



# **MINUTES**

**Wollondilly Shire Local Planning Panel**

**Thursday 12 December 2024**

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**MINUTES OF WOLLONDILLY SHIRE COUNCIL WOLLONDILLY SHIRE LOCAL PLANNING PANEL MEETING HELD AT THE COUNCIL CHAMBER, 44-60 MENANGLE STREET, PICTON NSW 2571 ON THURSDAY, 12 DECEMBER 2024 AT 3:31PM**

**PRESENT:** Chairperson - Elizabeth Kinkade , Expert - Garry Chapman , Expert – Planning Kim Burrell, Community Representative – Wade Lancaster

**IN ATTENDANCE:**

Corrie Swanepoel – Manager Development Services, Stephen Gardiner – Manager Sustainable Growth, Aimee Lee - Development Services Team Leader, Carolyn Whitten - Team Leader Strategic Planning, Michael Buckley - Development Assessment Team Leader, Joseph Chan - Development Assessment Planner, Rebecca Connor - Senior Strategic Planner, Governance Officer, Personal Assistant to Director Shire Futures

**1 OPENING**

**2 RECORDING OF THE MEETING**

The electronic recording of the Local Planning Panel Meeting and the use of electronic media during the proceedings is not permitted. This includes devices such as laptops, mobile phones, tape recorders and video cameras.

**3 WEBCAST NOTICE**

Members of the public are advised, that Local Planning Panel meetings are recorded and webcast live in line with provisions under the Environmental Planning & Assessment Act 1979 No. 203. This notice is made as required under Section 18 of the Privacy and Personal Information Protection Act 1998 (PPIPA). The webcasts are publicly available for viewing on Council's website.

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**4 ACKNOWLEDGMENT OF COUNTRY**

The Chair will acknowledge the traditional Custodians of the Land.

**5 APOLOGIES AND LEAVE OF ABSENCE REQUESTS**

Nil

**6 DECLARATION OF INTERESTS**

No interests declared. All Panel members submitted written declarations.

## 7 LOCAL PLANNING PANEL REPORTS - SUSTAINABLE AND BALANCED GROWTH

### 7.1 80 SILVERDALE ROAD, THE OAKS PLANNING PROPOSAL

#### EXECUTIVE SUMMARY

The purpose of this report is to seek the advice of the Wollondilly Shire Local Planning Panel (the Panel) on a draft Planning Proposal (draft proposal) received for land at Lot 3 DP1201486, 80 Silverdale Road, The Oaks.

The draft proposal seeks to amend the *Wollondilly Local Environmental Plan 2011 (WLEP 2011)* by rezoning the land to enable further subdivision for large lot residential purposes. The proposed amendments outlined in the draft proposal would enable approximately nine lots with a minimum lot size of 4,000sqm.

The draft proposal seeks to achieve this through the following amendments:

- Amend the Land Zoning Map from RU2 Rural landscape to R5 Large Lot Residential for part of the site and retain the RU2 Rural Landscape zoning for the remainder of the land;
- Amend the Lot Size Map from a minimum lot size category of 40 hectares to 4,000sqm for the part of the land proposed to be zoned R5 Large Lot Residential and retain the 40ha minimum for the remaining RU2 zoned land; and
- Amend the Height of Building Map to introduce building height of 9m for the part of the land proposed to be zoned R5 Large Lot Residential.

Preliminary community and stakeholder feedback were invited on the draft planning proposal from 11 July to 8 August 2024. Five community submissions were received, most objecting to the proposal.

Ten submissions were received from public authorities or Government agencies, identifying a range of issues as discussed in this report, including infrastructure implications and inconsistencies with the strategic planning framework.

On balance, it is not considered that Council can be satisfied that the draft proposal has strategic and site-specific merit. As such, this report recommends that the draft proposal not be supported.

#### STAFF RECOMMENDATION

That the Panel:

1. Note the information contained in this report.
2. Note that the draft planning proposal does not demonstrate sufficient strategic merit due to its inconsistency with the strategic planning framework including:
  - a. Planning Priority W1, W3, W5, W13 and W16 in the Western City District Plan;
  - b. Ministerial Direction 1.1 Implementation of Regional Plans, 3.3 Sydney Drinking Water Catchments, 6.1 Residential Zones, 9.1 Rural Zones and 9.2 Rural Lands;

- c. Wollondilly 2040; Council's Local Strategic Planning Statement (LSPS) – including
    - i. Planning Priority 1 – Aligning infrastructure provision with community needs,
    - ii. Planning Priority 3 – Establishing a framework for sustainable managed growth
    - iii. Planning Priority 5 – Providing housing options that meet local needs and match the local character of towns and villages
    - iv. Planning Priority 13 – Protecting Biodiversity and Koala Habitat Corridors
    - v. Planning Priority 16 – Enhancing and Protecting the Diverse Values of the metropolitan Rural area;
  - d. Council's adopted Local Housing Strategy and Rural Land Strategy
3. Note that several of the specialist studies submitted with the proposal, do not provide sufficient information and assessment to inform or justify the proposal.
  4. Note that the proposal will not enhance the values of the Metropolitan Rural Areas by delivering any place-based outcomes to deliver targeted environmental, social or economic outcomes.
  5. Note that the proposal has not demonstrated that future development can be adequately serviced by essential infrastructure.
  6. Provide advice on this proposal that will be attached to a future report to Council.

## PUBLIC SUBMISSIONS

There was 1 registered speaker for this Item.

## PANEL ADVICE

The panel does not support the planning proposal.

## PANEL CONSIDERATIONS AND REASONS FOR ADVICE

The Wollondilly Local Planning Panel provides the following advice:

1. **Council Officer's report:** The Local Planning Panel notes and generally agrees with the assessment and findings contained in the Council Officer's report.
2. **Site History and Strategic Alignment:** Whilst the Local Planning Panel notes the recent history of Planning Proposals for this site, it has formed the view that the proposal is now out of step with key strategic planning documents including the following: Planning Priorities in the Western City District Plan; Ministerial Planning Directions; Wollondilly 2040; and Council's adopted Local Housing and Rural Land Strategies.
3. **Prematurity of Planning Proposals:** The Local Planning Panel considers future local growth in the Metropolitan Rural Area should align with strategic plans. Opportunities for local growth, including in this location, could be further explored if studies planned

as part of Council's future LEP review to determine future growth requirements are completed.

## VOTING

4/0

## 7.2 DA/2024/601/1 - MENANGLE ROUNDABOUT

### EXECUTIVE SUMMARY

Development Application DA/2024/601/1 seeks consent for the Torrens Title subdivision of 110 Menangle Road, Menangle to create two allotments (proposed Lots 30 and 31). Proposed Lot 31 will be dedicated for road widening purposes to enable the construction of a roundabout at the intersection of Menangle Road and Station Street/ Woodbridge Road. This application is for the subdivision only and not for the construction of the roundabout.

A Clause 4.6 Variation Request was lodged to vary Clause 4.1(3) *Minimum Subdivision Lot Size* of the *Wollondilly Local Environmental Plan 2011 (WLEP 2011)*. The minimum subdivision lot size for the property is 975m<sup>2</sup> in accordance with *WLEP 2011*, and the proposed lot size of Lot 31 (lot to be dedicated as road) has a size of 35.8m<sup>2</sup>, which results in a noncompliance of 939.2m<sup>2</sup>, or 96.33%. No variation is sought to Wollondilly Development Control Plan 2016.

The application is referred to the Wollondilly Local Planning Panel for determination as the proposal contravenes a development standard imposed under *WLEP 2011* by more than 10%.

The proposed Integrated Development was advertised and notified in accordance with Council's Community Participation Plan from 14 August to 28 August 2024. No submissions were received.

### PUBLIC SUBMISSIONS

There was 1 registered speaker for this Item.

### STAFF RECOMMENDATION

That Development Application DA/2024/601/1 for the Torrens Title subdivision of 110 Menangle Road, Menangle to create two allotments (proposed Lots 30 and 31), to dedicate proposed Lot 31 for road widening and to construct a roundabout be approved, subject to conditions as detailed in this report.

### DECISION

The Panel resolved to defer Development Application DA/2024/601/1 and request the following for the Panel's consideration on 23 December 2024:

- An updated written request under Clause 4.6 of *WLEP 2011* to vary Clause 4.1(3) Minimum Subdivision Lot Size standard under *WLEP 2011* which addresses clause 4.6(3)(a) and (b) to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances and there are sufficient environmental planning grounds being relied on to justify the contravention of the development standard. To be provided to Council by 5pm Tuesday 17 December 2024.
- Updated conditions of consent for a subdivision. Advice on the need to include conditions of consent relating to the future construction of the roundabout can be



provided if Council Officer's consider such conditions are warranted and appropriate.

### PANEL CONSIDERATIONS AND REASONS FOR DECISION

1. The Panel notes the subdivision is required to enable the future construction of a roundabout.
2. The Panel notes the comprehensive assessment in the Council Officer's report and requires an updated written request under Clause 4.6 of *WLEP 2011* and revised conditions of consent before determining the application.

### VOTING

4/0

### 7.3 DA/2024/851/1 - 68 CROSS STREET, TAHMOOR 2573

#### EXECUTIVE SUMMARY

Development Application DA/2024/851/1 for the installation of an inground fiberglass swimming pool was lodged with Council on 31 October 2024. This report provides an assessment of the application for determination from the Wollondilly Local Planning Panel.

In accordance with the Minister's Local Planning Panel Direction, Schedule 1, Part 1(b), the application is reported to the Wollondilly Local Planning Panel for determination as the applicant and landowner is a Councillor for the Wollondilly Local Government Area.

#### PUBLIC SUBMISSIONS

In accordance with Council's Community Participation Plan, no community consultation was required.

There was 1 registered speaker for this Item.

#### STAFF RECOMMENDATION

That Development Application DA/2024/851/1 for the installation of an inground fiberglass swimming pool be approved subject to conditions detailed in this report.

#### DECISION

The Panel APPROVES the application subject to conditions included in the Council Officer's report and provided below.

#### PANEL CONSIDERATIONS AND REASONS FOR DECISION

1. The Panel has visited the site and reviewed the assessment report prepared by Council officers that address the relevant matters detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979*, as amended.
2. The Panel supports the application for the reasons outlined in the Council Officer's report.

#### VOTING

4/0

#### Conditions of Consent

GENERAL CONDITIONS	
Condition	
1.	Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

#### Approved Plans

Plan number	Revision number	Plan title	Drawn by	Date of plan
Sheet 1 of 2	A	Site Plan	Bombora Constructions Pty Ltd	07/10/2024
Sheet 2 of 2	A	Elevation Plans	Bombora Constructions Pty Ltd	07/10/2024
20108/07	D	Structural Details Davinci Pool Range	ESEN Engineering	Feb 2020

#### Approved Documents

Document title	Version number	Prepared by	Date of documents
Waste Management Plan	-	-	2024
Statement of Environmental Effects	-	-	2024

In the event of any inconsistency between the approved plans and documents, the approved Plans/Documents prevail. In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

*Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.*

## 2. Offensive Noise POEO Act

The person(s) having the benefit of this consent is advised that Council reserves the right to restrict the days and hours of operation of specific activities if considered necessary to prevent the emission of an “offensive noise” as defined in the Protection of the Environment Operations Act, 1997.

Offensive Noise means noise:

- a) That by reason of its level, nature, character or quality or the time at which it is made, or any other circumstances:
  - i. Is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted; or
  - ii. Interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted; or
  - iii. That is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.

*Condition Reason: To protect the amenity of the local area.*

## BUILDING WORK

### BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition	
<b>3. Long Service Levy Payment</b>	Prior to the issue of any Construction Certificate, evidence / receipt to confirm that the required Long Service Levy payment has been paid, must be provided to the nominated Certifier. (Note: this only applies to building and construction works with a cost of \$250,000 or more).
	<i>Condition Reason: to demonstrate compliance with Part 6.8 of the Environmental Planning and Assessment Act 1979 and the Building and Construction Industry Long Service Payments Act 1986.</i>
<b>4. Detailed Stormwater Drainage System Design</b>	Prior to the issue of the Construction Certificate, a detailed storm water hydraulic drainage plan for the disposal of storm water from the site, prepared in accordance with Council's Design Standards shall be submitted to Council and approved by Council's Development Engineer.
	<i>Condition Reason: To ensure adequate stormwater management.</i>

<b>BEFORE BUILDING WORK COMMENCES</b>	
Condition	
<b>5. Erosion and sediment controls in place</b>	Before any site work commences, the Principal Certifier, must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been reestablished in accordance with the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time).
	<i>Condition Reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways</i>
<b>6. Construction Certificate required</b>	Construction shall not commence on the site, including the placement of temporary buildings, site sheds, earthworks, site excavation, filling or other site preparation works (with the exception of site survey work), prior to the issue of a Construction Certificate by Council or a nominated Certifier.
	<i>Condition Reason: To ensure site management measures are implemented during the carrying out of site work</i>
<b>7. Toilet Facilities</b>	Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
	<i>Condition Reason: To ensure site management measures are implemented during the carrying out of site work</i>
<b>8. Garbage Bin</b>	A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed. The garbage receptacle must have a tight-fitting lid and be suitable for the reception of food scraps and papers
	<i>Condition Reason: To ensure site management measures are implemented during the carrying out of site work</i>
<b>9. Sydney Water Tap In / Building Plan Approval</b>	Prior to the commencement of any building works, approval obtained via Sydney Water via 'Tap inTM' ( <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a> ) or a Sydney Water - Water Service Co-Ordinator shall be submitted to the Principal Certifier.
	<i>Condition Reason: To ensure that the Sydney Water infrastructure is not damaged or impacted by the development.</i>
<b>10. Swimming Pool Construction Sign</b>	Prior to the commencement of any construction works, a sign stating "this swimming pool is not to be occupied or used", shall be erected in a prominent position in the immediate vicinity of the proposed swimming pool. The sign shall be maintained until such time as any Occupation Certificate is issued for the Swimming Pool by the Principal Certifier.
	<i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i>

<b>DURING BUILDING WORK</b>	
Condition	
<b>11. Surveys by a registered surveyor</b>	<p>While building work is being carried out, the positions of the following must be measured and marked by a registered surveyor and provided to the principal certifier:</p> <ul style="list-style-type: none"> <li>a) All footings / foundations in relation to the site boundaries and any registered and proposed easements</li> <li>b) At other stages of construction – any marks that are required by the principal certifier.</li> </ul> <p><i>Condition Reason: To ensure buildings are sited and positioned in the approved location</i></p>
<b>12. Construction hours</b>	<p>Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.</p> <p><i>Condition Reason: To protect the amenity of the surrounding area</i></p>
<b>13. Site Management</b>	<p>All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held. Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.</p> <p><i>Condition Reason: To ensure site management measures are implemented during the carrying out of site work</i></p>
<b>14. Earthworks</b>	<p>Any earthworks (including any structural support or other related structure for the purposes of the development):</p> <ul style="list-style-type: none"> <li>– Must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and</li> <li>– Must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and</li> <li>– That is fill brought to the site—must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997, and</li> <li>– That is excavated soil to be removed from the site—must be disposed of in accordance with any requirements under the Protection of the Environment Operations (Waste) Regulation 2005.</li> <li>– Any excavation must be carried out in accordance with Excavation Work: Code of Practice (ISBN 978-0-642-785442), published in July 2012 by Safe Work Australia.</li> </ul> <p><i>Condition Reason: To ensure site management measures are implemented during the carrying out of site work</i></p>
<b>15. Procedure for critical stage inspections</b>	<p>While building work is being carried out, the work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.</p> <p><i>Condition Reason: To require approval to proceed with building work following each critical stage inspection</i></p>
<b>16. Vehicle Movements</b>	<p>All vehicles entering or leaving the site must have their loads covered, and before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.</p> <p><i>Condition reason: To promote safe entry and exit to the construction site.</i></p>
<b>17. Excavated Areas</b>	<p>Excavated area/s adjacent to the building shall be retained and drained to prevent the subsidence of the excavation and/or entry of surface water to the building.</p> <p><i>Condition reason: To ensure all earthworks are adequately retained</i></p>
<b>18. Temporary Swimming Pool Barrier</b>	<p>A temporary child-resistant barrier that complies with the requirements of the Building Code of Australia and AS 1926.1—2012, Swimming pool safety—Part 1: Safety barriers for swimming pools must be erected around the swimming pool during construction.</p> <p><i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i></p>
<b>19. Swimming Pool Legislation Compliance</b>	

	<p>The swimming pool shall comply with:</p> <ol style="list-style-type: none"> <li>1. the Swimming Pools Act 1992;</li> <li>2. the Swimming Pools Regulation 2018;</li> <li>3. AS 1926.1-2012 'Swimming Pool Safety' Part 1: Safety barriers for swimming pools;</li> <li>4. AS 3500.2-2003 'Plumbing and drainage – Sanitary plumbing and drainage';</li> <li>5. AS1926.3 'Water recirculation systems' and the BCA.</li> </ol> <p><i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i></p>
<b>20.</b>	<p><b>Swimming Pool Filter Equipment Disposal – Sewered Land</b></p> <p><u>Sand Filter</u> - Waste water shall be drained or pumped to the sewer; or</p> <p><u>Cartridge filters</u> - Do not need to be connected to sewer, however when the cartridge needs cleaning it is to be hosed out in a location that does not adversely impact adjoining properties, and must not cause water to enter a waterway, the stormwater system or roadway.</p> <p><i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992 and the requirements of the development consent.</i></p>
<b>21.</b>	<p><b>Paved Area Around Swimming Pool</b></p> <p>Any paved areas around the swimming pool shall be graded and drained so as not to cause a nuisance to adjoining properties.</p> <p><i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992 and the requirements of the development consent.</i></p>
<b>22.</b>	<p><b>Water Quality</b></p> <p>Swimming pool water quality shall be maintained in a clean and healthy condition at all times so as to protect user health and safety and to prevent conditions that support the activity of water borne organisms (including bacteria, viruses and algae), insects and aquatic pests.</p> <p><i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i></p>
<b>23.</b>	<p><b>Easements</b></p> <p>No changes to site levels, or any form of construction shall occur within any easements that may be located on the allotment.</p> <p><i>Condition reason: To ensure the development complies with restrictions burdening the land.</i></p>

## BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition	
<b>24.</b>	<p><b>Disturbed Areas</b></p> <p>The disturbed areas surrounding the building work shall be reinstated to the satisfaction of the Principal Certifier upon completion of the work.</p> <p><i>Condition reason: To ensure no substance other than rainwater enters the stormwater system and waterways</i></p>
<b>25.</b>	<p><b>Swimming Pool Barrier Requirement</b></p> <p>Prior to filling the swimming pool with water and prior to the issue of any Occupation Certificate, the swimming pool shall be surrounded by and separated from the dwelling house and adjoining properties by a swimming pool barrier that is compliant with AS1926.1-2012 'Safety Barriers for Swimming Pools'. The construction, installation and use of the swimming pool and swimming pool barrier shall be in accordance with the Swimming Pools Act 1992.</p> <p><i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i></p>
<b>26.</b>	<p><b>NSW Swimming Pool Register</b></p> <p>All swimming pools and spa pools must be registered on the NSW Swimming Pool Register. Property owners may register online at <a href="http://www.swimmingpoolregister.nsw.gov.au">http://www.swimmingpoolregister.nsw.gov.au</a> or you can request Council perform the registration for a fee. Penalties apply for unregistered swimming pools or spa pools.</p> <p><i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i></p>
<b>27.</b>	<p><b>CPR / Resuscitation Chart</b></p>

	A resuscitation sign / warning notice complying with the provisions of the Swimming Pools Regulation 2018, must be displayed and maintained in a prominent position in the immediate vicinity of the swimming pool, in accordance with the Swimming Pools Act 1992. The principal certifier shall ensure that this warning notice is provided and displayed prior to the issue of the Occupation Certificate. <i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i>
<b>28.</b>	<b>Filtration / Recirculation System</b> A certificate of compliance, or other documentary evidence confirming that the proposed recirculation system and filtration system complies with AS1926.3, must be provided to the principal certifier prior to the issue of an occupation certificate. <i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i>
<b>29.</b>	<b>Prohibited structures within pool area</b> Prohibitions within swimming pool enclosure - The swimming pool safety fencing enclosure must not contain any other non-related buildings, structures or like such as sheds, installation of children's play equipment or clothes drying lines. <i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i>
<b>30.</b>	<b>Landscaping Near Swimming Pools</b> Landscaping of the swimming pool enclosure and surrounds including the provision of outdoor furniture, construction of barbecues and pergolas must not reduce the effectiveness of the swimming pool safety fencing. All landscaping, furniture, and other similar structures shall be located at least 900mm from the outside of the pool safety fencing. <i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i>
<b>31.</b>	<b>Stormwater Drainage</b> The stormwater drainage works shall be carried out and implemented in accordance with the requirements of the approval. <i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i>

## OCCUPATION AND ONGOING USE

Condition	
<b>32.</b>	<b>Occupation Certificate</b> The swimming pool shall not be occupied or used until an Occupation Certificate is issued by the Principal Certifier. <i>Condition reason: To ensure compliance with the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>

## PRESCRIBED CONDITIONS

Division 2 Conditions of development consent—the Act, s 4.17(11) - Subdivision 1 Development generally

Condition	
<b>33.</b>	<b>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</b>



	<ol style="list-style-type: none"> <li>1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia.</li> <li>2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.</li> <li>3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with the Building Code of Australia, Volume 1, Part B1 and NSW Part I5.</li> <li>4. In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the relevant date.</li> <li>5. In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.</li> <li>6. This section does not apply— <ol style="list-style-type: none"> <li>i. to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or</li> <li>ii. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.</li> </ol> </li> <li>7. In this section— relevant date has the same meaning as in the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, section 19.</li> </ol> <p><i>Condition reason: Prescribed condition (Environmental Planning and Assessment Regulation 2021).</i></p>
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34.	<p><b>Erection of signs</b></p> <ol style="list-style-type: none"> <li>1. This section applies to a development consent for development involving building work, subdivision work or demolition work.</li> <li>2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out— <ol style="list-style-type: none"> <li>i. showing the name, address and telephone number of the principal certifier for the work, and</li> <li>ii. showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and</li> <li>iii. stating that unauthorised entry to the work site is prohibited.</li> </ol> </li> <li>3. The sign must be— <ol style="list-style-type: none"> <li>i. maintained while the building work, subdivision work or demolition work is being carried out, and</li> <li>ii. removed when the work has been completed.</li> </ol> </li> <li>4. This section does not apply in relation to— <ol style="list-style-type: none"> <li>i. building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or</li> <li>ii. Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.</li> </ol> </li> </ol> <p><i>Condition reason: Prescribed condition (Environmental Planning and Assessment Regulation 2021).</i></p>
35.	<p><b>Notification of Home Building Act 1989 requirements</b></p> <ol style="list-style-type: none"> <li>1. This section applies to a development consent for development involving residential building work if the principal certifier is not the council.</li> <li>2. It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following— <ol style="list-style-type: none"> <li>i. for work that requires a principal contractor to be appointed— <ol style="list-style-type: none"> <li>a. the name and licence number of the principal contractor, and</li> <li>b. the name of the insurer of the work under the Home Building Act 1989, Part 6,</li> </ol> </li> <li>ii. for work to be carried out by an owner-builder— <ol style="list-style-type: none"> <li>a. the name of the owner-builder, and</li> <li>b. if the owner-builder is required to hold an owner-builder permit under the Home Building Act 1989—the number of the owner-builder permit.</li> </ol> </li> </ol> </li> <li>3. If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information.</li> <li>4. This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.</li> </ol> <p><i>Condition reason: Prescribed condition (Environmental Planning and Assessment Regulation 2021).</i></p>
36.	<p><b>Shoring and adequacy of adjoining property</b></p> <ol style="list-style-type: none"> <li>1. This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor.</li> <li>2. It is a condition of the development consent that the person having the benefit of the development consent must, at the person's own expense— <ol style="list-style-type: none"> <li>i. protect and support the building, structure or work on adjoining land from possible damage from the excavation, and</li> <li>ii. if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.</li> </ol> </li> <li>3. This section does not apply if— <ol style="list-style-type: none"> <li>i. the person having the benefit of the development consent owns the adjoining land, or</li> <li>ii. the owner of the adjoining land gives written consent to the condition not applying.</li> </ol> </li> </ol>

	<i>Condition reason: Prescribed condition (Environmental Planning and Assessment Regulation 2021).</i>
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## **8 CLOSURE OF MEETING**

The public part of the meeting closed at 3:55PM.

