal.' The Department gave five reasons for its decision to reverse the Gateway Determination in relation to the Former Proposal, each of which have been addressed by Ingham in the Planning Proposal, as set out below.

Point 1: Bushfire

- 6.2 The Department stated that the Former Proposal did not meet the (then) new PBP 2019 due to constraints around evacuation. Ingham notes that only minor layout changes to the Former Proposal were required to meet PBP 2019. The Planning Proposal now meets (and exceeds) PBP 2019.
- 6.3 The Council Report identifies that the NSW Rural Fire Service supports the Planning Proposal, subject to the future development being in compliance with PBP 2019 and the recommendations of the Strategic Bushfire Study. This issue is therefore resolved.

Point 2: Picton Treatment Plant Wastewater Capacity Limitations

- 6.4 The Council Report expressly acknowledges that the key difference between the Former Proposal that was refused by the Department and the current Planning Proposal is the progress made on the proposed wastewater servicing and purple pipe recycled water solution and that there is now a pathway that the proponent has progressed with Sydney Water.
- 6.5 Since the Former Proposal, Ingham has made substantial progress with Sydney Water to address this issue. Ingham has demonstrated that the Site can be developed in a manner that will 'take more than it gives', freeing up much needed capacity at the Picton Treatment Plant for other developments. Sydney Water has now provided its support for the Planning Proposal. Ingham accepts that resolving the final details of the 'purple pipeline' proposal and a commercial agreement with Sydney Water is an appropriate condition to be imposed as part of the Gateway Determination. This issue is therefore sufficiently resolved for the Planning Proposal to be able to proceed to Gateway and is not a reasonable basis for Council to refuse to support the Planning Proposal.

Point 3: Inconsistency with strategic planning frameworks

- 6.6 The Department stated the Former Proposal was inconsistent with regional, district and local strategic planning frameworks. This issue is addressed in detail in section 4, the Planning Proposal Report, and the Urbis Letter. For the reasons set out in those documents, this is not a reason that the Planning Proposal should not proceed to Gateway determination.

Point 4: Mining Subsidence

- 6.7 The Department considered that the Former Proposal was inconsistent with Ministerial 9.1 Direction 1.3 Mining, Petroleum and Extractive Industries. Ingham asserts this was factually incorrect. Tahmoor Coking Coal (SIMEC) did not object to any future development meeting the requirements of Subsidence Advisory NSW's Guidelines. The Council Report identifies that Subsidence Advisory NSW raised no objections to the Planning Proposal. This issue is therefore resolved.

Point 5: Biodiversity arrangements

- 6.8 The Department considered that arrangements for offsetting biodiversity impacts had not yet been reached. The Planning Proposal addresses this issue and includes a Biodiversity and Riparian Assessment Report, Biodiversity Certification Report, Biodiversity Stewardship Site Assessment Report, and a Letter of Offer to enter into a Planning Agreement. This issue is therefore resolved.

7 TfNSW's view as to strategic merit

- 7.1 The Resolution notes advice from TfNSW that in its view, the Planning Proposal does 'not demonstrate strategic merit under the DPE's LEP Making Guidelines as it is not strategically aligned

with either the Greater Macarthur Growth Area or Wilton Growth Area'. This view differs from the original views expressed by TfNSW in its two pre-lodgement advices referred to at 4.12 (noting that nothing had changed about the Site, the applicable strategic plans or the surrounding environment in the time following the pre-lodgement advice). For the reasons outlined in the Urbis Letter and in section 8, the Planning Proposal has been demonstrated to have strategic merit and the concerns raised by TfNSW do not justify not progressing the Planning Proposal.

8 Strategic merit

8.1 As set out in detail in the Planning Proposal Report and the Urbis Letter, the Planning Proposal is demonstrated to have strategic merit, for the following key reasons:

- (a) It gives effect to the relevant District Plan, as it is consistent with the planning principles for the MRA, in that it ensures no adverse impacts on the amenity of the local area and maintains and enhances the environmental, social and economic values of the MRA.
- (b) The Planning Proposal complies with the objectives of the Regional and District Plans through its biodiversity conservation outcomes, ability to meet local housing demand, respectful conservation of local character and promotion of a sustainable community with new objectives for recreation and appreciation of the Bargo River Gorge.
- (c) The Planning Proposal gives effect to the LSPS and LHS, and responds to a change in circumstances that is not recognised in policy documents, namely the National Housing Accord between federal and local governments.
- (d) The Planning Proposal promotes natural hazard mitigation and includes a comprehensive bushfire management strategy and emergency evacuation plan.
- (e) The Planning Proposal provides a logical and natural extension across a gap in the Tahmoor urban footprint, eliminating land use conflict between the residential land uses surrounding the Site. The Site is no longer viable for commercial poultry farming due to the odour constraints imposed by the LEP – it is effectively sterilised from viable agricultural uses. Therefore, the Planning Proposal reflects the orderly and economic use of the Site that is otherwise underutilised.
- (f) The Planning Proposal seeks a range of lot sizes, transitioning from 700m² at the interface with East Tahmoor to 4,000m² at the 'eastern lobe' of the site to provide a range of transitional and rural living opportunities.
- (g) The Planning Proposal demonstrates that reasonable dwelling sites can be safely realised on each proposed residential lot, accounting for bushfire, ecological, stormwater and topographical requirements.
- (h) The Proposal facilitates new road connections to and from the Site and the adjoining site (The Acres), providing strategic fire egress routes.

8.2 The Council Report concluded the Planning Proposal has strategic merit for the following reasons:

- *The Former Proposal was supported by Council for finalisation having strategic merit;*
- *The Planning Proposal, while now having a different planning framework, was acknowledged by Council through resolutions of the Housing Strategy and cannot be ignored in terms of having merit for consideration;*
- *The LPP advising in its view there is strategic merit due to the proximity and continuation of Tahmoor;*
- *The Planning Proposal offers a far superior outcome compared to the potential development outcome that will be achieved based on development rights and current planning controls.*

- 8.3 The National Housing Accord and NSW Government Housing Targets, whilst not strictly matters for consideration in strategic merit, must have some relevance for this Planning Proposal, particularly given some of the above strategic planning framework documents are almost 7 years old. Housing supply is a critical planning issue in NSW, and the Planning Proposal presents an opportunity to contribute to the State's critical need for housing supply in an environmentally beneficial manner.

9 Site-specific merit

- 9.1 As set out in detail in the Planning Proposal Report and addressed in the Urbis Letter, the Planning Proposal demonstrates site-specific merit for the following key reasons:
- (a) The Planning Proposal responds to the natural environment on the Site. Because of the Site's location between The Acres and East Tahmoor Precinct, it forms a logical greenfield 'infill' to the surrounding residential development and a natural and logical extension of the Tahmoor village centre.
 - (b) The Planning Proposal considers the built environment, social and economic conditions of the Site and surrounding area, and considers the existing, approved or likely future uses of land in the vicinity. Residential, as opposed to agricultural/poultry farming, use of the Site mitigates land use conflict with the surrounding residential developments.
 - (c) Biodiversity is protected and any impacts are offset through the Biodiversity Stewardship Agreement proposal, which will result in the conservation of approximately 50% of the Site.
 - (d) Public access to the northern rim of the Bargo River Gorge will be delivered through the dedication and ongoing maintenance of the 75ha Biodiversity Stewardship Site. The VPA Letter of Offer proposes installation of pathways, picnic areas and viewing points within the Biodiversity Stewardship Site as a benefit to the community.
 - (e) Services and infrastructure are and/or will be available to meet the demands arising from the proposal. Ingham's Amended Letter of Offer provides appropriate financial arrangements for infrastructure provision. The Planning Proposal also enables the dedication and embellishment of a 5,000m² park.
 - (f) The Planning Proposal provides unique local housing choices that provide a key difference to the small lots being offered in the Wilton and Greater Macarthur growth areas.
- 9.2 The LPP identifies that the site is 'well located to accommodate future urban development'. The Council Report acknowledges the 'site is well located...within relatively close proximity to an existing urban centre and immediately adjoins existing urban zoned land and will appropriately retain separation of existing towns and villages'.
- 9.3 The LPP and Council Report acknowledge that the environmental constraints of the land do not provide an impediment to the proposal, and the Council Report notes the Planning Proposal would 'provide a positive conservation outcome'. The LPP also identifies that 'the site will soon be surrounded by residential style development' and the Planning Proposal 'has the potential to provide some significant environmental and recreation outcomes for the local and broader community'.
- 9.4 Given this, Ingham respectfully submits that the Planning Proposal clearly has site-specific merit.

10 Conclusion

- 10.1 In view of its own previous support for the Former Proposal, the findings of the LPP and the Council Report, Council's refusal to support the Planning Proposal (even conditionally) is surprising and, in Ingham's submission, misguided.
- 10.2 As demonstrated above, each of the issues raised by Council in the Resolution have either already been previously resolved, or are matters that can be readily addressed and dealt with as conditions on a Gateway Determination.

10.3 The Planning Proposal has been demonstrated to have both strategic and site-specific merit, as set out above, and should proceed to Gateway Determination.

Yours sincerely



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