The full meeting closed at 4:42PM.

The minutes of this meeting were confirmed by the Chair.



# **Wollondilly Shire Local Planning Panel**

## **AGENDA**

**Date:** Thursday 12 December 2024

**Time:** 3:30 pm

**Location:** Council Chamber  
Wollondilly Shire Hall  
52 Menangle Street, Picton NSW 2571

The meeting is also Webcast Live

## Order of Business

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**1 OPENING****2 RECORDING OF THE MEETING**

The electronic recording of the Local Planning Panel Meeting and the use of electronic media during the proceedings is not permitted. This includes devices such as laptops, mobile phones, tape recorders and video cameras.

**3 WEBCAST NOTICE**

Members of the public are advised, that Local Planning Panel meetings are recorded and webcast live in line with provisions under the Environmental Planning & Assessment Act 1979 No. 203. This notice is made as required under Section 18 of the Privacy and Personal Information Protection Act 1998 (PPIPA). The webcasts are publicly available for viewing on Council's website.

Video footage collected is of the panel and registered speakers. If you do not wish your image to be recorded a panel member or Council officer will, upon request, read your submission on your behalf. Your image, voice, personal and health information may be recorded, publicly broadcast and archived if you speak during the meeting and/or don't remain in the space provided in the public gallery.

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Council may be required to disclose recordings pursuant to the Government Information (Public Access) Act 2009, or where Council is compelled to do so by court order, warrant or subpoena or by any other legislation.

**4 ACKNOWLEDGMENT OF COUNTRY**

The Chair will acknowledge the traditional Custodians of the Land.

**5 APOLOGIES AND LEAVE OF ABSENCE REQUESTS****6 DECLARATION OF INTERESTS**

## 7 LOCAL PLANNING PANEL REPORTS - SUSTAINABLE AND BALANCED GROWTH

### 7.1 80 SILVERDALE ROAD, THE OAKS PLANNING PROPOSAL

title-auto-inserted-by-system}

Directorate: Shire Futures

#### Reason for LPP Referral

Local Planning Panel Direction – Planning Proposals, issued on 27 September 2018, requires all planning proposals to be referred to the LPP for advice before Council considers the matter

Address:

80 Silverdale Road, The Oaks

Lot & DP:

Lot 3 DP 1201486

Current Zoning:

RU2 Rural Landscape

Proposal:

Draft Planning Proposal to amend *Wollondilly Local Environmental Plan 2011* to enable the development of the site for large lot residential purposes.

Applicant:

Michael Brown Planning Strategies Pty Ltd

#### EXECUTIVE SUMMARY

The purpose of this report is to seek the advice of the Wollondilly Shire Local Planning Panel (the Panel) on a draft Planning Proposal (draft proposal) received for land at Lot 3 DP1201486, 80 Silverdale Road, The Oaks.

The draft proposal seeks to amend the *Wollondilly Local Environmental Plan 2011* (WLEP 2011) by rezoning the land to enable further subdivision for large lot residential purposes. The proposed amendments outlined in the draft proposal would enable approximately nine lots with a minimum lot size of 4,000sqm.

The draft proposal seeks to achieve this through the following amendments:

- Amend the Land Zoning Map from RU2 Rural landscape to R5 Large Lot Residential for part of the site and retain the RU2 Rural Landscape zoning for the remainder of the land;
- Amend the Lot Size Map from a minimum lot size category of 40 hectares to 4,000sqm for the part of the land proposed to be zoned R5 Large Lot Residential and retain the 40ha minimum for the remaining RU2 zoned land; and
- Amend the Height of Building Map to introduce building height of 9m for the part of the land proposed to be zoned R5 Large Lot Residential.

Preliminary community and stakeholder feedback were invited on the draft planning proposal from 11 July to 8 August 2024. Five community submissions were received, most objecting to the proposal.

Ten submissions were received from public authorities or Government agencies, identifying a range of issues as discussed in this report, including infrastructure implications and inconsistencies with the strategic planning framework.

On balance, it is not considered that Council can be satisfied that the draft proposal has strategic and site-specific merit. As such, this report recommends that the draft proposal not be supported.

## RECOMMENDATION

That the Panel:

1. Note the information contained in this report.
2. Note that the draft planning proposal does not demonstrate sufficient strategic merit due to its inconsistency with the strategic planning framework including:
  - a) Planning Priority W1, W3, W5, W13 and W16 in the Western City District Plan;
  - b) Ministerial Direction 1.1 Implementation of Regional Plans, 3.3 Sydney Drinking Water Catchments, 6.1 Residential Zones, 9.1 Rural Zones and 9.2 Rural Lands;
  - c) Wollondilly 2040; Council's Local Strategic Planning Statement (LSPS) – including
    - i) Planning Priority 1 – Aligning infrastructure provision with community needs,
    - ii) Planning Priority 3 – Establishing a framework for sustainable managed growth
    - iii) Planning Priority 5 – Providing housing options that meet local needs and match the local character of towns and villages
    - iv) Planning Priority 13 – Protecting Biodiversity and Koala Habitat Corridors
    - v) Planning Priority 16 – Enhancing and Protecting the Diverse Values of the metropolitan Rural area;
  - d) Council's adopted Local Housing Strategy and Rural Land Strategy
3. Note that several of the specialist studies submitted with the proposal, do not provide sufficient information and assessment to inform or justify the proposal.
4. Note that the proposal will not enhance the values of the Metropolitan Rural Areas by delivering any place-based outcomes to deliver targeted environmental, social or economic outcomes.
5. Note that the proposal has not demonstrated that future development can be adequately serviced by essential infrastructure.
6. Provide advice on this proposal that will be attached to a future report to Council.

## REPORT

### Background

Michael Brown Planning Strategies Pty Ltd submitted the draft proposal to Council through the NSW Planning Portal on 28 June 2024 (this being the date that the relevant application fee was paid and the proposal formally accepted by Council).

The draft proposal seeks to amend the WLEP 2011 by rezoning the land and amending development standards such as minimum lot size to enable a large lot residential subdivision.



A number of specialist studies have been prepared by professional consultants engaged by the proponent to inform and support the draft proposal.

These include:

- Water Cycle Management Study
- Aboriginal Cultural Heritage Assessment
- Strategic bush fire study
- Flora & Fauna Assessment
- Land Use Conflict Risk Assessment (LUCRA)
- Social & Health Impact Assessment
- Preliminary Site Investigation
- Geotechnical & Salinity Assessment
- Electrical Connection Report
- Traffic Impact Assessment
- Odour Impact Assessment
- Contamination Assessment

### Site Description

The subject site is identified as Lot 3 in DP 1201486, No. 80 Silverdale Road, The Oaks and is located adjacent to the northern boundary to the existing township. It has an area of 31.87 hectares with an irregular boundary and varying topography.

Known as Mill Park Farm, it has several improvements on the site including fencing, several paddocks containing pasture and three dams. Both the northern and southern boundaries are adjacent to mapped watercourses, although none are mapped on the site. An operational poultry farm is located to the east of the site.

The land is currently zoned RU2 Rural Landscape with a minimum lot size of 40ha. The Height of Building Map does not currently provide a building height limit on the land; however, the residential zoned land within The Oaks township to the south of the site has a 9 metre maximum building height limit.

There are no known or listed heritage items located on or adjacent to the site. The site contains stands of vegetation but is not mapped as significant. The western part of the proposal area is within the Sydney Drinking Water Catchment Area.

The subject site is outlined in red at **Figure 1**.

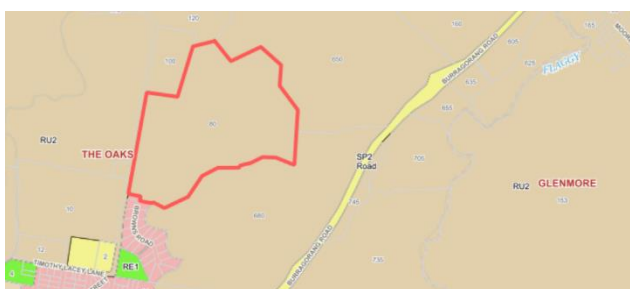


**Figure 1:** Location map of subject site at 80 Silverdale Road, The Oaks, Lot 3 DP 1201486

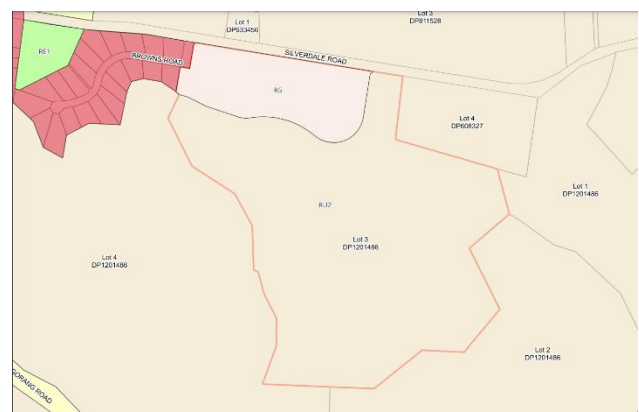
### Description of the Proposal

This draft proposal seeks to rezone land to enable a subdivision of the land into nine residential large lots. It seeks to do this through the following amendments to the WLEP:

- Amend the **Land Zoning Map** from RU2 Rural landscape to R5 Large Lot Residential for part of the site and retain the RU2 Rural Landscape zoning for the remainder of the land as shown in **Figure 2**.
- Amend the **Lot Size Map** from a minimum lot size category of 40 hectares to 4,000sqm for the part of the land proposed to be zoned R5 Large Lot Residential and retain the 40ha minimum for the remaining RU2 zoned land as shown in **Figure 3**.
- Amend the **Height of Building Map** to introduce building height of 9m for the part of the land proposed to be zoned R5 Large Lot Residential as shown in **Figure 4**.

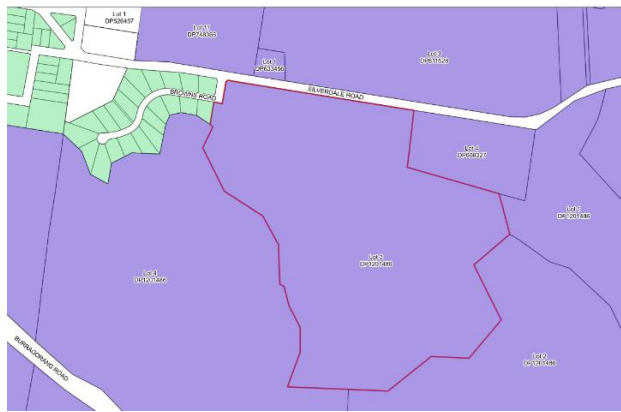


Current zoning

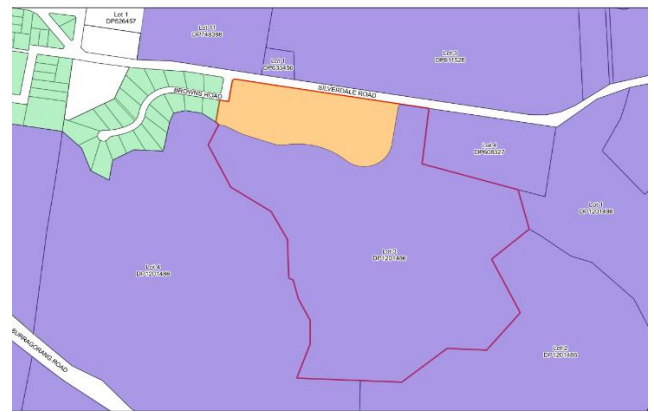


Proposed zoning

**Figure 2:** Current and proposed zoning



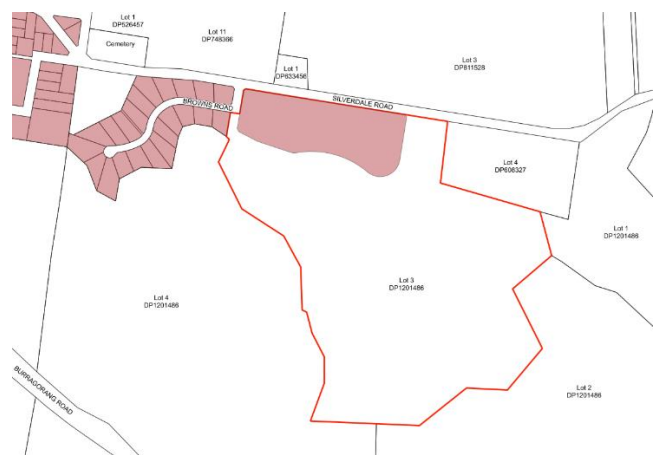
Current minimum lot size



Proposed minimum lot size

**Figure 3: Current and proposed minimum lot size**

Current maximum building height



Proposed maximum building height

**Figure 4: Current and proposed maximum building height**

A copy of the Proponents' most recent planning proposal is provided at **Attachment 1**.

It is noted that the planning proposal document has been updated by the proponent since the preliminary notification in an attempt to respond to matters raised as part of the preliminary assessment of the proposal.

### Previous Planning Proposal (2016)

Council has previously considered a planning proposal for this site that was submitted by a different proponent in February 2016. The previous planning proposal was considered by Council a number of times:

- In July 2016, Council initially resolved to support and prepare a planning proposal in an amended form to that submitted by the proponent and to forward that proposal to the then Minister for Planning and Environment for a Gateway Determination.
- In October 2016, Council resolved to include additional land in the planning proposal. The additional land included the lots accessed from the adjoining existing residential land at Browns Road to increase the minimum lot size from 700sqm to 1,500 sqm to ensure the existing character is maintained by preventing infill subdivision.

- A Gateway Determination was initially issued by the (then) NSW Department of Planning and Environment (DPE) on 8 December 2016 which enabled the proposal to progress subject to a number of conditions being satisfied.
- In September 2017, following the outcome of a proponent initiated Rezoning Review, Council resolved to further consider the form of the proposal once the technical studies had been prepared. Council also reduced the proposed maximum building height for the site.
- In August 2020 Council confirmed its support for the planning proposal to proceed on the basis of a 1,500sq.m minimum lot size and a maximum building height limit of 6.8 metres.

The previous planning proposal varied from the current proposal, in that it applied to a lesser portion of the site, and proposed a minimum lot size of 1500 sqm with an anticipated lot yield of 12 lots.

Ultimately, the previous planning proposal did not progress to a public exhibition and did not have status as a draft environmental planning instrument.

On 6 October 2020, DPE wrote to Council advising that as part of its reform program to streamline and simplify the planning system, it was seeking to resolve and make final decisions on long standing (referred to as legacy) planning proposals where these had a Gateway Determination of more than 4 years with a view to finalising these proposals by 31 December 2020. The planning proposal at No. 80 Silverdale Road, The Oaks was identified as one of the proposals which met these criteria.

In response, in October 2020, Council resolved to refer all nominated Planning Proposals (including the planning proposal for no. 80 Silverdale Rd, The Oaks) to DPE for determination where they had a gateway determination of more than 4 years old and had unresolved issues preventing determination.

DPE determined a total of nine legacy planning proposals with a Gateway Determination of more than 4 years old. The planning proposal for no. 80 Silverdale Road, The Oaks was one of these proposals determined not to proceed.

The implication was that the planning proposal was taken to have never been made and a new proposal would need to be submitted in order for the rezoning to be reconsidered.

DPE provided reasons for refusal for each of the planning proposals along with advice which stated that (aside from site specific issues), they considered a number of fundamental steps would be required to be addressed before the nine proposals that were determined as part of the planning reforms package could be reconsidered.

The proponent has been requested to provide a reconciliation against the reasons why the earlier planning proposal was not supported and how those issues have been addressed as part of the planning proposal package. This has not been provided.

A summary of the reasons for refusal and whether the matters have been addressed with the updated draft proposal is provided at **Table 1**.

Unresolved Issues	Current Assessment
<i>potential impacts on Shale Sandstone Transition Forest and Aboriginal Cultural Heritage have not been addressed;</i>	There are currently no outstanding matters in relation to the assessment of impacts on biodiversity.



Unresolved Issues	Current Assessment
	<p>Originally, an Aboriginal Cultural Heritage Due Diligence Assessment was submitted with the proposal. Usually, a comprehensive aboriginal cultural heritage assessment is required which is a more thorough assessment than a due diligence assessment.</p> <p>During the pre-lodgement process Heritage NSW advised that the due diligence process does not adequately assess the impacts on Aboriginal cultural heritage as required by the Ministerial Directions.</p> <p>Subsequently, an Aboriginal Cultural Heritage Assessment was submitted.</p> <p>At this stage, no comments have been received from the NSW Department of Climate Change, Energy, the Environment and Water or Heritage NSW who typically review the adequacy of aboriginal cultural heritage assessments.</p>
<i>many remaining matters are unresolved due to the absence of required studies and documentation required by the Gateway determination;</i>	<p>There have been changes to the NSW local environmental plan making process since the last planning proposal. Technical studies are now required to be prepared prior to the submission of a planning proposal.</p> <p>This report identifies shortcomings in some of the technical studies.</p>
<i>the proposal is inconsistent with regional, district and local strategic planning frameworks presently in place for Wollondilly LGA; and</i>	The draft planning proposal is still considered to be inconsistent with the strategic planning framework as covered in this report.
<i>the planning proposal is inconsistent with Section 9.1 Directions 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 4.4 Planning for Bushfire Protection and 5.5 Sydney Drinking Water Catchment, hence all related issues remain unresolved</i>	The draft planning proposal is still considered to be inconsistent with a number of Ministerial Directions as covered in this report.

**Table 1:** Site specific unresolved issues

All of the unresolved issues from the previous planning proposal have still not adequately been addressed or resolved.

A summary of the fundamental steps and whether the matters have been addressed with the updated draft proposal is provided at **Table 2**.

Unresolved Issues	Current Assessment
<i>completion of Council's planned natural and hazard risk study in consultation with the Department and the Rural Fire Service and other emergency service providers;</i>	A draft Wollondilly Hazards Analysis and Emergency Management Study has been prepared. However, the Study has not yet been finalised.
<i>the Department's review and approval of Council's Local Housing Strategy to reflect growth scenarios proposed by these proposals;</i>	The Wollondilly Local Housing strategy was adopted by Council in March 2021.  The Department approved the LHS on 9 September 2021 subject to requirements.
<i>finalisation of Sydney Water's Environmental Protection License variation application for the Picton Water Recycling Plant and related business case to assure capacity for wastewater.</i>	This is not considered relevant to the draft planning proposal as The Oaks is not serviced from the Picton Water Recycling Plant.

**Table 2:** Fundamental Steps for all proposals

Only two of the three fundamental steps have been resolved at this time. It is noted that the fundamental steps are matters for Council to resolve and are independent of the planning proposal and cannot be resolved by the proponent.

### Scoping Proposal (pre-lodgement) Advice

A Scoping Proposal for the draft proposal was submitted to Council in September 2023, and a pre-lodgement meeting was held with the proponent on 15 November 2023, in accordance with the NSW Department of Planning, Housing and Infrastructure's (DPHI) *Local Environmental Plan Making Guideline*.

The purpose of the scoping proposal and pre-lodgement meeting is to provide early feedback to proponents about the strategic and site-specific merits of a proposal and identify the information/studies that would need to be submitted with any Draft Planning Proposal.

The Scoping Proposal proposed a similar, although a more intense amendment for the site. The Scoping Proposal was on the basis of a minimum lot size of 1,500m<sup>2</sup> to enable 17 lots ranging in size from 1,500m<sup>2</sup> to 5,038m<sup>2</sup>. The same maximum building height and land use zones were proposed.

As part of the pre-lodgement advice, feedback was also obtained from a number of key authorities and government agencies which informed Council's response.

On 5 December 2023, formal written advice was provided to the proponent, which concluded that, based on an assessment of the scoping proposal, on balance it was considered that the proposal was not consistent with the strategic planning framework and did not have strategic planning merit and was inconsistent with the strategic planning framework.

## PLANNING CONTEXT

### Wollondilly 2040 Local Strategic Planning Statement (LSPS)

Council's Local Strategic Planning Statement, Wollondilly 2040 (LSPS) is a 20 year land use vision for Wollondilly and guides the implementation of the Western City District Plan at a local level.

The vision is for a prosperous, sustainable and resilient future for Wollondilly residents, with an enviable lifestyle of historic villages, modern living, rural lands and bush settings. Wollondilly 2040 identifies a number of actions under each of its 18 Planning Priorities.

This proposal is inconsistent with the following key planning directions outlined in the LSPS:

- **Planning Priority 1** – Aligning infrastructure provision with community needs.
- **Planning Priority 3** - Establishing a framework for sustainable managed growth
- **Planning Priority 5** - Providing housing options that meet local needs and match the local character of towns and villages
- **Planning Priority 13** - Protecting Biodiversity and Koala Habitat Corridors
- **Planning Priority 16** - Enhancing and Protecting the Diverse Values of the metropolitan Rural area

A summary of the draft proposal's consistency with the LSPS is summarised in **Table 3**.

Planning Priority		Assessment
1	Aligning infrastructure provision with community needs	<p>No town can operate effectively without adequate services and infrastructure. Council is committed to ensuring that all residents have access to sufficient services/infrastructure to ensure their needs are met and that the Shire can grow into the future.</p> <p>There are currently servicing and environmental constraints that limit further development in The Oaks.</p> <p>Sydney Water has indicated that it cannot support any additional urban growth in The Oaks area until 2028.</p> <p>The proposal does not address wastewater servicing and is currently lacking planned and sequenced infrastructure to deliver it. This is a significant concern and will constrain the future development of the site.</p>
3	Establishing a framework for sustainable managed growth	<p>Wollondilly's bush, rural lands, and local towns and villages are well valued and must be protected in the context of unprecedented growth. Wollondilly's contribution to Greater Sydney's housing supply will predominately occur in the Wilton and Greater Macarthur Growth Areas and Council is committed to protecting rural land, landscapes and sensitive environments outside these identified growth areas.</p> <p>The LSPS does not support planning proposals that do not fit within a framework for growth informed by</p>

Planning Priority		Assessment
		local housing strategy (LHS) and rural lands strategy (RLS). The proposal would enable encroachment of urban or residential lands into rural areas outside of identified growth areas or existing village footprints and is not clearly identified for these uses in the Local Housing Strategy.
5	Providing housing options that meet local needs and match the local character of towns and villages	<p>The Planning Proposal will provide residential zoned land which is not identified for future local growth.</p> <p>On balance, the Proposal is inconsistent with the Wollondilly Local Housing Strategy (LHS) for the following reasons:</p> <ul style="list-style-type: none"> <li>Land in and around the Oaks has not been identified for further urban development or housing growth.</li> <li>Wollondilly has adequate capacity through existing zoned land to supply additional housing in line with demand.</li> </ul> <p>The subject site is not located within the Wilton Growth Area or the Greater Macarthur Growth Area and it is not identified for local growth. The Oaks is without a train station and public transport options such, as bus services, are limited. The proposal does not support housing supply and affordability with access to jobs and public transport.</p> <p>The draft planning proposal challenges whether the LHS adequately considers the principle of diverse housing as the Strategy <i>fails to adequately address the demand and provision for 'lifestyle' housing in a rural residential context.</i></p> <p>The LHS focusses on diverse housing in urban zones within Wollondilly's towns and villages to meet housing need.</p> <p>Facilitating the provision of additional rural residential development does not form part of the strategic planning framework for Wollondilly. The Western City District Plan provides clear direction that rural residential development <i>is not an economic value of the District's rural areas and further rural-residential development is generally not supported.</i> It is also noted that rural residential development can have environmental, social and economic costs that are significantly higher than those of standard residential development and requires special consideration.</p> <p>Rural residential growth is considered by the Rural Lands Strategy (RLS) which recommends that no</p>



Planning Priority		Assessment
		further rezoning for rural residential purposes be undertaken. The RLS also notes there is undeveloped supply of between 8 to 16 years of land zoned for large lot residential purposes.
16	Enhancing and Protecting the Diverse Values of the Metropolitan Rural Area	<p>Much of the land in Wollondilly is identified as Metropolitan Rural Area for its agricultural, environmental and scenic values. These rural lands provide a range of agricultural products including dairy, poultry, eggs and cut flowers to Greater Sydney. The proposed development will have adverse impacts on the agricultural values of the land. The proposed amendments limit permissibility of land uses and restrict the agriculture/farming activities on this site. The site is associated with MRA values of rural areas. However, the proposal does not provide the opportunity to enhance the values of the MRA in contributing to habitat, biodiversity, supporting productive agriculture.</p> <p>Wollondilly Shire Council is proposing to include horticulture as exempt development in the RU1 Primary Production zone and complying development in the RU2 Rural Landscape (the site's current zone) and RU4 Primary Production Small Lots zones and there is a potential of new horticulture enterprises that may be possible as a result of Council's planning proposal (PP-2024-676) encouraging Horticulture in Rural lands.</p>
18	Living with climate impacts and contributing to the broader resilience of Greater Sydney	<p>Planning Priority 18 sets out that before Council can consider planning proposals for local growth in the Shire, a study and approach needs to be undertaken to guide the appropriate location for development in terms of exposure to natural and man-made hazards.</p> <p>A draft Wollondilly Hazards Analysis and Emergency Management Study has been prepared. However, the Study has not yet been finalised.</p> <p>The draft proposal has not addressed Planning Priority 18. It is noted that the draft proposal has been informed by technical studies that consider hazards in isolation (bush fire, flooding, contamination) however, no cohesive consideration has been given to hazard resilience.</p>

**Table 3:** Summary of draft proposal consistency with the LSPS

On balance, the proposal is considered to be inconsistent with the LSPS.

A more detailed assessment against key Planning Priorities relevant to this proposal is included in **Attachment 2**.

### Council Resolution 33/2021 – Wollondilly Local Housing Strategy

As noted earlier in this report, Council has previously considered a Planning Proposal on the land which was determined in December 2020.

In March 2021, Council resolved to adopt the Wollondilly Local Housing Strategy.

The Local Housing Strategy is significant in determining the future housing growth for the area. For example, the Western City District Plan identifies that urban development will only be supported in the Metropolitan Rural Area (MRA) where the land has been identified for growth in a Council or Government endorsed Strategy, which could include a council's Local Housing Strategy (LHS).

In adopting the LHS, Council also provided the following direction in relation to planning proposals that had been active during the development of the LHS (resolution no 33/2021):

5. *Notes that a number of planning proposals have been recently refused by the Department of Planning, Industry & Environment due to outstanding agency and infrastructure issues for example, the planning proposals known as Darley Street and Stilton Lane.*
6. *Given that the planning proposals outlined above were considered as likely to proceed when finalising the draft housing strategy, Council amend the draft housing strategy to allow for consideration of appropriate new planning proposals for those sites that meet the following criteria:*
  - a. *Were in progress during the preparation of the local housing strategy and were refused during the finalisation period of the Local Housing Strategy (January – March 2021).*
  - b. *Were supported when they were most recently considered by Council prior to their refusal by DPIE.*
  - c. *Had previously received a Gateway Determination to proceed.*

The determination of the previous planning proposal was made in December 2020, and therefore does not meet the intent of the resolution, which was clear in identifying the later tranche planning proposals.

It is considered that the draft planning proposal does not the criteria above due to the following:

Even if the proposal was consistent with the resolution and considered under the LHS, the following is also noted:

The Council Resolution also included criteria for planning proposals to be reconsidered.

- The Proposal resolved any known planning or infrastructure issues previously identified for the site, including those identified by the Department of Planning, Industry & Environment and other agencies.
- For proposals that include R2 or R3 zonings and appropriate road infrastructure upgrades are in place.
- The proposal is consistent with the character of the surrounding area, consistent with the LSPS and would otherwise meet the definition of local growth.

The draft proposal is not considered to meet the criteria for reconsideration as known planning issues for the site have not been resolved and the proposal is considered to be inconsistent with the LSPS.

Although the proposal is quite small in terms of any contribution to housing supply, it is not considered to be consistent with the framework for local growth in that a need has not been identified for additional housing supply for The Oaks in addition to planned growth already in the pipeline.

Large lot residential development is also not considered to provide any meaningful contribution to diverse housing given its low density, cost of providing services, and poorly located in terms of walking distance and access to transport, shops and services.

### Western City District Plan 2018

The Western City District Plan is a 20 year plan that guides implementation of the Greater Sydney Region Plan and acts as a bridge between regional and local planning. It outlines a number of directions, priorities and actions for managing growth, delivering infrastructure and protecting and enhancing bushland and biodiversity.

The Plan sets a 5 year (2016-2021) housing supply target for Wollondilly Shire Council of 1,550 dwellings. Dwelling completions since 2016, combined with existing capacity of rezoned land and the Wilton Growth Area are expected to satisfy this requirement. The subject site is not located within the Wilton Growth Area or the Greater Macarthur Growth Area.

This proposal is inconsistent with the following key planning directions outlined in the District Plan:

- W1 - Planning for a city supported by infrastructure
- W5 - Providing housing supply, choice and affordability, with access to jobs, services and public transport.
- W14 - Protecting and enhancing bushland and biodiversity
- W17 - Better managing rural areas

A summary of the draft proposal's consistency with the District Plan is summarised in **Table 4**.

Planning Priority		Assessment
W1	Planning for a city supported infrastructure.	<p>The proposal is not consistent.</p> <p>This priority encourages better alignment of growth with infrastructure. Accommodating homes needs to be linked to local infrastructure. According to the District Plan, Councils are in the best position to investigate and confirm which parts of their local government areas are suited to additional density opportunities.</p> <p>To address housing supply, Council developed the Local Housing Strategy (LHS) has been developed to identify the right locations for growth, including areas</p>

Planning Priority		Assessment
		<p>that are suitable for change in the short to medium term.</p> <p>The site is not identified for future local growth in the LHS.</p> <p>Furthermore, Sydney Water has indicated that it cannot support any additional urban growth in the Oaks area until 2028. The proposal lacks the necessary infrastructure (e.g. wastewater management) and strategic importance to accommodate additional housing at this time.</p>
W5	Providing housing supply, choice and affordability, with access to jobs, services and public transport	<p>The proposal is not consistent.</p> <p>This priority of the District Plan emphasises that new housing should be located in the right areas to meet the demand for various housing types and price points.</p> <p>The Plan sets a 5 year (2016-2021) housing supply target for Wollondilly Shire Council of 1,550 dwellings. Dwelling completions since 2016, combined with existing capacity of rezoned land and the Wilton Growth Area are expected to satisfy this requirement.</p> <p>The subject site is not located within the Wilton Growth Area or the Greater Macarthur Growth Area and it is not identified for local growth. The Oaks is without a train station and public transport options like buses are limited. The proposal does not support housing supply and affordability with access to jobs and public transport.</p>
W14	Protecting and enhancing bushland and biodiversity	<p>The proposal is not consistent.</p> <p>The far western part of the site lies within the Sydney Drinking Water Catchment (SDWC) but falls just outside the Warragamba Special Area (Schedule 2) lands. There are concerns that the Planning Proposal might lead to adverse water quality impacts in the SDWC. Neutral or Beneficial Effect on Waterways will need to be demonstrated.</p> <p>The proposal does not discuss the SDWC beyond broadly identifying that Direction 3.3 Sydney Drinking Water Catchments is applicable to the Wollondilly Local Government Area (LGA). Further consultation is also required with Water NSW.</p>
W17	Better managing rural areas	<p>The proposal is not consistent with this Planning Priority.</p> <p>The proposal facilitates low-density housing within the Metropolitan Rural Area (MRA) and rural-residential</p>

Planning Priority		Assessment
		<p>development is not an economic value of the District's rural areas and further rural-residential development is generally not supported.</p> <p>Additionally, the proposal does not maintain or enhance the values of the MRA using place-based planning to deliver targeted environmental, social and economic outcomes.</p>

**Table 4:** Summary of consistency with District Plan

On balance, the proposal is considered to be inconsistent with the District Plan.

### Metropolitan Rural Area (MRA)

The Planning Proposal is not consistent with the provisions of the Metropolitan Rural Area (MRA). The site includes approximately 6ha of land mapped as Class 4 land by the Land and Soil Capability Scheme (LSC) and has moderately high fertility. This land correlates with land mapped as State Significant Agricultural Land (SSAL) on the preliminary draft State Significant Agricultural Land Map and is part of a larger contiguous area of better agricultural land extending west and north.

The site provides a strategic buffer between existing residential use and more intense agricultural pursuits including an operational poultry farm to the east. The proposed rural residential subdivision is not considered an optimal use of biophysically capable agricultural land and is inconsistent with the strategic planning framework for the MRA.

The draft planning proposal is therefore considered inconsistent with the District Plan.

The proximity of the site to adjoining agricultural lands is illustrated in **Figure 5**.

An assessment of the Planning Proposal against the Western City District Plan (and the Metropolitan Rural Area where relevant) is provided in **Attachment 2** to this Report.





**Figure 5:** Subject site in relation to adjoining agricultural lands

### Section 9.1 Ministerial Direction

The Minister for Planning has issued a number of Directions under the *Environmental Planning and Assessment Act 1979* which apply to the assessment of planning proposals.

The draft planning proposal is considered to be inconsistent with the relevant Ministerial Directions including:

- Direction 1.1 (Implementation of Regional Plans)
- Direction 3.2 (Heritage Conservation)
- Direction 3.3 (Sydney Drinking Water Catchments)
- Direction 6.1 (Residential Zones)
- Direction 9.1 (Rural Zones)
- Direction 9.2 (Rural Lands)

The inconsistencies can be summarised by the following:

- The proposal seeks to enable housing growth in a location that is inconsistent with the strategic planning framework, primarily due its location in the Metropolitan Rural Area.
- The proposal has not yet adequately demonstrated that it would conserve indigenous heritage significance.
- The proposal has not yet adequately demonstrated that it would protect water quality in the Sydney Drinking Water Catchment

- The scale of the proposal and its location are not well placed to provide diverse housing and efficient use of infrastructure while minimising impacts.
- The proposal will result in the loss of rural land and opportunities for agricultural production.

A full assessment against directions relevant to this proposal is provided in **Attachment 3**.

### State Environmental Planning Policies

The NSW Government publishes State Environmental Planning Policies (SEPPs) which deal with matters of state or regional planning significance.

The proposal is not considered to be consistent with the following SEPP:

- *Primary Production State Environmental Planning Policy (Primary Production) 2021*

The proposed amendments limit permissibility of land uses and restrict the agriculture/farming activities on this site. The site is associated with MRA values of rural areas. However, the proposal does not provide the opportunity to enhance the values of the MRA in contributing to habitat, biodiversity, supporting productive agriculture.

Wollondilly Shire Council is proposing to include horticulture as complying development in the RU2 Rural Landscape and RU4 Primary Production Small Lots zones (PP-2024-676) and there is a potential of new horticulture enterprises that may be possible as a result of Council's planning proposal encouraging horticulture in rural lands. Additionally, future development that would be enabled by the amendments in the planning proposal will lead to land-use conflicts, and reduce the availability of agricultural land.

The proposal is lacking resolution for current land use conflict between the proposed residential and rural land uses.

A full assessment against all SEPPs and SREPs relevant to this proposal is included in **Attachment 4**.

## CONSULTATION

### Community Consultation

Preliminary notification of the draft proposal was held in accordance with Council's Community Participation Plan and adopted Planning Proposal Policy. Preliminary notification occurred for a period of 28 days from 11 July to 8 August 2024.

The draft planning proposal was exhibited on Council's engagement platform, Your Say Wollondilly, along with supporting information.

Community and stakeholder feedback was encouraged through:

- Notification letters to residents and landowners within a 2km radius of the site
- Notification letters to relevant public agencies
- Hard copies of the draft planning proposal were available to view at Council's administration building and at Wollondilly library.
- Promotion on social media

In response, 5 submissions were received during this process, 1 was supportive, and 4 were not supportive.

In summary, the key matters raised about the draft proposal included:

- Lack of infrastructure
- Negative Impacts on value of housing
- Concerns regarding safety and noise
- Destruction of rural lifestyle
- Poor condition of roads and increased traffic
- Negative impacts on biodiversity

A summary of community submissions and Council's response to these submissions is located at **Attachment 5**.

The matters raised in community submissions have mostly identified broad concerns with the proposal and are generally consistent with the concerns identified in this report as part of the proposal's assessment.

### Consultation with Public Agencies

Comment was sought from the relevant public authorities and government agencies as part of preliminary consultation for comment on the draft Planning Proposal.

In response, submissions were received from ten (10) agencies.

A summary of the authorities consulted as part of the preliminary consultation is identified in **Table 5**.

Public Authority/Organisation Consulted	Outcome
<b>Department of Primary Industries – Agriculture (DPI)</b>	<ul style="list-style-type: none"> <li>• Inconsistent with strategic planning framework.</li> <li>• Mapped the site as Class 4 which contains approximately 6 hectares of land with moderately high fertility.</li> <li>• Required that the Land Use Conflict Risk Assessment (LUCRA) to be updated as it did not consider potential agricultural uses for adjacent rural land.</li> <li>• Consideration should be given to the Wollondilly Shire Council's proposal (PP-2024-676) to include horticulture as complying development in the RU2 Rural Landscape and RU4 Primary Production Small Lots zones.</li> <li>• Recommended the application of buffer areas that achieve physical separation between residential and a poultry farm which is less than 1,000m from the proposed development.</li> </ul>
<b>State Emergency Services (SES)</b>	No objection raised.
<b>Sydney Water</b>	<ul style="list-style-type: none"> <li>• Objected. Sydney Water is unable to service the site prior to 2028.</li> <li>• Required the proponent to complete and return a new Feasibility application and Growth Data Form.</li> </ul>



Public Authority/Organisation Consulted	Outcome
<b>Department of Planning, Housing and Infrastructure (DPHI)</b>	<ul style="list-style-type: none"> <li>• Required the proposal to address all issues of the previous Planning Proposal.</li> <li>• Required further consultation with the agencies/ authorities including NSW Department of Climate Change, Energy, the Environment and Water to ensure key issues are addressed prior to lodgement of a planning proposal to the Department for a Gateway determination.</li> <li>• Required inconsistency with strategic planning framework to be addressed.</li> </ul>
<b>Transport for NSW (TfNSW)</b>	No objection raised.
<b>Department of Regional NSW – Mining, Exploration and Geoscience</b>	No objection raised.
<b>Jemena</b>	No objection raised.
<b>Endeavour Energy</b>	No objection raised.
<b>NSW Rural Fire Service (RFS)</b>	No objection raised.
<b>Water NSW</b>	<ul style="list-style-type: none"> <li>• Prime concern is to ensure that proposal does not lead to adverse water quality impacts on the Sydney Drinking Water Catchment</li> <li>• Support approach to connect to water and sewer infrastructure</li> <li>• Request that the planning proposal is referred again once the planning proposal has been updated to more comprehensively address Ministerial Direction 3.3 Sydney Drinking Water Catchment</li> <li>• Provided a Strategic land and Water Capability assessment (SLWCA) for the component of the land occurring in the SDWC based on the development being sewerred.</li> </ul>

**Table 5:** Public Agency consultation

A more detailed assessment of issues raised by public agencies is provided at **Attachment 6**.

No response was provided by the following authorities:

- NSW Department of Climate Change, Energy, the Environment and Water
- Heritage NSW

It is noted that at its Ordinary Council Meeting on 28 June 2022, Council resolved that *in the event that state Agencies are unable to meet their obligations to provide a response on draft Planning Proposals, that the draft Planning Proposal be assessed as if it is not supported by the agency* (Resolution 153/2022).

With this in mind, two authorities are considered to not support the draft proposal.

If the draft planning proposal proceeds, further consultation will be required with a number of agencies to confirm that issues have been resolved. This includes Heritage NSW, Water NSW, and the Department of Primary Industries.

### Key Issues

The draft Planning Proposal was provided to internal Council staff to provide specialist advice. The following key issues have been identified with the proposal:

- **Health Planning:** Concerns regarding accessibility, housing diversity, justification for loss of agricultural land and possible impacts related to the nearby poultry farm and land use conflict.
- **Infrastructure:** Concerns regarding the amount of infrastructure required relative to the lot yield. There is a significant amount of future public infrastructure proposed (including but not limited to, retaining wall, swales, intersections, guardrail, road, etc) for a small lot yield, not within an area of specific strategy significance regarding residential land. The road layout and associated infrastructure appears to be influenced by bushfire requirements but puts the future asset ownership implications on Council.

There are also concerns regarding the availability of essential infrastructure to service the proposal. In particular, existing wastewater infrastructure is inadequate to service the proposed growth. Sydney Water has advised that the site is located outside of the West Camden wastewater system catchment. The West Camden Water Recycling Plant is currently at capacity and is not anticipated to have capacity prior to 2028. However, Sydney Water has indicated that this is subject to approvals and project delivery. It is noted that Sydney Water has not taken the step to object to the proposal.

Housing delivery in other areas within Wollondilly are currently significantly delayed due to a shortfall in Sydney Water planned sewer capacity resulting from delays in project planning and construction. Although this proposal will be serviced from a different plant there is low confidence in the delivery estimate for upgrades.

It is not considered appropriate to support a draft proposal that represents unplanned growth. Particularly as it may contribute towards constraining capacity that is being planned to service long term identified growth areas to service Greater Sydney's housing needs.

There are also unresolved concerns regarding potential impact on the surrounding catchment in terms of ability of OSD requirements to be met.

- **Land Use Conflict:** A poultry farm is located approximately 750 metres east of the area proposed to be rezoned. An odour impact screening assessment has been

prepared for the proponent to inform the planning proposal by determining the likely risk of odour impacts after considering local factors such as topography, vegetation, wind. The assessment identifies that a separation distance of approximately 407m would be required and concludes that the poultry farm is unlikely to cause adverse odour impacts to future housing on the site. The NSW Department of Primary Industries Interim Buffer Guideline recommends that new sensitive receivers should achieve a minimum 1,000m separation distance from poultry (sheds). However, it also acknowledges that site-specific factors play a role in determining the most appropriate level of separation to avoid conflict.

At the time of this report's preparation the adequacy of the odour impact assessment had not yet been confirmed. However, the planning proposal and supporting documents have not yet adequately considered the full range of potential or current conflict issues. In particular, there has been no consideration of potential future expansion of the poultry farm.

### Outstanding Matters

Based on the initial assessment, including feedback from key stakeholders, the proponent has been informed of the following key issues and/or outstanding matters:

- Inconsistencies with the strategic planning framework
- Infrastructure required to support the development is not in the public interest in terms of asset burden on Council
- Inadequate wastewater infrastructure
- An updated LUCRA to address the full range of potential or current conflict issues.
- Potential inadequate separation from an existing poultry operation
- An updated Social Impact Assessment to be prepared in accordance with Council's guidelines.
- An updated water cycle management study that considers the relevant parameters
- A reconciliation against the reasons why the earlier planning proposal was not support and how those issues have been addressed.

It is recognised there are shortcomings in some of the various studies submitted that are still to be addressed however, given the lack of strategic merit the proponent has not been asked to provide additional detail, which could be provided if the proposal proceeds to a Gateway Determination.

It is further noted that Council must meet new benchmark timeframes for processing of planning proposals. For 'complex' proposals such as this, the benchmark is 120 days. This timeframe does not support ongoing discussion between agencies and the proponent. As such, the report is submitted to the Local Planning Panel without the additional detail in those studies.

### Options

The draft Planning Proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning & Assessment Act 1979* and the guidelines published by the Department of Planning, Industry and Environment.

The purpose of this report is to seek advice from the Local planning Panel on the Strategic Planning merits of the proposal, which will inform a future decision of Council.

The options available to Council at that time will be as follows:

1. Resolve to support the draft Planning Proposal in the form as described in the Description of Proposal section of this report. This option will require the proponent to address outstanding matters.
2. Resolve to support the draft Planning Proposal in another form. This option will require the proposal to be amended and is likely to require the proponent to address outstanding matters. If this option is supported by Council, it would be appropriate to liaise with Sydney Water to clarify servicing requirements, and adjust the minimum lot size, whether smaller if it can be serviced, or maintain as 4,000m<sup>2</sup> if on site treatment can be accommodation, to be consistent with R5 land across the Shire.

If Council is minded to support the draft planning proposal, consideration could also be given to including land at Browns Road, The Oaks in a similar manner to its previous inclusion (i.e. to increase the minimum lot size for subdivision to prevent unintended growth).

3. Resolve not to support the draft Planning Proposal.

With this option there is no further action to be taken on the draft Planning Proposal other than to inform the applicant, landowner/s and submitters that the draft Planning Proposal has not been supported.

With this option, the proponent may request a Rezoning Review where an independent planning panel (Western City District Planning Panel) evaluate and recommend to the Minister whether the proposal should progress to Gateway determination. It is noted that this option is also available to the proponent if Council has not indicated support for the draft Planning Proposal within 115 calendar days of the proponent lodging the proposal.

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

### Financial Implications

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

Given the preliminary stage of the proposal, no detailed analysis of infrastructure or financial implications for Council has been undertaken. It is noted that a comprehensive assessment of the relevant financial implications to State or regional infrastructure has also not yet occurred.

### Conclusion

The draft proposal seeks to amend the Wollondilly Local Environmental Plan to rezone land to enable part of the site to be developed for large lot residential (of approximately 9 large residential lots).

It is noted that a planning proposal for this site has previously been supported by Council and subsequently received a Gateway determination to proceed. However, that proposal did not progress to a public exhibition and was ultimately refused by the NSW Government.

There have been significant updates to the strategic planning framework since the previous proposal was submitted to Council in 2016. These include the release of the Greater Sydney Region Plan and the Western City District Plan which established the Metropolitan Rural Area, as well as the new requirement for Councils to prepare local strategic planning statements and local housing strategies.

On balance, it is not considered that Council can be satisfied that the draft proposal has strategic and site-specific merit. It is therefore recommended that the draft proposal not be supported

### ATTACHMENTS

1. Proponent Draft Planning Proposal Document [7.1.1 - 56 pages]
2. Assessment against Local and State Planning Documents and Legislation [7.1.2 - 14 pages]
3. Assessment against Ministerial Directions [7.1.3 - 18 pages]
4. Assessment against State Environmental Planning Policies (SEPPs) [7.1.4 - 8 pages]
5. Table summarising community and stakeholder feedback [7.1.5 - 4 pages]
6. Table summarising public authority and government agency feedback [7.1.6 - 5 pages]

**7.2 DA/2024/601/1 - MENANGLE ROUNDABOUT****Directorate: Shire Futures**

<b>DA Number</b>	DA/2024/601/1
<b>LGA</b>	Wollondilly Shire Council
<b>Proposed Development</b>	Torrens Title subdivision of 110 Menangle Road, Menangle to create two allotments (proposed Lots 30 and 31) and dedication of proposed Lot 31 for the purposes of road widening and constructing a four-way roundabout
<b>Street Address</b>	Lot: 3 DP: 531901, 110 Menangle Road MENANGLE
<b>Applicant</b>	Mirvac Homes (NSW) Pty Ltd
<b>Cost of Development</b>	\$1,320,834
<b>Date of DA Lodgement</b>	6 August 2024
<b>Total Number of submissions Number of unique Objections</b>	None
<b>Recommendation</b>	Approval subject to conditions
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>• State Environmental Planning Policy (Precincts—Western Parkland City) 2021</li> <li>• Wollondilly Local Environmental Plan 2011</li> <li>• Wollondilly Development Control Plan 2016</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Proposed subdivision plan</li> <li>• Clause 4.6 variation request</li> </ul>
<b>Clause 4.6 request</b>	<ul style="list-style-type: none"> <li>• Clause 4.1(3) Minimum Lot Size of Wollondilly Local Environmental Plan 2011 Minimum lot size: 975m<sup>2</sup>; Proposed lot size: 35.8m<sup>2</sup> (939.2m<sup>2</sup>, or - 96.33%)</li> </ul>
<b>Summary of key submissions</b>	Nil
<b>Report date</b>	12 December 2024

**EXECUTIVE SUMMARY**

Development Application DA/2024/601/1 seeks consent for the Torrens Title subdivision of 110 Menangle Road, Menangle to create two allotments (proposed Lots 30 and 31). Proposed Lot 31 will be dedicated for road widening purposes to construct a roundabout at the intersection of Menangle Road and Station Street/ Woodbridge Road.

A Clause 4.6 Variation Request was lodged to vary Clause 4.1(3) *Minimum Subdivision Lot Size* of the Wollondilly Local Environmental Plan 2011 (**WLEP**). The minimum subdivision lot size for the property is 975m<sup>2</sup> in accordance with WLEP, and the proposed lot size of Lot 31 (lot to be dedicated



as road) has a size of 35.8m<sup>2</sup>, which results in a noncompliance of 939.2m<sup>2</sup>, or 96.33%. No variation is sought to Wollondilly Development Control Plan 2016.

The application is referred to the Wollondilly Local Planning Panel for determination as the proposal contravenes a development standard imposed under WLEP by more than 10%.

The proposed Integrated Development was advertised and notified in accordance with Council's Community Participation Plan from 14 August to 28 August 2024. No submissions were received.

## RECOMMENDATION

That Development Application DA/2024/601/1 for the Torrens Title subdivision of 110 Menangle Road, Menangle to create two allotments (proposed Lots 30 and 31), to dedicate proposed Lot 31 for road widening and to construct a roundabout be approved, subject to conditions as detailed in this report.

## REPORT

### Background

This Development Application was lodged as part of the residential redevelopment of Menangle by Mirvac. The proposed roundabout forms part of the approved Masterplan for Menangle. Stage 1 to 3 of the subdivision has been approved. Works have commenced on Stage 3, the linen plan of Stage 1 and 2 has been registered and Stage 4 is currently under assessment by Council.

The applicant has considered a number of options to accommodate the roundabout. This includes 2 Station Street, aka the Menangle Store (a local heritage item) and 114 Menangle Street. However, after careful consideration, 110 Menangle Street was found to be the only viable option.

Negotiations between the applicant and the property owner of 110 Menangle Road, Menangle to acquire land for the road widening and construction of a roundabout have been protracted. The delay is mainly due to the property owner's reluctance to pursue the Exempt Development provisions in Clause 2.75(a) of SEPP (Exempt and Complying Development Codes) 2008). Subsequently, the Developer and Property Owner reached an agreement and entered into a Deed to carry out the road dedication in the form of Torrens Title Subdivision under a development application prior to land dedication and construction of the roundabout. The subject DA is set out in accordance with the Deed.

Below is a list of the main development applications associated with the Menangle subdivision:

- **Super-lot subdivision:** approved under DA/2019/644/1 and DA/2019/645/1
- **Stage 1:** approved under DA/2019/93/1
- **Stage 2A and 2B:** approved under DA/2020/401/1
- **Stage 3:** approved under DA/2021/842/1
- **Stage 4:** currently under assessment DA/2022/259/1

The timeline for this DA is summarized below:

Date	Action
6 August 2024	DA/2024/601/1 was lodged for Torrens Title subdivision of 110 Menangle Road, Menangle to create two allotments for road widening and construction of a four-way roundabout at intersection of Menangle Road and Station Street/ Woodbridge Road.
14-28 August 2024	Neighbour notification period.
12 September 2024	First request for information ( <b>RFI</b> ) letter issued by Council, requesting information in relation to the following:  1. Turning path diagrams



	<ul style="list-style-type: none"> <li>2. Relocation of existing signage</li> <li>3. Stormwater disposal</li> </ul>
3 October 2024	Revised civil plan and response matrix submitted by the Applicant. The amended information did not warrant re-notification.
21 October 2024	Council informed the applicant that a written Clause 4.6 Variation Request is required if road dedication is not proposed under the provisions of Clause 2.75(a) of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
4 November 2024	Clause 4.6 Variation Request submitted by the Applicant. The amended information did not warrant re-notification.
5 December 2024	DA submitted to WLPP for determination.

## Consultation

### Integrated Development Approval Body Considerations

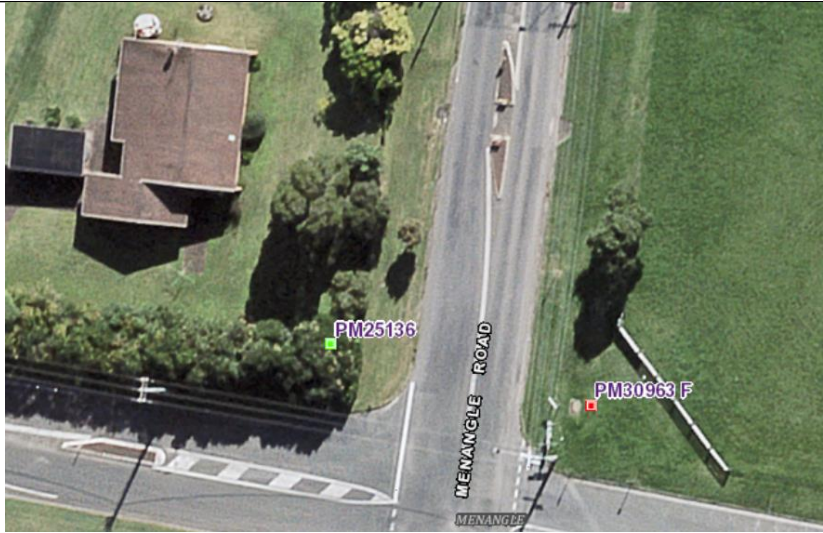
This Development Application is considered to be integrated development and is referred to Subsidence Advisory NSW and NSW Rural Fire Services.

Referral	Outcome
Subsidence Advisory NSW	On 6 September 2024, Subsidence Advisory NSW issued General Terms of Approval to the development with conditions imposed. The conditions are included in the recommended consent conditions.
NSW RFS	<p>Despite only part of the site is mapped bushfire prone land (see Figure 5), and proposed Lot 31 to be dedicated as road is not mapped bushfire prone, the application was referred to NSW RFS as the proposal involves subdivision of land and is captured under Section 100B of Rural Fires Act.</p> <p>On 30 August 2024, NSW RFS issued General Terms of Approval for the development with conditions imposed. The conditions are included in the recommended consent conditions.</p>
Transport for NSW	On 3 September 2024, Transport for NSW issued concurrence to the development with no specific conditions.

### Internal referrals

The Development Application was referred to Council's Development Engineers, Environment Team, Waste Team, Property Team, Asset Management Team and Heritage Advisor.

Referral	Outcome
Development Engineers	<p>Council's Development Engineers have reviewed the proposal and raised no objection. Conditions are recommended to ensure Wollondilly Shire Council Traffic Committee's approval and s138 Approval is obtained prior to work commencement.</p> <p>Development Engineer also noted an existing survey mark is located on the road reserve of Menangle Road outside the subject site. A condition is imposed to ensure the survey mark will be relocated in accordance with Surveying &amp; Spatial Information Act 2002.</p>

	
Environment Team	Council's Environment Team has reviewed the proposal and raised no objection. Conditions are recommended for additional planting near the roundabout and to retain one tree on Council's road reserve.
Waste	Council's Waste Team has reviewed the proposal and raised no objection. Conditions are recommended to ensure adequate management of waste in accordance with the submitted Waste Management Plan.
Property	Council's Property Team has reviewed the proposal and raised no objection. Condition is recommended to ensure Lot 31 will be dedicated to Council as public road at the subdivision certificate stage.
Asset Management	No concerns raised.
Heritage Advisor	<p>Council's Heritage Advisor considered additional trees should be provided on and around the roundabout.</p> <p>Upon discussion with TfNSW, tree planting on roundabout is not supported due to concerns with sightlines, road safety hazard and maintenance issue. Instead, conditions are recommended as per discussion with the Environment Team for new trees on Council's road reserve.</p>
Contribution Team	Contributions Team advised no s7.11 local contribution is payable as Lot 31 will be dedicated as public road.

### External Referrals

The Development Application was referred to Transport for NSW and Endeavour Energy.

Referral	Outcome
Endeavour Energy	On 14 August 2024, Endeavour Energy approved the application subject to conditions. The conditions will be included in the recommended consent conditions.

## 1.1 Description of Site and Surrounding Area

The subject site consists of two areas: the residential property at 110 Menangle Road, Menangle (legally known as Lot 3 of DP531901) and the intersection of Menangle Road and Station Street. Please refer to the figures below for more information.

Part of 110 Menangle Road, Menangle is identified as bushfire prone land. The site is not prone to landslip or flooding. The site is located within a mine subsidence district (Area 8). No part of the site is identified as land with outstanding biodiversity values.

The site is zoned R2 Low Density Residential and SP2 Road under the provision of Wollondilly Local Environmental Plan 2011 (**WLEP**). The site is not identified as a heritage item but is located within Menangle Heritage Conservation Area. The site also adjoins a number of heritage items in the vicinity, including The Store Menangle, Managers Cottage at 3 Station Street and other items along Station Street or Menangle Road.



Figure 1: Aerial photo extracted on 16 August 2024





**Figure 2:** *Proposed location of roundabout*



**Figure 3:** *Proposed location of new pedestrian refuge island on western side of roundabout*





**Figure 4:** Proposed location of new refuge island outside The Store Menangle

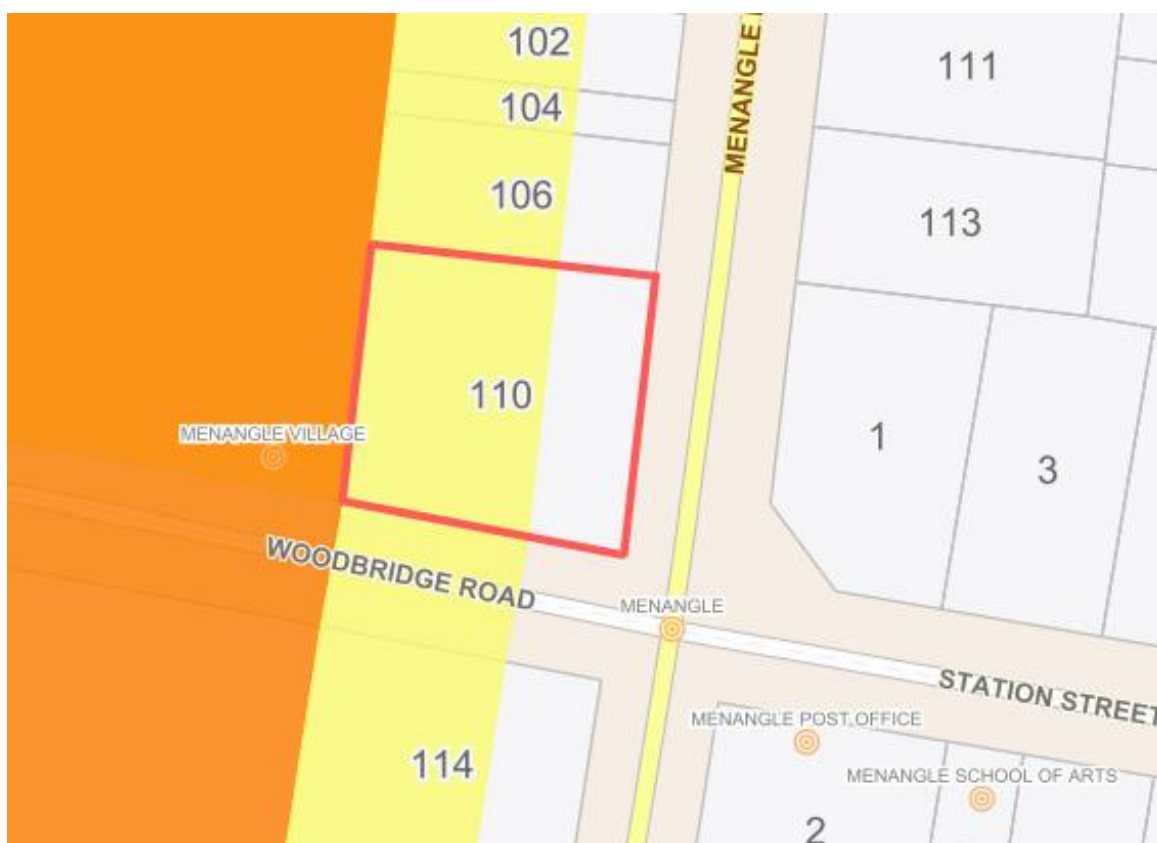


Figure 5: Bushfire prone land map

## 1.2 Description of Development

The proposal seeks consent for the following works:

- Torrens Title subdivision of 110 Menangle Road, Menangle to create two lots
- Road widening and construction of a roundabout at the intersection of Menangle Road and Station Street/ Woodbridge Road and dedication of proposed Lot 31 as a public road

Table 1: Proposed lot matrix

	Lot width	Lot depth	Lot size	Compliance
<b>Lot 30</b> (with existing house)	Unchanged	Unchanged	1,925m <sup>2</sup>	Yes
<b>Lot 31</b> (to be dedicated to Council as road)	11.5m	11.5m	35.8m <sup>2</sup>	No (-96.33%)

Note: Housing and Productivity Contribution and s7.11 local contribution is not applicable as Lot 31 will be dedicated to Council as road. It is not of a sufficient land size that residential accommodation would be permitted with consent under any EPI.

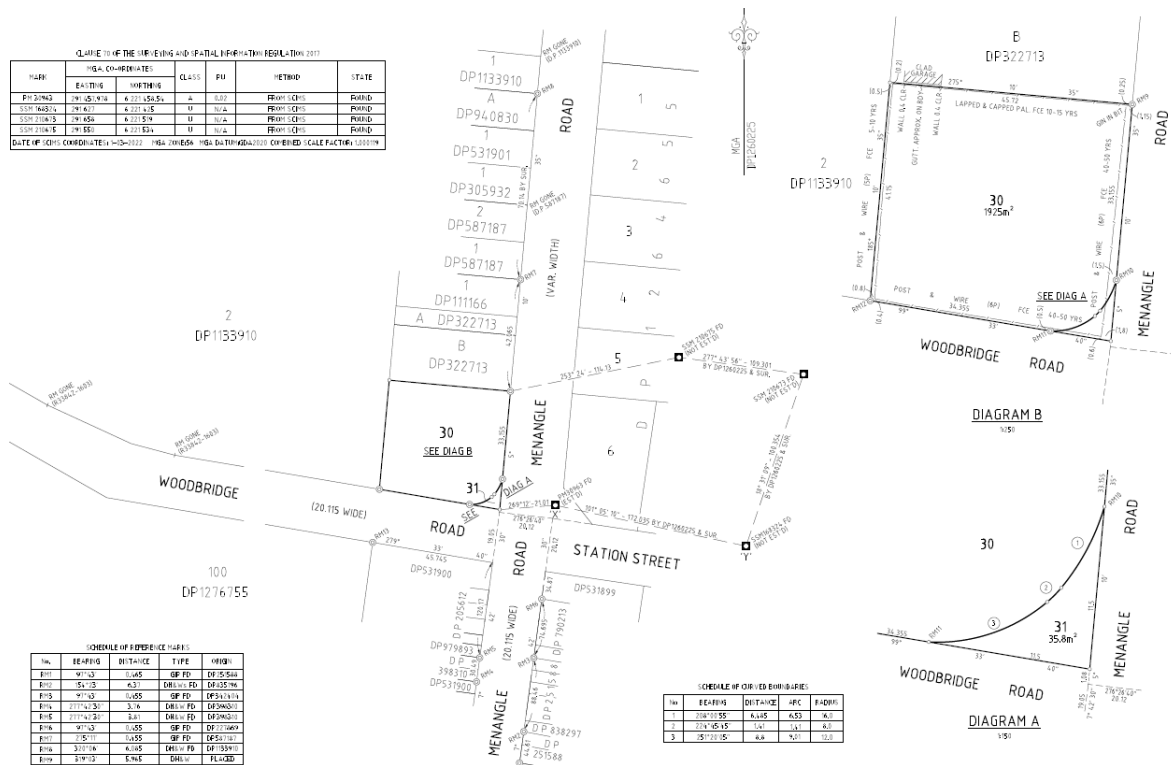


Figure 6: Proposed subdivision plan to facilitate the construction of roundabout

### 1.3 Section 4.15 Evaluation

The relevant matters for consideration under s4.15 of the EP&A Act 1979 are:

Section 4.15 Matters for Consideration	Comments
Section 4.15(1)(a)(i) – Provisions of any environmental planning instrument	Satisfactory. See discussion on 'Environmental Planning Instruments' in this report.
Section 4.15(1)(a)(ii) – Provisions of any proposed planning instrument	Not draft EPI is applicable.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	Satisfactory. See discussion on 'Development Control Plans' in this report.
Section 4.15(1)(a)(iiia) – Provisions of any planning agreement	Not applicable. The proposed roundabout is not subject to any VPA.
Section 4.15(1)(a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Reg)	The Development Application has been made in accordance with the relevant matters prescribed by the Regulations.
Section 4.15(1)(b) – the likely impacts of the development, including environmental impacts on the natural and built environments and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environments are addressed under the Wollondilly Development Control Plan 2016 (WDCP) section in this report and are satisfactory.</p> <p>(ii) The proposed development is considered to provide a positive social impact for the local and wider community.</p> <p>(iii) The proposed development will result in positive short-term economic benefits for the local and wider</p>



	community by generating some short-term construction employment opportunities. The development does not pose any negative long-term economic impacts.
Section 4.15(1)(c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15(1)(d) – any submissions made in accordance with the EP&A Act 1979 or EP&A Reg 2021	See discussion on “Public Notification” in this report. No submissions were received by Council.
Section 4.15(1)(e) – the public interest	The proposal is in the public interest as it upgrades the existing intersection which meets the needs of residents. No matters have arisen in this assessment that would warrant refusal of the application.

### 1.3.1 Provisions of Relevant Environmental Planning Instruments

The following Environmental Planning Instrument applies to the development:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Precincts—Western Parkland City) 2021
- Wollondilly Local Environmental Plan 2011

### State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 6 Water Catchment		
Relevant Provisions		Comment
Part 6.1 Preliminary		
6.1	Land to which Chapter applies  This Chapter applies to land in the following catchments— (a) the Sydney Drinking Water Catchment, (b) the Sydney Harbour Catchment, (c) the Georges River Catchment, (d) the Hawkesbury-Nepean Catchment.	The site is located within the Hawkesbury Nepean catchment area.
Part 6.2 Development in regulated catchments		
Division 2 Controls on development generally		
6.6	Water quality and quantity	N/A – the proposal will have no impact to the water quality and quantity. Condition will be imposed to ensure sedimentation and erosion control

Chapter 6 Water Catchment		
Relevant Provisions		Comment
		measures are in place for the entire duration of works.
6.7	Aquatic ecology	N/A – the proposal will have no adverse impact to aquatic ecology.
6.8	Flooding	N/A – the site is not identified to be flood prone land.
6.9	Recreation and public access	N/A – the proposal does not impede any existing public access to waterfront or public recreation area.
6.10	Total catchment management	The proposal will have no impact to the total catchment management.

### State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of Land	
Relevant Provisions	Comment
<b>4.6 Contamination and remediation to be considered in determining development application</b>	
<p>A consent authority must not consent to the carrying out of any development on land unless—</p> <p>(a) it has considered whether the land is contaminated, and,</p> <p>(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and</p> <p>(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.</p>	<p>Satisfactory</p> <p>The site has long been used for residential purposes. A review of past aerial photos did not identify any land use or activity with potential contamination concern. Site inspection by Council officer did not observe any possible source of contamination.</p> <p>No investigation or remediation action warranted.</p>
Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.	<p>N/A</p> <p>No change of use is proposed. The proposed subdivision and construction of roundabout does not warrant the submission of PSI. No further consideration is required.</p>

### State Environmental Planning Policy (Transport and Infrastructure) 2021

Part 9 Regulation of works, structures and activities	
Relevant Provisions	Comment
<b>Section 138 Works and structures</b>	
<p>(1) A person must not—</p> <p>(a) erect a structure or carry out a work in, on or over a public road, or</p> <p>(b) dig up or disturb the surface of a public road, or</p> <p>(c) remove or interfere with a structure, work or tree on a public road, or</p> <p>(d) pump water into a public road from any land adjoining the road, or</p> <p>(e) connect a road (whether public or private) to a classified road,</p> <p>otherwise than with the consent of the appropriate roads authority.</p>	<p>Noted. The proposal seeks consent for a subdivision to facilitate road widening and construction of a roundabout. The final design of the roundabout will be determined by Wollondilly Shire Council Traffic Committee. Works cannot commence prior to the issue of s138 approval.</p>
<p>(2) A consent may not be given with respect to a classified road except with the concurrence of TfNSW.</p>	<p>Menangle Road is defined as a regional classified road, therefore concurrence from TfNSW is required.</p> <p>On 3 September 2024, TfNSW granted concurrence to the development with no special conditions.</p>
<p>(3) If the applicant is a public authority, the roads authority and, in the case of a classified road, TfNSW must consult with the applicant before deciding whether or not to grant consent or concurrence.</p>	<p>N/A – the applicant is not a public authority.</p>
<p>(4) This section applies to a roads authority and to any employee of a roads authority in the same way as it applies to any other person.</p>	<p>Noted.</p>
<p>(5) This section applies despite the provisions of any other Act or law to the contrary, but does not apply to anything done under the provisions of the Pipelines Act 1967 or under any other provision of an Act that expressly excludes the operation of this section.</p>	<p>Noted.</p>

### State Environmental Planning Policy (Precincts—Western Parkland City) 2021

Chapter 4 Western Sydney Aerotropolis	
Relevant Provisions	Comment
<b>4.20 Wind Turbines</b>	
(1) The objective of this section is to regulate the construction of wind turbines and wind monitoring towers on land within 30 kilometres of the Airport.	<p>The site is located within 30km of Western Sydney Airport (WSA).</p> <p>No concern is raised as the proposal does not involve any developments that will adversely impact the operation of WSA. .</p>
(2) Development for the following purposes is prohibited on land in the 3 km zone—	
(a) electricity generating works comprising a wind turbine,	
(b) wind monitoring towers that are not ancillary or incidental to the Airport.	
(3) Development consent must not be granted to development for the purposes of a large wind monitoring tower in the 3–30 km zone unless the consent authority has consulted the relevant Commonwealth body.	
(4) Development consent must not be granted to development for the purposes of an electricity generating works comprising a wind turbine on land in the 3–30 km zone unless the consent authority—	
(a) has consulted the relevant Commonwealth body, and	
(b) has considered a written assessment of the risk of the development to the safe operation of the Airport provided by the applicant, and	
(c) is satisfied that the development will adequately mitigate the risk to the safe operation of the Airport.	

### Wollondilly Local Environmental Plan 2011 (WLEP)

Clause 1.2 Aims of Plan	
Objective	Comment
(a) to provide for the management of natural resources and the protection of the natural landscape character,	<p>Satisfactory</p> <p>The proposal is generally consistent with WLEP objectives.</p>
(b) to protect, conserve and enhance the built, landscape and Aboriginal cultural heritage	
(c) to protect water quality in land that is situated within water supply catchments,	

(d) to encourage development that provides for an integrated transport and infrastructure system and adequate facilities and service provision for future growth,	
(e) to recognise, manage and protect rural resource lands for sustainable agriculture and extractive industry practices,	
(f) to maintain the separation between towns and villages to retain their unique character and rural and natural settings.	
(g) to provide for a built environment that contributes to the health and well-being of residents, workers and visitors.	
<b>Clause 1.9A Suspension of covenants, agreements and instruments</b>	
(1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.	Not applicable

Characterisation: Subdivision and Road

Zone of land: R2 Low Density Residential and SP2 Road

Permissibility: Permissible with consent

Objective	Comment
<b><u>SP2 Infrastructure</u></b>	
<ul style="list-style-type: none"> <li><i>To provide for infrastructure and related uses.</i></li> <li><i>To prevent development that is not compatible with or that may detract from the provision of infrastructure.</i></li> </ul>	<p>Satisfactory</p> <p>The proposal is for road widening and construction of a roundabout which upgrades the intersection of Menangle Road and Station Street/ Woodbridge Road and provides for an essential infrastructure for local residents. The proposal meets the zoning objectives.</p>

Objective	Comment
<b><u>R2 Low Density Residential</u></b>	

<ul style="list-style-type: none"> <li>• <i>To provide for the housing needs of the community within a low-density residential environment.</i></li> </ul>	<p>Satisfactory</p> <p>The subdivision will take place on the R2 zoned land which will then be dedicated to Council to facilitate the construction of roundabout.</p> <p>The proposal has no conflict with the zoning objectives and provides for an infrastructure that support the residential development in Menangle.</p>
<ul style="list-style-type: none"> <li>• <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i></li> </ul>	
<ul style="list-style-type: none"> <li>• <i>To support the health and well-being of the community by providing well-connected and walkable residential areas close to services and employment.</i></li> </ul>	

### LEP Clauses

	Clause	Comment
Part 2 Permitted or prohibited development		
2.3	Zone objectives and land Use Table	Noted.
2.4	Unzoned land	Noted
2.5	Additional permitted uses for particular land	Noted
2.6	Subdivision—consent requirements	Consent is sought for the proposed subdivision.
2.7	Demolition requires consent	Noted
2.8	Temporary use of land	Noted
Part 4 Principal development standards		
4.1	Minimum subdivision lot size – <b>975sqm</b>	<p><b>Noncompliance – variation requested</b></p> <p>Lot 30 and 31 created under the Torrens Title subdivision will have lot size of 1,952m<sup>2</sup> and 35.8m<sup>2</sup> respectively.</p> <p>Lot 30 (allotment with existing house) will have a lot size of 1,925m<sup>2</sup> after the subdivision and complies with the control.</p> <p>Lot 31 has a shortfall of 939.2m<sup>2</sup>, or 96.33% variation. This lot will be dedicated to Council for the purpose of public road.</p> <p>See discussion below.</p>
4.3	Height of buildings	Not applicable
4.6	Exceptions to development standards	Refer to discussion below for more information.
Part 5 Miscellaneous provisions		
5.10	Heritage conservation	<p>Satisfactory</p> <p>The proposed roundabout is an essential infrastructure. Given the nature of the proposal and the extent of works,</p>

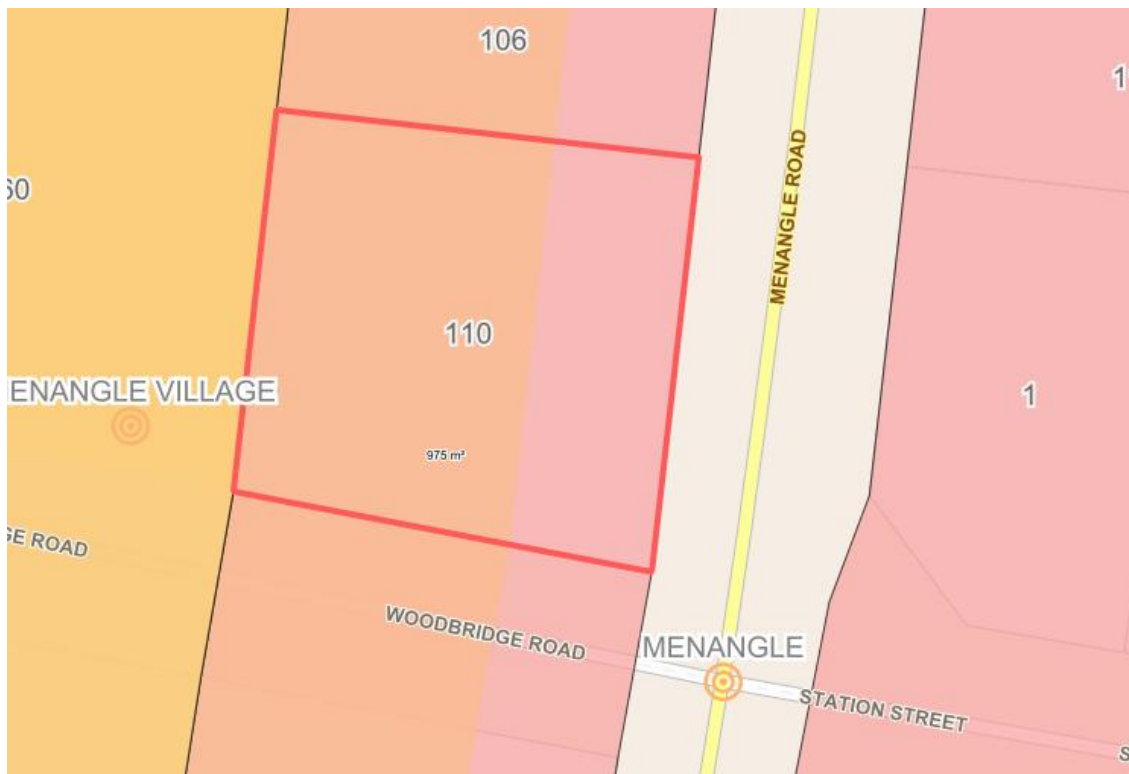
	Clause	Comment
		it is considered that it will have a negligible impact to the integrity of The Menangle Store, a nearby heritage item and the character of the Menangle Heritage Conservation Area. No further concern is raised.
Part 7 Additional local provisions		
7.1	Essential services	Satisfactory  The dwelling at 110 Menangle Road enjoys existing connection to essential services. Condition is imposed to ensure the dwelling can maintain existing connection to services after this subdivision.
7.5	Earthworks	Satisfactory  The proposed site grading is of an acceptable scale and relates to the proposal.
7.7	Development near coal seam gas well at Menangle  <i>(2) Subclause (1) does not apply to development for the purposes of drainage, earthworks or roads.</i>	Not applicable – the proposal is for roadworks which falls under the exemption of subclause (2).

#### Clause 4.1(3) – Minimum Lot Size Variation

The minimum lot size prescribed for the property is 975m<sup>2</sup> in accordance with the Minimum Lot Size Map. The existing site area is 1,960m<sup>2</sup>.

Proposed lot size for Lot 31 is 35.8m<sup>2</sup>, which results in a variation of 939.2m<sup>2</sup>, or 96.33%. Proposed Lot 30 complies with the minimum lot size. Please refer to Table 1 for lot configuration.





**Figure 7:** Minimum lot size map with the subject site demarcated in red

- **Clause 4.6 variation to minimum lot size development standard under Clause 4.1(3) of WLEP 2011**

Clause 4.6 allows the consent authority to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. The consent authority may grant the exception as the Secretary's concurrence can be assumed where Clause 4.6 is adopted as per Planning Circular, Variations to Development Standards, (PS 20-002, Issued 5 May 2020).

In accordance with the Minister's Local Planning Panel Direction, Schedule 1, this Development Application is required to be reported to the Wollondilly Local Planning Panel as the proposed development contravenes a development standard imposed by the Wollondilly Local Environmental Plan (LEP) 2011 by more than 10%.

Based on various case laws established by the Land and Environment Court of NSW such as *Four2five P/L v Ashfield Council* [2015] NSWLEC 9, *Randwick City Council v Micaul Holdings P/L* [2016] NSW LEC7 and *Zhang and Anor v Council of the City of Ryde* [2016] NSWLEC 1179, a 3-part assessment framework for a variation request proposed under clause 4.6 has been considered and an assessment of the proposed variance, following the 3 part test is discussed in detail below.

The three (3) preconditions which must be satisfied before the application can proceed have been assessed as follows:

Applicant's justification	Planner's comment
<b>1) Is the proposed development consistent with the objectives of the zone?</b>	
<p>The proposal seeks an exemption to a development standard for the purposes of providing necessary road infrastructure to support the current and future community by improving connectivity. This proposal does not detract from the resultant subdivision for residential purposes.</p>	<p>Objectives of the R2 Low Density Residential Zone are:</p> <ul style="list-style-type: none"> <li><i>To provide for the housing needs of the community within a low-density residential environment.</i></li> <li><i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i></li> <li><i>To support the health and well-being of the community by providing well-connected and walkable residential areas close to services and employment</i></li> </ul> <p><u>Comments:</u></p> <p>The proposed development is not inconsistent with the objectives of the R2 Low Density Residential Zone.</p> <p>The subdivision will facilitate construction of a roundabout which provides a road infrastructure, in accordance with the masterplan, which benefits the local community.</p>
<b>2) Is the proposed development consistent with the objectives of the development standard which is not met?</b>	
<p>With respect to Clause 4.1(a), the proposed variation to the development standard to allow a minimum lot size of 35.8m<sup>2</sup> for Lot 31 is for the purposes of road widening for a future roundabout. The proposed variation does not restrict or impact upon the surrounding property.</p> <p>With respect to Clause 4.1(b), the proposed variation to the development standard to allow for a minimum lot size of 35.8m<sup>2</sup> for Lot 31 remains compatible with the landscape and environmental constraints of the land. This variation is proposed to provide sufficient area as required for the provision of a future roundabout at the subject site. Therefore, the proposed exemption satisfies the objectives of Clause 4.1 of Wollondilly Local Environmental Plan 2011.</p>	<p>The objectives of minimum lot size subdivision under Clause 4.1 (1) are as follow:</p> <p>(a) <i>to provide for suitable lot sizes,</i></p> <p>(b) <i>to ensure that the subdivision of land is compatible with the landscape and environmental constraints of the land.</i></p> <p><u>Comments</u></p> <p>Whilst the roundabout will be predominantly constructed within the road reserve, additional land is required from an adjacent residential property to facilitate its construction.</p> <p>The proposed subdivision will reduce the total site area of 110 Menangle Road from 1960m<sup>2</sup> to 1925m<sup>2</sup> (a reduction of 35m<sup>2</sup> or 1.8%) to facilitate the construction of a roundabout.</p> <p>The resultant lot, Lot 30, containing the existing dwelling well exceeds the minimum lot size of 975m<sup>2</sup> under WLEP and is sufficient for residential purposes.</p>

Applicant's justification	Planner's comment
	<p>Proposed Lot 31, being 35.8m<sup>2</sup>, will be used for road widening and construction of the roundabout, not for residential purposes. The non-compliance with minimum lot size will therefore not be apparent.</p> <p>The site is bushfire-prone land and located in a Subsidence District, and as such the development application was referred to NSW RFS and Subsidence Advisory. GTAs were issued subject to conditions, on 19 September 2024 and 6 September 2024 respectively. The GTA conditions of approval will be incorporated in the development consent should the Panel consider the proposal suitable and can be supported.</p> <p>It is proposed to remove one tree, however the removal cannot be justified. Accordingly, a condition is imposed for its retention and tree protection measures are recommended.</p>
<b>3a) Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?</b>	
<p>Compliance with the Minimum Lot Size Control is considered to be unnecessary and unreasonable as Lot 31 will be dedicated as road.</p> <p>Allowing for a minimum subdivision lot size variation from 975m<sup>2</sup> to 35.8m<sup>2</sup> for Lot 31 to facilitate road widening for the purposes of a roundabout intersection encourages an appropriate degree of flexibility in the application of this development standard.</p>	<p>The lot size control requirements under WLEP 2011 are, in the circumstances of this matter, unreasonable and unnecessary, as discussed in this submission.</p> <p>The proposed subdivision is to facilitate future road works and considering the roundabout will be largely constructed within the road reserve, compliance with the minimum lot size specifically for Lot 31 is unnecessary and unreasonable.</p> <p>Non-compliance will not create a precedent under the circumstance.</p>
<b>3b) Are there sufficient environmental planning grounds to justify contravening the development standard?</b>	
<p>The submitted Clause 4.6 Variation Request contends that compliance with the development standard is unreasonable and unnecessary in the circumstances of this application, considering it is not for the purposes of residential development, rather for the purposes of road infrastructure to support the broader community.</p> <p>There is insufficient area in the existing road reserves and as such, additional area from Lot 3 in DP 531901 is required to enable the construction of a roundabout intersection at this location. Compliance with the minimum lot size will be unreasonable and unnecessary.</p>	<p><u>Comments</u></p> <p>As stated in the report, the proposed subdivision is required to create Lot 31 to facilitate the construction of a roundabout. The intent of the subdivision is considered sufficient to contravene the development standard.</p> <p>Upon completion of the roundabout's construction, Lot 31 will be dedicated as part of a public road and will no longer be an individual allotment. It will not create an unwarranted precedent due to the special circumstance of this DA.</p>

Applicant's justification	Planner's comment
<p>The resultant residential lot is 1925m<sup>2</sup> , which contains an existing dwelling and is of sufficient size for residential purposes.</p> <p>The minor noncompliance will not create an unacceptable precedent as it enables a logical and orderly use of land, which is appropriately justified and is confined to this subject application only. Any future applications involving lot size noncompliance shall be considered on their merits.</p>	<p>It should be noted that the applicant has considered the property at No. 2 Station Street, situated to the south-east corner of the intersection. However, this property contains the Menangle Store, a general heritage item listed in Part 1 Heritage Items Schedule 5 Environmental Heritage of the LEP.</p> <p>It is considered that any boundary adjustment or road works involving No. 2 Station will require partial demolition of a heritage listed item and hence greater impact.</p> <p>The proposed variation will not have any impact on the existing and desired residential character of the locality.</p>
<b>Conclusion:</b>	
<p>The applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3). Council is satisfied that the proposed development will be in the public interest as the proposal is consistent with the objectives of the Clause 4.1, and the objectives for the standard and developments within the R2 zone in which the development is proposed to be carried out.</p> <p>It is the view of Council Officers that the justification provided is satisfactory and having considered the application on its merit, the exception to the minimum lot size development standard is supported.</p>	

### 1.3.2 Provisions of Relevant Draft Environmental Planning Instruments

Not applicable.

### 1.3.3 Provisions of Relevant Development Control Plans

#### Wollondilly Development Control Plan 2016

DCP Volume	Relevance
Volume 1 – General	X
Volume 3 – Subdivision of Land	X

Volume 1 – General	
Relevant Provisions	Comment
Part 1 - Preliminary	
1.2	Objectives of the Plan

Volume 1 – General		
Relevant Provisions		Comment
1	To assist in the realisation of the aims of Wollondilly Local Environmental Plan, 2011.	Noted
2	The specific controls and volumes of this plan each have objectives as detailed throughout this plan.	Noted
1.4	<u>Application of the volumes of this plan</u>  If there is an inconsistency between the volumes of this plan then the earlier volume shall prevail over the later volume. For example, if there is an inconsistency between Volumes 2 and 5, Volume 2 would prevail because it is found earlier in this plan.	Noted
Part 2 - General considerations for all development		
2.1 Objectives		
1	To ensure that developments are undertaken with due regard to human safety.	
2	To ensure that developments do not unreasonably impact on their surrounds.	
3	To ensure that developments achieve a satisfactory level of social equity.	
2.2 Controls		
1	The consent authority shall consider the following safety and human health risks in assessing a development application under this volume:	
a)	Road and traffic hazards;	<p>Satisfactory</p> <p>Council's Development Engineers have reviewed the proposal and did not raise any engineering issues.</p> <p>The DA was also referred to TfNSW who provided concurrence on 3 September 2024 with advisory comments on the following matters.</p> <ul style="list-style-type: none"><li>(a) Compliance with relevant Austroads and relevant Australian Codes of Practice</li><li>(b) Replacement of existing layback with appropriate kerb and gutter</li><li>(c) Developer to bear the cost of adjustment/relocation of public utilities</li></ul> <p>The proposal will not result in any adverse road safety risk, subject to the proper implementation of</p>

Volume 1 – General		
Relevant Provisions		Comment
		traffic control during construction. The proposal will have long term positive impact to the traffic of the area and is worthy of approval.
b)	Bushfire threat;	Satisfactory  Part of 110 Menangle Road, Menangle is mapped as flood prone land. On 19 September 2024, NSW RFS raised no objection to the proposal and issued General Terms of Approval subject to conditions.
c)	Flood risk;	N/A – the site is not flood prone land.
d)	Noise, vibration, pollution, odour, radiation or waste from surrounding land uses;	It is not anticipated that the proposed subdivision will be impacted by immediate surrounding residential developments and the Elizabeth Macarthur Agricultural Institute to the west.
i)	Hazard from potential contamination of the land.	The site has long been used for residential purposes. A review of past aerial photos did not identify any land use or activity with potential contamination concern. Site inspection by Council officer did not observe any possible source of contamination.  No further investigation is required.
Part 3 - Variation		
There may be situations where the strict application of the controls in this plan is inappropriate. In such cases Council may vary the controls in the plan. The controls in this part apply where a development application proposes to vary a control in this plan.		
3.1 Controls		
1.	In cases where a variation to a control in this plan is sought, the applicant (or person acting on behalf of the applicant) must include in the development application a written request for Council to consider a variation to that control. The written request to vary a control in this plan must: <ul style="list-style-type: none"> <li>Identify the control being varied</li> <li>Outline the non-compliance with the relevant control</li> <li>Include reasons and justification for the non-compliance</li> <li>Outline why compliance with the control is unreasonable or</li> </ul>	N/A – no variation to WDCP is sought.

Volume 1 – General		
Relevant Provisions		Comment
	unnecessary in the case of their development	
Part 4 – Community Engagement		
The purpose of this part is to ensure that members of the public potentially affected by a proposed development have input into the assessment process before a final decision is made on a development application. It outlines Council’s notification and advertising procedure for development applications.		
4.1 Development applications to be notified		
	The proposed development was not a type specified by the clause as NOT requiring notification.	This DA was notified from 14-28 August 2024. No submission was received by Council.
Part 5 - Colonial Heritage		
5.1 Objectives		
a)	To establish good design principles to guide development to and around heritage items,	
b)	To ensure development is sympathetic to the overall heritage values and characteristics of the area,	
c)	To identify local heritage character and heritage elements of the built environment, and	
d)	To ensure the retention and management of heritage values identified for each conservation area and specific precinct.	
5.2 General Controls (refer to DCP for further details of controls)		
1.	Development of heritage items and development on land within heritage conservation areas shall demonstrate consistency with the NSW Guidelines for Development in Conservation Areas ‘Design in Context’. In particular the impact of the following aspects of a development should be considered:	<p>Noted.</p> <p>The proposed subdivision does not propose nor will result in any change to the character of the Menangle Heritage Conservation Area. The subdivision is only to facilitate construction and dedication of a roundabout.</p>
5.3 Controls for particular development types (refer to DCP for further details of controls)		
4.	Subdivision of land containing a heritage item and/or land within a heritage conservation area	<p>Satisfactory</p> <p>The proposed subdivision is to facilitate the construction of roundabout. Only a small portion of the land (approx. 35.8m²) will be required as the proposed roundabout will be constructed within the road reserve. The subdivision will have no impact to the existing development pattern and the heritage character of Menangle. No further issue is raised.</p>
Part 6 - Heritage (Specific Locations)		
6.1 Objectives		



Volume 1 – General	
Relevant Provisions	Comment
a)	To provide specific guidance and controls for development of key conservation areas in Wollondilly.
<b>6.3 Heritage Conservation Area – Menangle</b> (refer to DCP for further details of controls)	
This clause applies to the Menangle Heritage Conservation Area.	<p>Satisfactory</p> <p>A majority of the controls under Section 6.3 relate to the built form of dwellings.</p> <p>The proposal is not captured by these controls and will have no adverse impact to the character of nearby heritage items and the integrity of Menangle HCA.</p>
<b>Part 10 – Tree Removal</b>	
<b>10.1 Objectives</b>	
1.	<p>Identify trees and other native vegetation for the purpose of clause 5.9(3) of Wollondilly Local Environmental Plan 2011 which states the following:</p> <p>“(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:</p> <p>(a) development consent; or</p> <p>(b) a permit granted by the Council”</p>
2.	<p>Identify trees and other native vegetation that:</p> <ul style="list-style-type: none"> <li>▪ may be removed without a permit or development consent</li> <li>▪ may be removed with a permit</li> </ul> <p>may be removed only with development consent</p>
<b>10.5 Trees/other native vegetation that may be removed only with development consent</b> (refer to DCP for further details of controls)	
This clause provides that any tree or native vegetation removal which cannot be carried out as exempt development under clause 10.3 of this volume or by obtaining a permit under clause 10.4 of this volume may only be removed with development consent.	<p>A tree located on the northeastern side of Menangle Road is proposed for removal. However, no justification has been provided, and Council’s Environment Team is of the opinion that this tree shall be retained.</p> <p>A condition is imposed to retain and protect the tree. New landscaping is also conditioned on Council’s road reserve (not on the roundabout).</p>

Volume 3 – Subdivision of Land		
	Relevant Provisions	Comment
Part 2 – General Requirements for all Development		
2.1 Traffic and Transport		
Objectives		
1.	To ensure that new allotments created by the subdivision of land are provided with adequate public roads.	
2.	To ensure that the subdivision of land is only undertaken in locations where the road network can provide, or be made capable of providing adequate servicing.	
3.	To ensure new roads are safe and efficient.	
4.	To ensure access points for rural subdivisions are located at safe locations within the road network.	
5.	To ensure pedestrian and cycle paths are provided where required to maximise the uptake of healthy and sustainable transport options.	
6.	To ensure splay corners are dedicated at intersections so that intersections can be maintained to maximise sight distances and to maximise flexibility to upgrade intersections in the long term.	
Controls		
1.	All new public roads must comply with Council’s design specifications including kerb and guttering, drainage pedestrian paths and street lighting.	Development Engineers have reviewed the proposed civil plans and raised no objection. Final design of roundabout is to be approved by Wollondilly Shire Council’s Traffic Committee.
5.	Road infrastructure enhancement shall be provided to existing roads in accordance with the following table unless the improvements are already present:	
6.	All intersections and new vehicular access points to public and/or private roads must have the relevant safe intersection sight distance for the relevant speed environment.	
9.	Splay corners shall be provided for newly created corner lots with the following sizes:  Residential zone: 4m x 4m	Complies  The proposed splay corner measures 11.5m x 11.5m, therefore exceeds the DCP requirement and complies with the control.
2.2 Wastewater		
Objectives		
1.	To ensure wastewater generated by development can be managed without harm to the natural environment or human health.	
2.	To encourage sustainability in wastewater disposal by preventing the use of pump out systems which require significant energy inputs for the transport of waste.	

**Volume 3 – Subdivision of Land**

	Relevant Provisions	Comment																				
3.	To ensure development within the Sydney Drinking Water Catchment has a neutral or beneficial effect on water quality.																					
Controls																						
1.	All lots created must have access to one or more of the following:																					
c)	Sufficient land with the correct physical and chemical characteristics to allow for the wastewater to be treated and disposed of within the boundaries of the lot.	Satisfactory  The existing house at 110 Menangle Road has onsite AWTS. The arrangement is not impacted by the subdivision.																				
2.3 Stormwater																						
Objectives																						
1.	To ensure stormwater is appropriately managed to prevent environmental harm and to reduce the risk of damage to property and human life.																					
2.	To ensure stormwater is appropriately managed to minimise long term flooding impacts on and from developments.																					
3.	To ensure that development within the Sydney drinking water catchment has a neutral or beneficial effect on water quality.																					
Controls																						
1.	Development involving the subdivision of land must demonstrate that stormwater management arrangements will allow for drainage to be directed to either a natural water body or a constructed stormwater management system without causing significant environmental harm or risks to human health and safety.	Satisfactory  The subdivision will not impact the existing stormwater arrangement of 110 Menangle Road, Menangle.																				
2.4 Lot Size and Shape																						
Objectives																						
1.	To ensure regular and practical allotments that will encourage the orderly and economic use of land.																					
Controls																						
2.	Lots in residential zones shall have the following minimum dimensions: <table><tr><th>Area</th><th>Minimum Lot Width</th><th>Minimum Lot Width (Corner allotment)</th><th>Minimum Lot Depth</th></tr><tr><td>Less than 450m<sup>2</sup></td><td>12m</td><td>12m</td><td>20m</td></tr><tr><td>Between 450m<sup>2</sup> and 650m<sup>2</sup> (inclusive)</td><td>13m</td><td>15m</td><td>20m</td></tr><tr><td>Between 650m<sup>2</sup> and 1500m<sup>2</sup> (exclusive)</td><td>15m</td><td>20m</td><td>25m</td></tr><tr><td>1500m<sup>2</sup> or Greater</td><td>20m</td><td>30m</td><td>30m</td></tr></table>	Area	Minimum Lot Width	Minimum Lot Width (Corner allotment)	Minimum Lot Depth	Less than 450m <sup>2</sup>	12m	12m	20m	Between 450m <sup>2</sup> and 650m <sup>2</sup> (inclusive)	13m	15m	20m	Between 650m <sup>2</sup> and 1500m <sup>2</sup> (exclusive)	15m	20m	25m	1500m <sup>2</sup> or Greater	20m	30m	30m	Complies  Lot 30 complies with the minimum dimension control.  Pursuant to Control 4, the site layout requirements under Control 2 does not apply to Lot 31 as it will be dedicated to Council as road.
Area	Minimum Lot Width	Minimum Lot Width (Corner allotment)	Minimum Lot Depth																			
Less than 450m <sup>2</sup>	12m	12m	20m																			
Between 450m <sup>2</sup> and 650m <sup>2</sup> (inclusive)	13m	15m	20m																			
Between 650m <sup>2</sup> and 1500m <sup>2</sup> (exclusive)	15m	20m	25m																			
1500m <sup>2</sup> or Greater	20m	30m	30m																			
4.	These controls do not apply to land to be dedicated to Council for roads.																					

Volume 3 – Subdivision of Land		
	Relevant Provisions	Comment
	environmental reserves or for public open space.	
2.5 Landscape and Character		
Objectives		
1.	To ensure subdivisions are designed in a way that maintains or enhances the landscape character of the surrounding area.	
Controls		
6.	The subdivision of land that proposes the opening of a new public road must include embellishment of the new road verges in accordance with Council's Street Tree Risk Plan.	Noted. Embellishment to be conditioned.
2.6 Corner Allotments		
Objectives		
1.	To plan corner allotments at the subdivision stage to ensure safe vehicular access and maximum amenity for the streetscape.	
Controls		
1.	Corner allotments in residential zones shall be provided with a building envelope to identify the primary and secondary setbacks.	Not applicable to Lot 30 which contains an existing dwelling.  Lot 31 to be used for road widening and hence Building Envelope is not required.
2.	Corner allotments in residential zones shall nominate a vehicular access point to allow the safety of the access point to be assessed with reference to any nearby intersection.	
3.	These controls do not apply to proposed corner allotments on which a dwelling is already constructed.	
2.8 Environmental Protection		
Objectives		
1.	To ensure significant native vegetation and other environmental assets are not lost in the provision of asset protection zones.	
Controls		
2.	The layout of any proposed subdivision must be designed to limit or avoid any adverse impacts on watercourses and vegetation and prevent future development occurring on steep and constrained lands.	N/A – no environmental concern is raised.
2.9 Non-Residential Development		

Volume 3 – Subdivision of Land		
	Relevant Provisions	Comment
Objectives		
1.	To ensure that the subdivision of land is carried out with due regard to other forms of existing non-residential development in the locality.	
Controls		
1.	When the subdivision of land is proposed in an area where an existing nearby non-residential use may impact on future residents, the consent authority must be satisfied that the new development would not restrict the ability of the existing development to meet amenity requirements in relation to issues such as noise, odour and the like in accordance with the principles established in the case of Inghams Enterprises vs Kira Holdings.	<p>N/A</p> <p>The proposed subdivision will not have any adverse impact on the residential amenity of 110 Menangle Road.</p> <p>The dwelling house is well setback from the proposed roundabout and landscape screen planting will be provided to ameliorate any visual and acoustic impacts.</p>

#### 1.3.4 Draft and/or Planning Agreements Entered or Offered to Enter into

Not applicable.

### 1.4 Impact of the Development

Heads of Consideration	Comment
<b>Natural Environment</b>	The proposal will have no adverse impact on the natural environment. The proposal will not impact any biodiversity or native species, nor will it increase the bushfire or flood attack risk of the surrounding area.
<b>Built Environment</b>	
	The proposal will have no adverse impact on the nearby heritage items or the character of Menangle HCA.
<b>Social Impacts</b>	The proposal will have no adverse social impact.
<b>Economic Impacts</b>	The proposal will have positive short-term economic impact as it provides employment opportunities for local businesses.

### 1.5 Suitability of the Site

The site is considered suitable for the Torrens title subdivision and the subsequent construction of a roundabout. Council's Development Engineer and TfNSW has reviewed the civil plans for the roundabout and did not raise any concerns. There is no other matter that warrants the site unsuitable for the proposed subdivision and associated works.

### 1.6 Submissions

The DA was notified during 14-28 August 2024 to adjoining neighbours. No submissions were received.

## 1.7 The Public Interest

The proposal is considered to be in the public interest as the road infrastructure proposed will benefit the current and future residents of Menangle. Despite the extent of non-compliance with Clause 4.1 Minimum lot size of WLEP, the non-compliance is well-justified and is not considered to create a precedent considering the intent of the subdivision. The applicant has considered options available including an exempt boundary adjustment under the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, the outcome of an extensive negotiation with the property owner which include the execution of a deed between the two parties. Sufficient environmental planning grounds are identified to support the Clause 4.6 variation and the proposal.

## Financial Implications

This matter has no financial impact on Council's adopted budget or forward estimates.

## Recommended Conditions of Consent

This application is recommended for approval, subject to the following conditions of consent.

GENERAL CONDITIONS					
Condition					
1.	<b>Approved Development</b>				
	Development Consent is granted for a Torrens Title subdivision to create two allotments (proposed Lots 30 and 31) and dedication of proposed Lot 31 for the purposes of road widening and constructing a four-way roundabout at intersection of Menangle Road and Station Street/Woodbridge Road at Lot: 3 DP: 531901, 110 Menangle Road MENANGLE.				
	Condition reason: To ensure all parties are aware of the approved development description and development address.				
2.	<b>Approved Plans and Supporting Documentation</b>				
	Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.				
	<b>Approved plans</b>				
	Plan title	Page/ Plan Number	Rev Number	Drawn By	Date
	Proposed Plan of Subdivision of Lot 3 in DP531901	/	/	Ewen B. Randall	09/03/2022
<b>Referenced plans</b>					
	Cover Sheet	00	09	Egis Consulting	12/11/2024
	General Arrangement Plan	001			



General Notes & Legend	002			
Sediment & Erosion Control & Site Regrading Plan	101			
Sediment & Erosion Control & Details	102			
Engineering Plan	301			
Station Street, Woodbridge & Menangle Roads Longitudinal Sections	401			
Intersection Details – Kerb return No. 01-05	601			
Signage & Linemarking Plan	701			
8.8m Design vehicle turnpath analysis plan	702			
12.5m Check vehicle turnpath analysis plan	703			

Approved documents			
Plan title	Rev Number	Prepared By	Date
Bushfire Assessment Letter	/	Blackash Bushfire Consulting	21 August 2024
Waste Management Plan	/	Applicant	No date

In the event of any inconsistency between the approved plans and documents, the approved plans prevail. In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

*Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development*

3.	<p><b>Wollondilly Shire Council Traffic Committee</b></p> <p>Prior to commencement of any works, approval from Wollondilly Shire Council Traffic Committee must be obtained for the final design of Roundabout.</p> <p>In the event of any inconsistency between the DA referenced civil plan and Wollondilly Shire Council Traffic Committee's approved civil plan, the Wollondilly Shire Council Traffic Committee's approved civil plan prevails.</p> <p>Construction must not commence without Wollondilly Shire Council Traffic Committee's approval. A Section 138 Application must be made to Council prior to the commencement of any works.</p> <p><i>Condition Reason: To ensure compliance with Planning for Bushfire Protection.</i></p>
4.	<p><b>Potential Neighbour Disturbance/ Neighbour Notification</b></p> <p>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 landowner 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.</p> <p><i>Condition Reason: To ensure neighbours are notified of potential disturbance activities.</i></p>
5.	<p><b>Retention of existing Brachychiton populneus tree on Menangle Road</b></p> <p>No approval is granted for the removal of the existing Brachychiton populneus on the north-eastern side of Menangle Road. The tree must be retained and protected throughout the development.</p> <p>Prior to issue of s138 Approval, a tree protection plan must be prepared by an AQF5 Arborist. The plan is to detail tree protection fencing and any additional measures such work methods, mulching or irrigation that should be applied to the tree to minimise impact from the development.</p> <p><i>Condition reason: to protect existing trees within a Heritage Conservation Area</i></p>
6.	<p><b>General Terms of Approval – NSW Rural Fire Services</b></p> <p>The development shall be constructed, completed and managed in accordance with and comply with the requirements of NSW RFS General Terms of Approval (GTAs), reference DA20240813003304-Original-1, and dated 19 September 2024. The GTAs are replicated below:</p> <p><b>General Conditions</b></p> <ol style="list-style-type: none"> <li>The development proposal is to generally comply with the following plans/documents except where amended by the conditions of this Bush Fire Safety Authority. <ul style="list-style-type: none"> <li>The plan titled "PLAN OF SUBDIVISION OF LOT 3 IN DP531901, Drawn by Ewen B. Randall - Surveyor, Ref: 300058-DP-009-C Exemption Policy 3, Dated: 9/03/2022"</li> <li>The bush fire assessment prepared by "Blackash Bushfire Consulting, Roundabout Subdivision 110 Menangle Rd, Menangle, Dated: 21/8/2024"</li> </ul> </li> </ol>

	<p><b>Asset Protection Zones</b></p> <p><b><i>Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.</i></b></p> <p>2. At the issue of a subdivision certificate and in perpetuity, the entirety of proposed Lot 30 must be managed as an inner protection area in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019.</p> <p>When establishing and maintaining an inner protection area, the following requirements apply:</p> <ul style="list-style-type: none"> <li>• tree canopy cover should be less than 15% at maturity;</li> <li>• trees at maturity should not touch or overhang the building;</li> <li>• lower limbs should be removed up to a height of 2 m above the ground;</li> <li>• tree canopies should be separated by 2 to 5 m;</li> <li>• preference should be given to smooth-barked and evergreen trees;</li> <li>• large discontinuities or gaps in the shrubs layer should be provided to slow down or break the progress of fire towards buildings;</li> <li>• shrubs should not be located under trees;</li> <li>• shrubs should not form more than 10% ground cover;</li> <li>• clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;</li> <li>• grass should be kept mown (as a guide, grass should be kept to no more than 100mm in height); and</li> <li>• leaves and vegetation debris should be removed regularly.</li> </ul>
7.	<p><b>General Terms of Approval – Subsidence Advisory NSW</b></p> <p>The development shall be constructed, completed and managed in accordance with and comply with the requirements of Subsidence Advisory NSW General Terms of Approval (GTAs), reference TSUB24-00240, and the stamped approved plans dated 6 September 2024 . The GTA is replicated below:</p> <p><b>GENERAL</b></p> <p><b><u>Plans, Standards and Guidelines</u></b></p> <p>1. These General Terms of Approval (GTAs) only apply to the subdivision development described in the plans and associated documentation relating to DA/2024/601/1 and provided to Subsidence Advisory NSW.</p> <p>Any amendments or subsequent modifications to the development renders these GTAs invalid.</p> <p>2. This approval expires 5 years after the date the approval was granted if subdivision works relating to the application have not physically commenced on the land.</p> <p><i>Condition reason: To ensure compliance with the Approval issued by the relevant external agencies.</i></p>
8.	<p><b>Endeavour Energy</b></p>

The development shall be constructed, completed and managed in accordance with and comply with the requirements of Endeavour Energy development approval dated 14 August 2024. The conditions of approval are replicated below:

- Clause 4 **Asset Relocation**: Application must be made for an asset relocation/ removal to determine possible solutions to the developer's requirements.
- Clause 5 **Before You Dig**: Before commencing any underground activity the applicant must obtain advice from the Before You dig Service.
- Clause 20 **Look up and Live**: Before commencing any activity near overhead power lines the applicant must obtain advice from the Look Up and Live service.t.
- Clause 21 **Modifications**: Amendments can impact on electricity load and the contestable works required to facilitate the proposed development
- Clause 23 **Network Asset Design**: Design electricity infrastructure for safety and environmental compliance consistent with safe design lifecycle principles.

Please also note other advisory clauses identified by Endeavour Energy for your information: Clause 11, 12, 16, 27, 29, 31, 33 and 37. Endeavour Energy's approval letter shall be read in conjunction with the *Standard Conditions for Development Applications and Planning Proposal*, Version 9, dated August 2023 prepared by Sustainability and Environment, Endeavour Energy.

*Condition Reason: To ensure compliance with Planning for Bushfire Protection.*

## 9. Landscaping

The following tree planting is required around the proposed roundabout:

- 3x 75-100L Lophostemon confertus on the southern side of Woodbridge Road
- 2x Calodendron capense in 45L pot size or larger on the northwest side of Menangle road.  
Note: if suitable Calodendron capense cannot be sourced 75-100L Lophostemon confertus may be used
- Avenue of trees on northeast side of Menangle road using the same spacing as recent avenue planting to the north. Trees species may be selected from: Lophostemon confertus if 1.5m spacing is available between tree and adjacent infrastructure; Brachychiton populneus or Buckinghamia celsissima if sufficient space for Lophostemon is not available. Trees to be minimum 45L container size unless approved by Council
- Statement tree on northeast corner of Menangle road and Station Street if sufficient space exists following relocation of powerlines. Example species Agathis robusta
- Avenue planting along northern side of Station Street using magenta flowering Corymbia ficifolia to meet with replacement plantings for previous bottlebrush avenue that was removed

The above planting is to be shown on a landscape plan, with planting/maintenance details and associated drawings, and submitted to Council's Manager Waste and Environmental Services for approval prior to issue of practical completion certificate for the roundabout.

Tree Planting in accordance with the approved landscape plan shall be completed within 6 weeks following issue of practical completion certificate, unless an extension is approved by Council.

Note: Trees stock is to be inspected and approved by Council's Tree Management Officer Prior to installation. Any change in pot size or planting species will require approval from Council's Tree Manager Officer.

*Condition Reason: To integrate roundabout into existing heritage landscape and provide shade to pedestrians.*

<b>10.</b>	<b>Public road created by registration of plan</b>
	A person may open a public road by causing a plan of subdivision or other plan that bears a statement of intention to dedicate specified land as a public road (including a temporary public road) to be registered in the office of the Registrar-General.
	Prior to commencement of works, the person or persons having the benefit of this consent must dedicate Lot 31 created under this Development Consent to Council as a public road.
	<i>Condition Reason: To ensure proper administration of dedication of road.</i>
<b>11.</b>	<b>Sandstone kerb</b>
	Any existing sandstone kerb removed during construction of the roundabout is to be replaced with local sandstone of similar size and profile. The sandstone blocks are to be installed using a method to the satisfaction of Council's Manager Asset, Transport and Engineering.
	<i>Condition Reason: To compliment the heritage aesthetic of the adjacent buildings.</i>
<b>12.</b>	<b>Design Specification</b>
	All works are to be designed and carried out in accordance with Wollondilly Shire Council's adopted Design and Construction Specification; specifically D01 and D02 for Road Design, D05 for Stormwater Design and D09 for Pathway Design. The requirements of the Design Specification must take preference over any stamped or endorsed plans issued with this consent.
	<i>Condition reason: Infrastructure to meet Council's specifications</i>

## SUBDIVISION WORK

### BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

Condition	
<b>13.</b>	<b>Services</b>
	Prior to the issue of a Subdivision Certificate, evidence shall be submitted to the principal certifier demonstrating that utilities and services have been installed <b><u>for Lot 30 only</u></b> in accordance with the requirements of the following service providers:
	<ul style="list-style-type: none"> <li>a. Section 73 certificate from Sydney Water,</li> <li>b. Electricity Supply Authority - written confirmation from Endeavour Energy that suitable arrangements have been made.</li> <li>c. Telecommunication Provider - written confirmation from Telstra Australia or NBN Co. that arrangements have been made.</li> </ul>
	<i>Condition reason: To ensure new developments are appropriately serviced.</i>

<b>14.</b>	<p><b>Plan of Subdivision and 88B Requirements</b></p> <ul style="list-style-type: none"> <li>a. Submission to Council of an electronic copy of the Linen Plan of Subdivision (400 dpi flat file) for certification by the Chief Executive Officer prior to lodgement at NSW Land Registry Services. A fee for the release of the Subdivision Certificate applies.</li> <li>b. Existing restriction, easements and any natural water courses are to be marked on the Linen Plan of Subdivision.</li> <li>c. Before the issue of a Subdivision Certificate, a Section 88B instrument, in accordance with the Conveyancing Act, must be submitted to the satisfaction of Council that creates the following Easements, Restrictions and Positive Covenants: <ul style="list-style-type: none"> <li>i. The creation of positive covenant that the entirety of proposed Lot 30 must be managed as an inner protection area in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019.</li> </ul> </li> </ul> <p>Terms of Easements, Restrictions and Positive Covenants must be taken from Council's standard recitals and a provision included that it may not be extinguished or altered except with the Consent of Wollondilly Shire Council.</p> <p><i>Condition reason: To ensure appropriate restrictions, easements and covenants are registered on title.</i></p>
<b>15.</b>	<p><b>Letter from Registered Surveyor</b></p> <p>A letter from a Registered Surveyor shall be submitted to Council certifying that no services of Public Utility or wastewater disposal presently connected to existing buildings straddle proposed boundaries after subdivision.</p> <p><i>Condition reason: To ensure resulting boundaries do not impact existing utilities.</i></p>
<b>16.</b>	<p><b>Alteration of Services</b></p> <p>Prior to the issue of a Subdivision Certificate, any required alteration to, or relocation of, utility services on, or adjacent to, the subdivision, have been completed.</p> <p><i>Condition reason: To ensure resulting boundaries do not impact existing utilities.</i></p>
<b>17.</b>	<p><b>Compliance with Consent/Determination</b></p> <p>The development shall be completed in accordance with the relevant plans and conditions of consent under <b>this section</b> prior to the release of the Subdivision Certificate.</p> <p><i>Condition reason: To ensure that the development has been undertaken in accordance with the approved documentation.</i></p>



## BUILDING WORK

BEFORE WORK COMMENCES	
Condition	
<b>18.</b>	<p><b>Section 138 Approval Required</b></p> <p>Where works are proposed within the road reserve, the developer shall obtain approval from Council under Section 138 of the Roads Act 1993 before any works are undertaken.</p> <p>Construction shall not commence on the site, including the placement of temporary buildings, site sheds, earthworks, site excavation, filling or other site preparation works (with the exception of site survey work), before the issue of a s138 Approval by Council. Inspection fees are payable for critical stage inspections.</p> <p><i>Condition Reason: To comply with Section 148 of the Roads Act 1993.</i></p>
<b>19.</b>	<p><b>Road Design Approval</b></p> <p>Prior to the commencement of works, a Road Design Approval must be obtained from Wollondilly Shire Council as part of the S138 permit process as the road authority, for the road upgrade work. The nominated certifier must ensure the subdivision works certificate plans and specifications match the design levels and details as shown in the road design approval.</p> <p>Council as the roads authority must ensure the submitted and specifications detail the following required amendments to the approved plans and documents.</p> <p>a. A 1.5 metre footpath is to be installed linking all pram ramps.</p> <p><i>Condition reason: Ensure appropriate design approval for works within the road reserve and future Council assets</i></p>
<b>20.</b>	<p><b>Erosion and Sediment Controls in Place</b></p> <p>Before any site work commences, the Principal Certifier, must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been restabilised in accordance with the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time).</p> <p><i>Condition Reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.</i></p>
<b>21.</b>	<p><b>Toilet Facilities</b></p> <p>Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.</p> <p><i>Condition Reason: To ensure site management measures are implemented during the carrying out of site work.</i></p>

<b>22.</b>	<b>Waste Storage Area</b>
	<p>The following practices are to be implemented during construction works:</p> <ul style="list-style-type: none"> <li>a. a waste storage area (bins or bays) shall be provided to temporarily store demolition and construction waste at the work site prior to disposal (if applicable);</li> <li>b. a garbage bin or receptacle shall be provided at the work site before works begin and shall be maintained until works are complete. This receptacle shall have a tight-fitting lid and be suitable for the reception of food scraps, papers, etc;</li> <li>c. the waste management system shall maximise waste diversion;</li> <li>d. any bin or bay containing light weight waste (e.g. polystyrene, paper or plastic) must be enclosed to prevent the material from escaping the enclosure;</li> <li>e. waste shall be collected onsite and transported to a licenced waste facility as per the approved Waste Management Plan;</li> <li>f. waste shall not be burnt or buried on site, or on any other properties</li> </ul> <p><i>Condition Reason: To ensure site management measures are implemented during the carrying out of site work.</i></p>
<b>23.</b>	<b>Fencing</b>
	<p>An appropriate fence preventing public access to the construction site shall be erected and maintained for the duration of works.</p> <p><i>Condition Reason: To ensure that the construction site is secured and contribute to public safety during works.</i></p>
<b>24.</b>	<b>Relocation/Removal of Survey Infrastructure</b>
	<p>Under Section 24 of the Surveying and Spatial Information Act 2002, it is an offence to remove, damage, destroy, displace, obliterate or deface any survey mark unless authorised to do so by the Surveyor-General. Accordingly, the applicant must, where possible, ensure the preservation of existing survey infrastructure undisturbed and in its original state or else provide evidence of the Surveyor-General's authorisation to remove or relocate marks.</p> <p>Prior to the commencement of any work, documentary evidence must be prepared by a Registered Surveyor and submitted to Council for record. This evidence shall include either:</p> <ul style="list-style-type: none"> <li>a. A copy of any Surveyor-General's Approval for Survey Mark Removal granted by NSW Spatial Services for the subject site, including all documentation submitted as part of the that application (for example the survey mark audit schedule, strategy plan and strategy report); or</li> <li>b. A letter signed by a current NSW Registered Land Surveyor and including his or her Board of Surveying and Spatial Information (BOSSI) identification number, stating that all investigations required under Surveyor-General's Direction No. 11 have been made for the subject site and that no survey infrastructure will be affected by the proposal.</li> </ul> <p><i>Condition Reason: To protect existing survey markers in NSW.</i></p>

<b>DURING WORKS</b>	
Condition	
<b>25.</b>	<b>Construction Hours</b> <p>Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.</p> <p><i>Condition Reason: To protect the amenity of the surrounding area.</i></p>
<b>26.</b>	<b>Site Management</b> <p>While works are being carried out, the person or entity having the benefit of this consent must ensure that all works are being carried out in accordance with the submitted Construction environmental Management Plan. All works must be conducted or mitigation measures implemented to:</p> <ul style="list-style-type: none"> <li>• Ensure adjoining roads and properties are not impacted by dust, mud, sediment, soil or any other material created from the construction works.</li> <li>• Stabilise all disturbed areas by turfing, mulching, paving or otherwise suitably stabilised prior to the release of a subdivision certificate.</li> <li>• Include a stabilised vehicle access, wheel wash or other control measure must be installed on the site to prevent the deposition of sediments, soils, mud and other material onto the adjoining road network. Where sediments, soils, mud and other materials have been deposited on a road cleaning and restoration of the road pavement and delineation must be undertaken as soon as practicable.</li> <li>• Ensure stockpiles of construction and landscaping materials, and site debris are located clear of drainage lines and in such position that they are within the erosion containment boundary or are equivalently protected from erosion and do not encroach upon any footpath, natural strip or roadway.</li> <li>• Ensure stockpiles of materials are covered, grassed or actively managed to limit the dispersal of material from the site. Topsoil stripped from the construction site is to be stockpiled and protected from erosion until re-used during landscaping.</li> <li>• Engage appropriately qualified persons to undertake Audit(s) on the Soil and Water Management measures implemented on site during subdivision construction works. Audits must be undertaken at times specified by the Principal Certifier.</li> </ul> <p><i>Condition Reason: To ensure site management measures are implemented during the carrying out of site work.</i></p>
<b>27.</b>	<b>Vehicle Movements</b> <p>All vehicles entering or leaving the site must have their loads covered, and before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.</p> <p><i>Condition reason: To promote safe entry and exit to the construction site.</i></p>
<b>28.</b>	<b>Waste Management</b> <p>All waste management must be undertaken in accordance with the approved waste management plan. All waste materials shall be secured and maintained within designated waste storage areas at all times and shall not leave the site onto neighbouring properties, public roads, or into the stormwater system.</p> <p><i>Condition reason: To require records to be provided, during site work, documenting the lawful disposal of waste.</i></p>

<b>29.</b>	<p data-bbox="212 188 379 224"><b>Earthworks</b></p> <p data-bbox="212 241 1487 309">Any earthworks (including any structural support or other related structure for the purposes of the development):</p> <ul data-bbox="263 376 1487 779" style="list-style-type: none"> <li>- Must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and</li> <li>- Must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and</li> <li>- That is fill brought to the site—must contain only excavated natural materials (ENM) or virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997, and</li> <li>- That is excavated soil to be removed from the site—must be disposed of in accordance with any requirements under the Protection of the Environment Operations (Waste) Regulation 2005.</li> <li>- Any excavation must be carried out in accordance with Excavation Work: Code of Practice (ISBN 978-0-642-785442), published in July 2012 by Safe Work Australia.</li> </ul> <p data-bbox="212 779 1404 813"><i>Condition Reason: To ensure site management measures are implemented during the carrying out of site work.</i></p>
<b>30.</b>	<p data-bbox="212 824 571 860"><b>Stormwater Management</b></p> <p data-bbox="212 878 1487 945">The stormwater shall be discharged to the street stormwater system and where applicable shall be in accordance with Australian Standard AS/NZS 3500.3.2 – Stormwater Drainage.</p> <p data-bbox="212 1012 1487 1079">Overflow shall be managed so as to control nuisance, damage and hazard during storm events, to the satisfaction of the Principal Certifier.</p> <p data-bbox="212 1093 1380 1126"><i>Condition Reason: To ensure the development complies with the approved plans and referenced documents.</i></p>
<b>31.</b>	<p data-bbox="212 1137 579 1173"><b>Critical Stage Inspections</b></p> <p data-bbox="212 1191 1487 1292">While works are being carried out, the work must not continue after each critical stage inspection, as determined by Council as the road's authority, unless Council is satisfied the work may proceed in accordance with this consent and the related construction certificate.</p> <p data-bbox="212 1359 1487 1460"><b>Note:</b> It is the responsibility of the applicant or contractor to notify the Council when inspections are required. Failure to notify may lead to additional work being required prior to issue of Certificate of Practical Completion. A minimum of 24 hours' notice is required for inspections.</p> <p data-bbox="212 1473 1455 1507"><i>Condition reason: As the road and asset authority, Council is to inspect assets that will become public infrastructure.</i></p>

<b>32.</b>	<b>Stormwater CCTV</b>
	All piped drainage to be vested in Council must be inspected by CCTV recording before the final inspection for the Certificate of Practical Completion.
	<i>Condition reason: Reports must show compliance with relevant Australian Standards and Council Specifications.</i>
<b>33.</b>	<b>ADAC and WAE</b>
	While works are being carried out, a certified "Works as Executed" from a Registered Surveyor is to be submitted to the Principal Certifier in:
	<ul style="list-style-type: none"> <li>a. an XML format in accordance with the ADAC requirements as set out in the Wollondilly Shire Council Design and Construction Specifications.</li> <li>b. a red-line markup on the approved plans showing all levels, constructed elements and volumes of the works conducted as set out in the Wollondilly Shire Council Design and Construction Specifications.</li> </ul>
	<i>Condition reason: Plans must show works are generally in accordance with the approved plans</i>
<b>34.</b>	<b>Excavated Areas</b>
	Excavated area/s adjacent to the building shall be retained and drained to prevent the subsidence of the excavation and/or entry of surface water to the building.
	<i>Condition reason: To ensure all earthworks are adequately retained.</i>
<b>35.</b>	<b>Practical Completion</b>
	During works, Council must issue a certificate of practical completion verifying that works conducted in the public road are completed satisfactorily.
	Prior to the issue of practical completion, a Plan of Survey must be prepared, that is suitable for registration with the NSW Land Registry Services, for the land to be dedicated to Council as Public Road. The road dedication must be registered prior to practical completion being issued.
	Before the issues of practical completion, a Defects Liability Period bond is to be lodged with Council, being no less than 10% of the estimated cost of public road infrastructure works to cover the rectification of any defects.
	<i>Condition reason: To ensure completion of approved works.</i>
<b>36.</b>	<b>Damage as a Result of Development</b>
	During works, any damage to public footway, road or other land must be restored in accordance with Council's specifications prior to the issue of any Certificate of Practical Completion for the development.
	<i>Condition reason: To protect existing public infrastructure.</i>

## OCCUPATION AND ONGOING USE

### Condition

<b>37.</b>	<p><b>Public infrastructure Defect Liability</b></p> <p>During the period(s) as outlined below, the person or entity having the benefit of this consent must ensure that any defect, previously identified or that becomes apparent, in the public infrastructure vested in Council as road or drainage assets, must be rectified to the satisfaction of Wollondilly Shire Council.</p> <p style="margin-left: 40px;">I. For a period of 12 months from the date of registration of any new public roads,</p> <p style="margin-left: 40px;">II. For a period of 12 months from the date of any Certificate of Practical Completion for existing public roads.</p> <p>Defect liability bonds being held will only be released on satisfactory inspection and acceptance of the works by Wollondilly Shire Council.</p> <p><i>Condition reason: Bonds to be provided to cover required maintenance/repair of public assets</i></p>
<b>38.</b>	<p><b>Survey Infrastructure Restoration</b></p> <p>Within 28 days of issue of Practical Completion Certificate by Council, documentary evidence of survey infrastructure restoration must be prepared by a Registered Surveyor and submitted to Council for record. The evidence shall include:</p> <p style="margin-left: 40px;">a) Certification that all requirements requested under the Surveyor-General's Approval for Survey Mark Removal have been complied with; or</p> <p style="margin-left: 40px;">b) Certification that all requirements requested under any Surveyor-General's Approval for Deferment of Survey Mark have been complied with; and</p> <p style="margin-left: 40px;">c) Time stamped photographic records of all new survey infrastructure relating to the site clearly showing the mark itself and sufficient context to aid in identifying the mark on site.</p> <p><i>Condition reason: To protect existing survey infrastructure.</i></p>

### ADVISORY CONDITIONS – Transport for NSW

(a)	<i>The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.</i>
(b)	<i>The proposed works (construction of a roundabout and associated civil road works) at the intersection of Menangle Road, Woodbridge Road and Station Street shall be in accordance with Austroads and other Australian Codes of Practice to Council's satisfaction.</i>
(c)	<i>The existing layback located on Menangle Road should be replaced with the appropriate kerb and gutter to Council's satisfaction.</i>



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## ATTACHMENTS

1. Proposed Subdivision plan [7.2.1 - 3 pages]
2. Clause 4.6 Variation Request [7.2.2 - 10 pages]
3. Civil Engineering Plan [7.2.3 - 11 pages]
4. Traffic Impact Assessment [7.2.4 - 14 pages]
5. Waste Management Plan [7.2.5 - 2 pages]

### 7.3 DA/2024/851/1 - 68 CROSS STREET, TAHMOOR 2573

Directorate: Shire Futures

DA Number	DA/2024/851/1
LGA	Wollondilly Shire Council
Proposed Development	Installation of inground fiberglass swimming pool
Street Address	Lot: 30 DP: 1245984, 68 Cross Street TAHMOOR
Applicant	Benn Banasik
Cost of Development	\$49,692.00
Date of DA Lodgement	31 October 2024
Total number of submissions	Not applicable.
Number of Unique Objections	
Recommendation	Approval subject to conditions.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> <li>• Wollondilly Local Environmental Plan (LEP) 2011</li> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• Wollondilly Development Control Plan (DCP) 2016</li> </ul>
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> <li>• Architectural Plans</li> </ul>
Clause 4.6 requests	Nil
Report date	12 December 2024

## EXECUTIVE SUMMARY

Development Application DA/2024/851/1 for the installation of an inground fiberglass swimming pool was lodged with Council on 31 October 2024. This report provides an assessment of the application for determination from the Wollondilly Local Planning Panel.

In accordance with the Minister's Local Planning Panel Direction, Schedule 1, Part 1(b), the application is reported to the Wollondilly Local Planning Panel for determination as the applicant and landowner is a Councillor for the Wollondilly Local Government Area.

## RECOMMENDATION

That Development Application DA/2024/851/1 for the installation of an inground fiberglass swimming pool be approved subject to conditions detailed in this report.

## REPORT

The subject site is located at 68 Cross Street, Tahmoor (Lot 30 in Deposited Plan 1245984).

The site is an irregularly shaped corner allotment with an area of 451.7m<sup>2</sup>. The site has a primary southern frontage to Cross Street and a secondary western frontage to Parsons Street. The property includes the following site boundaries:

- Southern (primary frontage) = 11.915m
- Western (secondary frontage) = 17.319m
- Southwestern (splayed corner) = 5.96m
- Northern (side/rear) = 24.345m
- Eastern (side/rear) = 26.135m

The site is relatively flat with a mild crossfall from west to east. It is located within a recently subdivided area of Tahmoor and is zoned R2 Low Density Residential under the Wollondilly Local Environmental Plan 2011 ('WLEP 2011').

The site is developed with a single detached dwelling house, recently constructed pursuant to development consent DA/2023/1156/1, approved on 12 January 2024. The dwelling has a footprint of approximately 190m<sup>2</sup>. Ancillary structures include a rear concrete alfresco area attached to the northeastern corner of the dwelling, a concrete driveway providing access from Cross Street, and a connecting pedestrian pathway. Refer to **Figure 1** for an aerial image of the site.

### Surrounding Development

The site's immediate context is characterised by newly subdivided residential lots with recently constructed single-storey dwellings. The lot to the north of the subject site is currently vacant. To the east lies a larger, unsubdivided lot containing a dwelling house and outbuilding situated over 25 metres from the subject site. This pattern of development is consistent with the broader character of the surrounding locality.



Figure 8 Aerial image of the subject site (site outlined in red).

Nearmap, 19.09.2024.

Source:

Development consent is sought for the installation of an inground fiberglass swimming pool. The proposed works include:

- Inground fiberglass swimming pool (2.5m wide x 3.5m long, deepest point of 1.4m).
  - Minimum separation distances of:
    - 1.001m to side/rear boundary (north)
    - 1m to alfresco and dwelling (east and south)
    - 3.1m to grass yard (west)
- Concrete paved area surrounding the pool extending to adjoin the dwelling (south and east), alfresco (east), side/rear boundary fence (north) and grass yard (west).
- Installation of 1.2m high childproof safety pool fencing along the western and eastern side of the concrete pool area.
- Pool filter and pump facilities to be located inside a soundproof enclosure to the west of the pool areas adjoining the northern wall of the dwelling.

Refer to **Error! Reference source not found.** below for an excerpt of the proposed site plan:

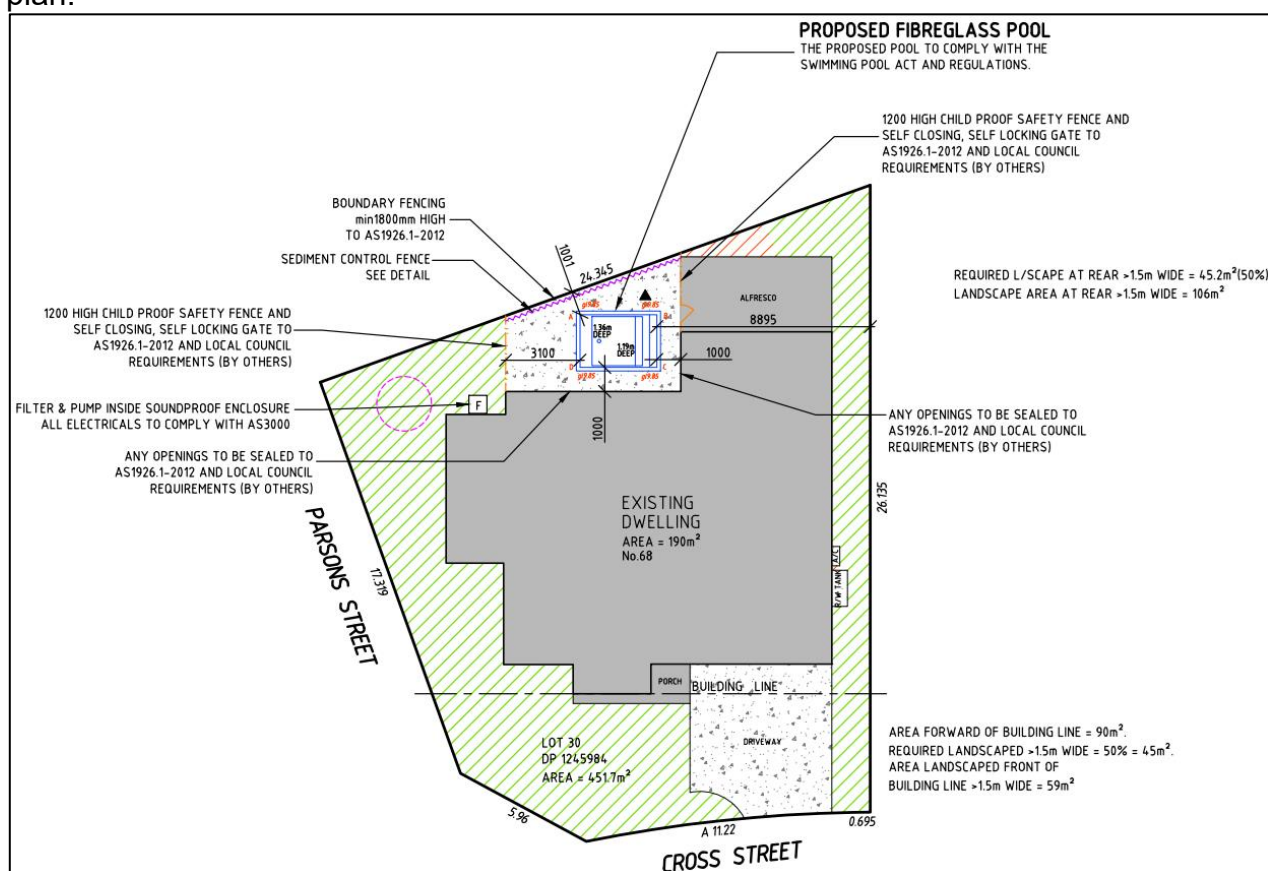


Figure 9 Excerpt of proposed Site Plan. Pool is shown in blue, pool fences are shown in orange and surrounding pool concrete/paved area shown in white and grey. Source: Bombora Pools.

07.10.2024.

Source: Bombora Pools.

## Disclosures of Political Donations



No disclosures of political donations have been received regarding this application.

### Deposited Plan & Section 88B Instrument - Restrictions / Covenants



Figure 10 Excerpt of Deposited Plan, site is identified as Lot 30.

Wollondilly Shire Council, registered 06.07.2023.

Source:

Relevant Restrictions:	<p>9 – Restriction on the Use of Land. (APZ's) – <i>Wollondilly Shire Council benefitted.</i></p> <p>10 – Restriction on the Use of Land. (Building Envelopes) – <i>Wollondilly Shire Council benefitted.</i></p> <p>11 – Restriction on the Use of Land. (Cats) – <i>Wollondilly Shire Council benefitted.</i></p> <p>12 – Positive Covenant. (Access to lots) – <i>Wollondilly Shire Council benefitted.</i></p> <p>13 – Restriction on the Use of Land. (On-site Retention Rainwater Tank) – <i>Wollondilly Shire Council benefitted.</i></p> <p>14 – Positive Covenant (Odour Mitigation) – <i>Wollondilly Shire Council benefitted.</i></p> <p>17 – Restriction on the Use of Land – <i>Every other lot benefitted.</i></p> <p>Consideration excludes private covenants in accordance with Clause 1.9A of the WLEP 2011.</p>
Proposal Compliant:	<p>The proposed swimming pool is not fully located within the prescribed Building Envelope under Restriction 10. Given the Prescribed Authority is Wollondilly Shire Council, the approval of this DA grants consent for the structure to be located as shown on the plans (dated 07.10.2024, prepared by Bombora Constructions Pty Ltd) partially outside of the Building Envelope and for the restriction to be modified.</p> <p>The proposal is compliant with all other applicable restrictions.</p>

Referrals	
Internal Referrals:	<p><u>Environmental Health (received 07/11/2024)</u></p> <p>Satisfied with the proposed development, subject to the pump/filter being in a soundproof enclosure and standard pool conditions being applied. Relevant conditions of consent have been included in the recommendation for approval.</p> <p><u>Building Surveyor – Residential (received 08/11/2024)</u></p> <p>No objections to the application were raised. Relevant conditions of consent have been included in the recommendation for approval.</p> <p><u>Wastewater (received 07/11/2024)</u></p> <p>Confirmed the site is connected to the Sydney Water sewer network, therefore no onsite wastewater disposal system is required.</p> <p><u>Flood Engineer (received 22/11/2024)</u></p> <p>Confirmed that the pool is located outside any flood risk precinct as the PMF only encroaches within the front of the property and the adjoining 1% within the roadway is noted as overland flow which does not have controls based on Council's current DCP. No conditions required.</p>
External Referrals:	<p><u>NSW Subsidence Advisory Board (received 11/11/2024)</u></p> <p>Correspondence was received stating that the development is considered as exempt under the <i>Coal Mine Subsidence Compensation Act 2017</i> and does not require approval from this authority.</p>

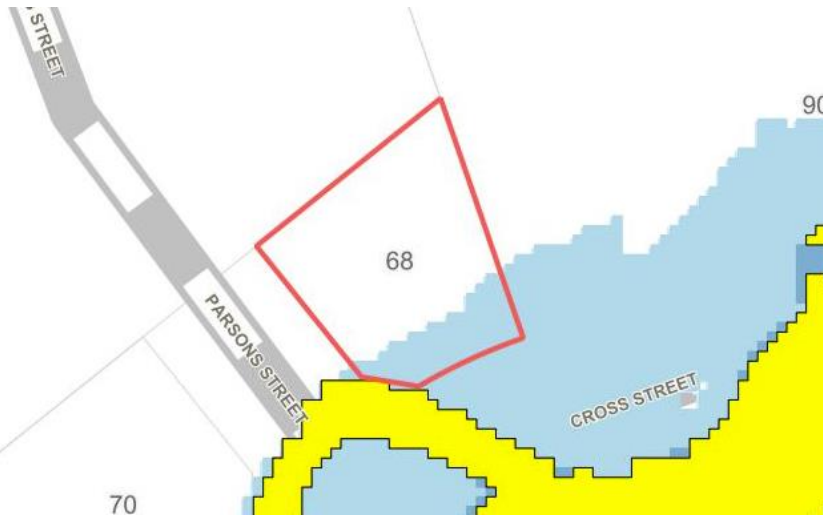
Neighbor Notification:	Yes <input type="checkbox"/>	Not Applicable <input checked="" type="checkbox"/>
Notification Consideration:	The application does require notification as per the Wollondilly Community Participation Plan (CPP).	

S68 Local Government Act	Yes <input type="checkbox"/>	Not Applicable <input checked="" type="checkbox"/>
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Flood Prone Land	Yes <input checked="" type="checkbox"/>	Not Applicable <input type="checkbox"/>
Comment:	<p>The southern front boundary of the site to Cross Street (to a depth of approximately 4m) is included in the Draft Wollondilly Flood Study 2024, being mapped as:</p> <ul style="list-style-type: none"> <li>- PMF Hazard</li> <li>- PMF Depth 0.05-0.15</li> <li>- PMF Extent</li> </ul> <p>Given the nature of the development, for a small inground</p>	

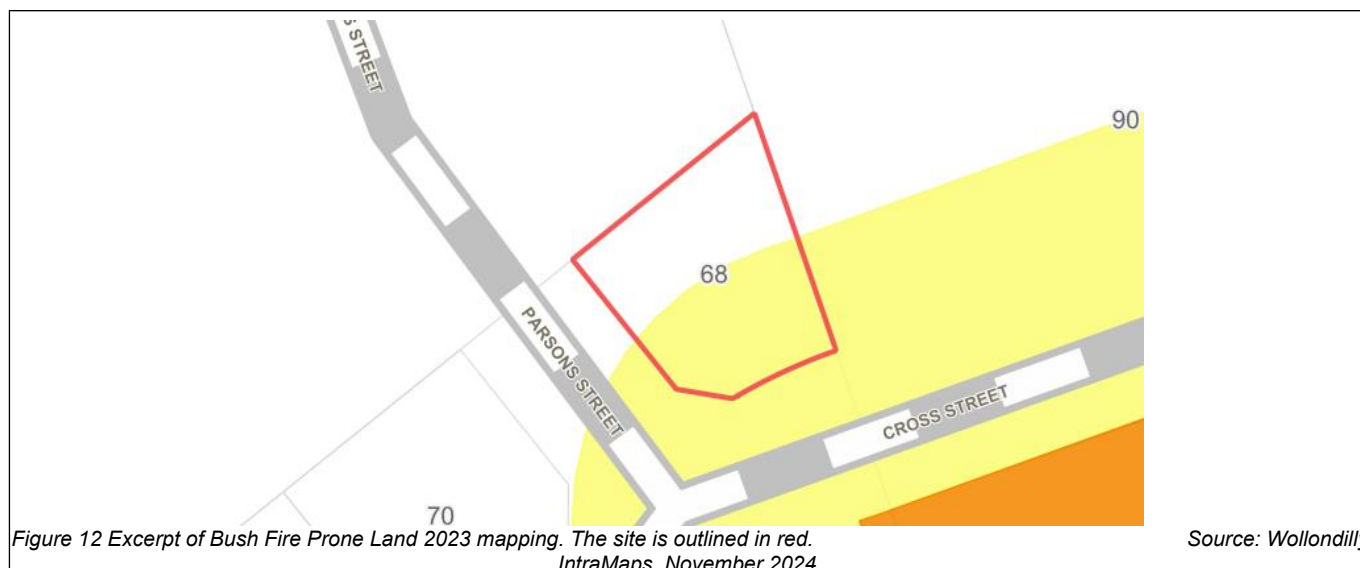


fiberglass swimming pool within a portion of the site that is not mapped as being flood affected (approximately 14m from the mapped extent), the swimming is unlikely to affect flood waters and the proposal is deemed acceptable in relation to flood affectation.



Source:

Bushfire Prone Land	Yes <input checked="" type="checkbox"/>	Not Applicable <input type="checkbox"/>
Has a Bushfire Assessment Report been submitted?	No bushfire report submitted given the nature of the development being a swimming pool and Class 10b structure. No bushfire requirements. Recommended condition of consent for the structure to be constructed in accordance with the NCC.	
What is the determined Bushfire Attack Level?	Not applicable. A bushfire report is not required. The site is located within the Vegetation Buffer zone, however the pool is not within the mapped portion of the site and is a Class 10b structure.	
Is clearing proposed for the required Asset Protection Zone? If yes, refer to Tree Clearing assessment.	Not applicable.	



<b>NSW Subsidence Advisory</b>	Yes <input type="checkbox"/>	Deemed Approval <input type="checkbox"/>	Not Applicable <input checked="" type="checkbox"/>
Has concurrence from NSW Subsidence Advisory (i.e., approved / stamped plans / conditions) been submitted?	<p>The site is mapped as follows:</p> <ul style="list-style-type: none"> <li>- Mine Subsidence Development</li> <li>- Mine Subsidence District</li> <li>- Underground Coal Mining</li> </ul> <p>Concurrence was sought from NSW Subsidence Advisory in relation to the development.</p> <p>Correspondence was received (11 November 2024) stating that the development is considered as exempt under the <i>Coal Mine Subsidence Compensation Act 2017</i> and does not require approval from this authority.</p>		
<b>BASIX Development</b>	Yes <input type="checkbox"/>	Not BASIX Affected <input checked="" type="checkbox"/>	
Has a current BASIX certificate been submitted?	The proposed swimming pool capacity is less than 40,000L and is not classified as BASIX development.		
Is the BASIX Certificate the current type?	BASIX Certificate is not required.		
<b>Tree Removal / Vegetation Clearing</b>	Yes <input type="checkbox"/>	N/A - No vegetation removal <input checked="" type="checkbox"/>	
Comment:	The proposed swimming pool does not require the removal of any trees. The subject site is devoid of trees, and the proposed development will not impact any trees located on neighboring properties.		
<b>Acoustic / Noise / Vibration</b>	Yes <input type="checkbox"/>	Not Applicable <input checked="" type="checkbox"/>	

State Environmental Planning Policy (Precincts—Western Parkland City) 2021	Yes <input type="checkbox"/>	Not Applicable <input checked="" type="checkbox"/>
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Development Contributions	Yes <input type="checkbox"/>	Not Applicable <input checked="" type="checkbox"/>
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Section 4.15 Evaluation – Matters for Consideration	
SEPP(s) – S4.15(1)(a)(i)	<p><u>State Environmental Planning Policy (Biodiversity &amp; Conversation) 2021</u> <u>Chapter 2 – Vegetation in Non-Rural Areas</u></p> <p>The aims of this Chapter are to protect the biodiversity values of trees and other vegetation in non-rural areas of the State and to preserve the amenity of non-rural areas through the preservation of trees and other vegetation. The development does not adversely impact any existing trees or vegetation.</p> <p><u>Chapter 4 – Koala Habitat Protection 2021</u></p> <p>The site is zoned R2 Low Density Residential within the Wollondilly LGA and is subject to these provisions. Due to the nature of the development, being for an inground swimming pool on a site that is already used for residential purposes on an area of the site that has no biodiversity values and does not include the removal of any trees, the proposal is not considered to interfere with the aims of this Chapter.</p> <p>Furthermore, in accordance with Clause 4.10, which applies to land with an area less than 1 hectare and does not have an approved Koala Plan of Management (KPOM), Council is not prevented from granting consent if the land does not have an approved KPOM or that Council is satisfied that the land is not core koala habitat. Due to its residential zoning and that the site does not include any trees, Council is satisfied that the site is not a core koala habitat.</p> <p><u>State Environmental Planning Policy (Resilience and Hazards) 2021</u> <u>Chapter 4 – Remediation of Land</u></p> <p>No evidence of land contamination.</p>
Draft EPI(s) – S4.15(1)(a)(ii)	<p><u>Draft SEPPs</u></p> <p>No Draft SEPPs are applicable to the development.</p>

DCP(s) – S4.15(1)(a)(iii)	<p><u>Wollondilly Development Control Plan</u></p> <p>Refer to consideration of the Development Control Plan within this assessment.</p> <p>Development overall compliant and conditions have been recommended where necessary.</p>
Planning Agreement(s) – S4.15(1)(a)(iiia)	The proposal is not subject to any Planning Agreements.
The Regulations – S4.15(1)(a)(iv)	Recommended to impose prescribed conditions to ensure compliance with the Regulations.
Likely Impacts – S4.15(1)(b)	<p>The proposed swimming pool is not anticipated to result in any significant adverse impacts on the built or natural environment.</p> <p>The pool's design and siting are compatible with the existing dwelling and the surrounding residential character. Its modest scale ensures the retention of adequate landscaped areas and deep soil zones on the site. To mitigate potential noise impacts from pool equipment, conditions of consent will be imposed requiring the pump and filter to be housed within a soundproof enclosure and located a reasonable distance from the boundary. This will ensure that noise levels comply with relevant standards and do not cause disturbance to neighbours. The existing 1.8m high boundary fence along the northern property line will help to maintain privacy for both the pool area and any future development on the adjacent vacant lot.</p> <p>No trees or significant vegetation will be removed as part of the development. The extent of excavation required for the pool is considered reasonable and will not result in any detrimental impacts on site stability or neighbouring properties.</p> <p>The proposed development is compatible with the site and its context. With the implementation of appropriate conditions of consent, it is not expected to result in any significant adverse impacts on the built or natural environment.</p>
Site Suitability – S4.15(1)(c)	<p>The subject site is suitable for the proposed swimming pool. It is not subject to any constraints that would preclude the development. Any known relevant site constraints have been addressed within this report.</p> <p>The proposed location of the pool is deemed appropriate for several reasons. The pool's modest size allows for its comfortable accommodation within the existing backyard area without compromising usable open space or landscaping opportunities. The chosen location is free of trees and significant vegetation, avoiding the need for removal and preserving the site's existing greenery. The pool's proximity to the alfresco area provides convenient and logical access, enhancing the functionality and enjoyment of both spaces.</p>

	The site's characteristics, combined with the proposed pool's design and siting, support the conclusion that the site is suitable for the intended development.
Submissions – S4.15(1)(d)	The application is not required to be notified in accordance with the Wollondilly Community Participation Plan. As such, no submissions were received.
Public Interest – S4.15(1)(e)	The proposal is satisfactory in relation to the relevant controls and approval is not contrary to the public interest.

<b>Wollondilly Local Environmental Plan 2011</b>	
<b>Part 2 – Permitted or Prohibited Development</b>	
Zoning	R2 Low Density Residential
Permissibility	The proposed development is permissible with consent in this zone as it is ancillary to the existing dwelling house which is permitted with consent. The development is consistent with the aims and objectives of this zone.
<b>Part 4 – Principal Development Standards</b>	
Height of Building (Cl:4.3)	The development is for a swimming pool and is not subject to the height development standard. The development achieves compliance with the maximum height of 9m identified on the height of building map.
Floor Space Ratio (Cl: 4.4)	Not adopted
Exceptions to Development Standards (Cl:4.6)	Not applicable
<b>Part 5 – Miscellaneous Provisions</b>	
Heritage Conservation (Cl:5.10)	The proposed development is not a listed heritage item or located within a heritage conservation area. The site is not located within the vicinity of any heritage items or conservation areas.
Flood Planning (Cl: 5.21)	<p>The southern front boundary of the site to Cross Street (to a depth of approximately 4m) is included in the Draft Wollondilly Flood Study 2024. Due to its Draft mapping, the application has been assessed in relation to Clause 5.21 on a merit basis.</p> <p>The site is draft mapped as:</p> <ul style="list-style-type: none"> <li>- PMF Hazard</li> <li>- PMF Depth 0.05-0.15</li> <li>- PMF Extent</li> </ul>

	Given the nature of the development, for a small inground fiberglass swimming pool within a portion of the site that is not mapped as being flood affected (approximately 14m from the mapped extent), the proposal is unlikely to impact flood waters and results in adverse impacts to neighbouring properties. The proposal is deemed acceptable in relation to flood affectation and is consistent with the aims and objectives of this clause.
<b>Part 6 – Urban Release Areas</b>	
Public Utility Infrastructure (Cl: 6.2)	The site is located within an Urban Release Area. The proposal relates solely to the installation of an inground swimming pool on a site that is already developed, containing a dwelling house. Available utilities services infrastructure is already in place for the dwelling and site.
Development Control Plan (Cl: 6.3)	The site is subject to Volume 2 Urban Release Areas Development Control Plan which has been prepared in accordance with the provisions of subclause (3).
<b>Part 7 – Additional Local Provisions</b>	
Essential Services (Cl: 7.1)	This clause is not applicable as the site is subject to Part 6 Urban release areas in accordance with subclause 2(b).
Biodiversity Protection (Cl: 7.2)	The site is not identified as sensitive land on the Natural Resources – Biodiversity map.
Water Protection (Cl: 7.3)	The site is not identified as sensitive land on the Natural Resources – Water map.
Earthworks (Cl: 7.5)	<p>The proposed swimming pool will involve excavation to a depth of 1.4m. This level of excavation is reasonable given the nature of the development and to accommodate an in-ground pool structure. To manage potential erosion and sediment runoff during construction, a sediment control fence will be installed along the northern boundary of the site. Furthermore, conditions of consent will require the implementation of comprehensive erosion and sediment control measures in accordance with best practice guidelines. This will ensure that the surrounding area remains unaffected by the development.</p> <p>The excavation is confined to the pool area and is not anticipated to disrupt or negatively impact existing drainage patterns or soil stability. The site is not known to contain any Aboriginal objects or relics. The proposed earthworks are not expected to impact the amenity of adjoining properties.</p> <p>The proposed earthworks associated with the development are acceptable and comply with relevant requirements. Recommended conditions of consent will ensure that the works do not result in any detrimental environmental impacts.</p>



Development within a Designated Buffer Area (CI: 7.6)	The site is located within the Odour Buffer Area. The development is for the purposes of a swimming pool ancillary to an existing dwelling house. Given this, the development is not impacted by or impact poultry operations on adjoining land.
Development within Metropolitan Rural Area (CI: 7.9)	<p>The subject site is located within a Metropolitan Rural Area and is currently used for residential purposes, which is consistent with its R2 Low Density Residential zoning. The proposed swimming pool is compatible with this established land use and the desired character of the area. The development is for the purposes of a pool and does not impact on natural habitat, biodiversity, water catchments, mineral and energy resources or extractive industries.</p> <p>The development is not contrary to the distinctive character of Tahmoor. The site is not mapped as, or located within the vicinity of, any heritage items or heritage conservation areas. Furthermore, the proposal appropriately manages the risk of bushfire hazards, subject to compliance with the recommended conditions of consent.</p>

Wollondilly Development Control Plan 2016	
DCP Volume	Relevance
Volume 1 – General	Yes, addressed below.
Volume 2 – Urban Release Areas	Yes, addressed below.
Volume 3 – Subdivision of Land	No, not addressed.
Volume 4 – Residential Development	Yes, addressed below.
Volume 5 – Commercial and Community Uses	No, not addressed.
Volume 6 – Tourism and Events	No, not addressed.
Volume 7 – Industry and Infrastructure	No, not addressed.
Volume 8 – Primary Agriculture and Rural Uses	No, not addressed.

The relevant provisions of the applicable DCP have been considered in the assessment of this application. For ease of reference, these provisions are summarised in the tables below.

Volume 1 – General	
Relevant Provisions	Comment
<b>Part 1 - Preliminary</b>	
<b>1.2 Objectives of the Plan</b>	
1	To assist in the realisation of the aims of Wollondilly Local Environmental Plan, 2011.
2	The specific controls and volumes of this plan each have objectives as detailed throughout this plan.
1.4	<u>Application of the volumes of this plan</u>

Volume 1 – General		
Relevant Provisions		Comment
	If there is an inconsistency arises between the different volumes of the DCP, the earlier volume will take precedence over the later volumes. For example, if there is an inconsistency between the provisions in Volumes 2 and 5, the provisions in Volume 2 would prevail.	
Part 2 - General considerations for all development		
2.1 Objectives		
1	To ensure that developments are undertaken with due regard to human safety.	
2	To ensure that developments do not unreasonably impact on their surrounds.	
3	To ensure that developments achieve a satisfactory level of social equity.	
2.2 Controls		
1	The consent authority shall consider the following safety and human health risks in assessing a development application under this volume:	
a)	Road and traffic hazards;	The proposed development is not expected to result in any adverse impacts on road safety or traffic flow in the area due to the nature of the development being for a swimming pool.
b)	Bushfire threat;	The site is mapped as Vegetation Buffer. The swimming pool is a Class 10b structure, the pool will be constructed in accordance with the National Construction Code (NCC) to ensure compliance with all relevant building standards and safety requirements.
c)	Flood risk;	<p>A small portion of the site's southern front boundary along Cross Street (to a depth of approximately 4 metres) is identified as flood affected land within the Draft Wollondilly Flood Study 2024. However, the proposed swimming pool is situated approximately 14 metres from this mapped extent, in an area not identified as being subject to flooding.</p> <p>Given the nature of the development being an in-ground fibreglass swimming pool and its location outside the mapped flood-prone area, the proposal is considered acceptable in relation to flood risk.</p>
d)	Noise, vibration, pollution, odour, radiation or waste from surrounding land uses;	The proposed swimming pool is ancillary to the existing dwelling house and its use is compatible with the surrounding residential land uses. The development is not

Volume 1 – General		
Relevant Provisions		Comment
		anticipated to be adversely impacted by, or generate any adverse impacts on, surrounding properties.
e)	Exposure to electricity transmission systems;	Satisfactory.
f)	Exposure to radiation from telecommunications infrastructure;	Satisfactory.
g)	Potential exposure to children of material (including signage) from any nearby restricted premises and/or sex services premises;	Not applicable.
h)	Hazards from vehicles within car parking areas; and	Not applicable.
i)	Hazard from potential contamination of the land.	The land is unlikely to be contaminated, given the recent development for residential purposes.
2	The consent authority shall consider the suitability of the road network in the vicinity in assessing a development application under this volume.	Satisfactory.
3	The consent authority must not grant consent to a development application for development within a proclaimed mine subsidence area without the concurrence of the Mine Subsidence Board.	The site is mapped as being within a Mine Subsidence Development, Mine Subsidence District, and Underground Coal Mining area. However, concurrence from the NSW Subsidence Advisory was received on 11 November 2024, stating that the proposed development is exempt from requiring approval from that authority. This exemption confirms that the proposed swimming pool construction does not pose any significant risks associated with mine subsidence.
4	The consent authority must not grant consent to a development application for development subject to this volume on land unless it has considered the impact of the development on any system for the management of wastewater present on that land.	The site is connected to Sydney Water sewer and does not have an onsite wastewater system. The proposal is deemed satisfactory.
5	The consent authority must not consent to the carrying out of development within a drinking water catchment area unless it is	The site is not located within a drinking water catchment area.

Volume 1 – General		
	Relevant Provisions	Comment
	satisfied that the proposal will have a neutral or beneficial effect on water quality.	
Part 4 – Community Engagement		
The purpose of this part is to ensure that members of the public potentially affected by a proposed development have input into the assessment process before a final decision is made on a development application. It outlines Council's notification and advertising procedure for development applications.		
4.1 Development applications to be notified		
	Swimming pools (residential) <ul style="list-style-type: none"> <li>▪ Relates to a residential use of the land</li> <li>▪ Setback from side and rear boundaries no less than 1m</li> <li>▪ Located in the rear yard or on a corner lot, behind the front and secondary street setbacks of the dwelling</li> <li>▪ No coping or decking more than 0.5m above ground level (existing).</li> </ul>	As per the Wollondilly CPP, the development does not require notification.

Volume 2 – Urban Release Areas		
	Relevant Provisions	Comment
1.2 Objectives		
1	To satisfy the requirements of Clause 6.3 of Wollondilly Local Environmental Plan.	
2	To achieve the objectives of Clause 6.3 of Wollondilly Local Environmental Plan.	
1.3 Parts of this Volume		
	This volume has two parts. The first being this introductory part and the second being the provisions relating to each Urban Release Area.	The site is located within an Urban Release Area. The development is not contrary to the objectives and controls within this Volume of the DCP.
	2.3 Picton, Tahmoor, Thirlmere New Urban Lands (PTT)	

### Volume 4 – Residential Development

	Relevant Provisions	Comment
Part 1 – Preliminary		

**Volume 4 – Residential Development**

	Relevant Provisions	Comment
<b>1.2 Objectives (Please refer to the DCP for all objectives in this regard, the below are the subject matter related to each objective)</b>		
1.	Visual Character and Amenity	The pool is not visible or prominent when viewed from the street. The development does not detract from the existing dwelling and allows for the retention of most of the landscaped area, being modest in size.
2.	Vehicular Access, Car Parking and Traffic	The existing car parking arrangement is not affected by the provision of the pool.
3.	Encouraging Healthier Lifestyles	<p>The pool area is directly accessible from the existing alfresco private open space area which adjoins the rear of the dwelling. The single access gate to the pool area is within the pool fence to the alfresco area, creating a usable private open space.</p> <p>The pool and alfresco private open space areas are located within the rear northern setback of the site, providing optimal solar access.</p>
4.	Crime Prevention Through Environmental Design	The pool is located within a private residential site and is not anticipated to result in any crime issues.
5.	Privacy	The provision of the swimming pool will not result in any privacy or overlooking issues. The pool is compliant with the setback requirements for residential ancillary pools.
6.	Water Sensitive Urban Design	<p>The development includes the provision of an 8.75m<sup>2</sup> pool footprint and a surrounding concrete/paved area within the pool fencing that equates to a total developed area of 32m<sup>2</sup>.</p> <p>There is still sufficient deep soil and landscaped area across the site to ensure WSUD compliance.</p>
7.	Services	No new stormwater management system is proposed. Stormwater can be connected to the existing system if required.

**Volume 4 – Residential Development**

	<b>Relevant Provisions</b>	<b>Comment</b>
8.	Waste Management	Waste disposal and collection processes are not altered because of the development.
9.	Ecologically Sustainable Development	<p>The pool is modest in scale and does not require excessive earthworks.</p> <p>A satisfactory Waste Management Plan has been submitted detailing the disposal of excavated materials, which are to be used on site where possible and the remainder is to be removed and taken to the local landfill/tip site.</p> <p>A BASIX Certificate is not required for this development.</p>
10.	Environmental Protection	The development does not require the removal of any trees or vegetation and will not have an adverse impact on the natural environment.
11.	Social Equity	The development does not involve the construction of a new residential development, boarding house or hostel. The pool area is directly accessible from the alfresco area.
12.	Housing Delivery	The development does not involve the construction of a new residential development.
13.	Economic Development	The site is surrounded by residential and rural land uses. The ancillary pool will not have an impact on any economic functions.
14.	Appropriate Integration with State Environmental Planning Policies and Wollondilly Local Environmental Plan 2011.	The proposal is consistent with the SEPPs and LEP. Recommended conditions of consent to ensure consistency with the NCC and BCA requirements.
15.	Swimming Pools 15.1. To maximise the safety of swimming pools.	Child proof safety pool fencing to a height of 1.2m with a self-closing and self-locking gate is proposed as part of the application to ensure safety.



**Volume 4 – Residential Development**

	Relevant Provisions	Comment
		<p>Existing windows of the dwelling which adjoin the pool area are to be sealed in accordance with the Australian Standards and Council requirements to ensure access to the pool area from these rooms is not available.</p> <p>The fence and swimming pool are to comply with NCC requirements.</p> <p>The swimming pool area is visible from the adjoining alfresco, living areas and backyard areas to allow for casual surveillance of occupants within the pool and maximise safety.</p> <p>Conditions of consent have been recommended to ensure the pool is constructed in accordance with the relevant Australian Standards for safety.</p>
16.	Maintenance	The pool is capable of being maintained in the long term.
17.	Landscaping	The site will retain sufficient grass areas and landscaping and does not require the removal of any trees.

**Part 2 – General Requirements for All Development****2.10 Stormwater**

1.	<p>Stormwater from new dwellings (other than water to be recycled for use on site) must be directed to at least one of the following to Council's specifications:</p> <ul style="list-style-type: none"> <li>- Street drainage system;</li> <li>- Drainage easement;</li> <li>- Natural drainage path.</li> </ul> <p>Council may consider the use of absorption trenches or similar on large lot residential or rural lots where one of the measures above cannot be satisfied.</p>	<p>Stormwater from the concrete and hard surfaces is to be drained to a stormwater connection point connecting to the existing system.</p> <p>Standard conditions of consent are recommended in relation to stormwater management associated with the proposed swimming pool.</p>
2.	Where common drainage treatment methods are unable to suitably convey stormwater from the dwelling to one of the	Stormwater will be able to be drained in accordance with the above measures.

## Volume 4 – Residential Development

	Relevant Provisions	Comment
	systems described in control (1) above, Council may require the creation of drainage easements over adjoining properties to carry stormwater from the site.	
3.	The proposed dwelling and any associated stormwater drainage measures shall account for the existing drainage patterns of the area and shall not contribute to any localised ponding, nuisance flooding on adjoining properties, or impacts to overland flow or natural drainage paths.	The development is not anticipated to result in any localised ponding, nuisance flooding on adjoining properties or impact overland flow or natural drainage paths.
4.	All stormwater disposal systems shall be in accordance with Council's Engineering Design Specifications.	To comply.

### Part 3 – Specific Land Use Controls

#### 3.11 Swimming Pools - developments for swimming pools that are provided ancillary to residential development.

##### Setbacks

1.	Swimming pools shall not be constructed between a dwelling and a property boundary to a public road on Standard Residential Lots nor on Residential Large Lots.	Not applicable. The site has an area of 451.7m <sup>2</sup> and is classified as a Residential Small Lot in accordance with the DCP and not a Standard Residential Lot or a Residential Large Lot. The swimming pool is also not located within the property to a public road.
2.	Pool fencing shall be provided at least 1m from the water's edge of the pool.	Pool fencing is to be provided on the eastern and western sides of the swimming pool with the following separation distances: <ul style="list-style-type: none"> <li>- Eastern (adjoining existing alfresco) = 1m</li> <li>- Western (adjoining yard) = 3.1m</li> <li>- Northern (existing site boundary) = 1.001m</li> <li>- Southern (existing dwelling wall) = 1m</li> </ul>
3.	Pools shall only be provided within 40 metres of a dwelling.	The swimming pool is within 40m of the dwelling, being separated 1m from the dwelling.

## Volume 4 – Residential Development

	Relevant Provisions	Comment														
Site Coverage																
4.	<div>The total portion of the site covered by all pools and buildings (including dwellings) shall not exceed the following:</div> <table><tr><th>LOT SIZE</th><th>SITE COVERAGE</th></tr><tr><td>Town Centre Lots (&lt;450m<sup>2</sup>)</td><td>60%</td></tr><tr><td>Residential Small Lots (451m-700m)</td><td>60%</td></tr><tr><td>Standard Residential Lots (700-1500)</td><td>50%</td></tr><tr><td>Residential Large Lots (1500-4000)</td><td>40%</td></tr><tr><td>Rural Lifestyle Lots (4000-2ha)</td><td>N/A</td></tr><tr><td>Rural Lots (&gt;2ha)</td><td>N/A</td></tr></table>	LOT SIZE	SITE COVERAGE	Town Centre Lots (<450m <sup>2</sup> )	60%	Residential Small Lots (451m-700m)	60%	Standard Residential Lots (700-1500)	50%	Residential Large Lots (1500-4000)	40%	Rural Lifestyle Lots (4000-2ha)	N/A	Rural Lots (>2ha)	N/A	<div>Site area = 451.7m<sup>2</sup> = Residential Small Lot</div> <div>Existing dwelling coverage = 190m<sup>2</sup></div> <div>Proposed pool coverage = 8.75m<sup>2</sup></div> <div>Total site coverage = 198.75m<sup>2</sup> (44%)</div>
LOT SIZE	SITE COVERAGE															
Town Centre Lots (<450m <sup>2</sup> )	60%															
Residential Small Lots (451m-700m)	60%															
Standard Residential Lots (700-1500)	50%															
Residential Large Lots (1500-4000)	40%															
Rural Lifestyle Lots (4000-2ha)	N/A															
Rural Lots (>2ha)	N/A															
Environmental Protection																
5.	<div>Swimming pools shall not be located in locations that would have an adverse impact on significant stands of native vegetation by either the construction of the pool or by the provision of an asset protection zone or defensible space.</div>	<div>The siting of the swimming pool does not require the removal of any trees or vegetation and is not within the anticipated tree protection zone (TPZ) of any trees on adjoining allotments.</div> <div>As per PBP 2019, the swimming pool does not require an asset protection zone or defensible space and must only comply with the NCC.</div>														

Site Inspection	Date Completed:	08 November 2024
Comments:	The site conditions were consistent with the supporting documentation accompanying the submission of this application.	

Site Inspection Photograph(s)





Figure 13 Facing west towards the site of the proposed pool area from the existing alfresco area.  
CPS site inspection, 08.11.2024.

Source:



Figure 14 Facing east towards the proposed pool area from the northwestern corner of the lot.  
CPS site inspection, 08.11.2024.

Source:





Figure 15 Facing northeast towards the subject site from the intersection of Cross Street and Parsons Street. Proposed pool to be located within the northern rear/side boundary of the site which presently adjoins recently subdivided vacant land. Source: CPS site inspection, 08.11.2024.

#### Other Information / Comments / Site History

No further comments. All relevant information has been discussed throughout this report.

### Consultation

Council's Community Participation Plan establishes the minimum community engagement requirements for development proposals. In accordance with the plan, no community consultation was required.

No consultation with public agencies was required.


### Public Interest

The proposed development is considered to be consistent with the aims and objectives of the relevant planning legislation, including, applicable State Environmental Planning Policies, the Wollondilly Local Environmental Plan (LEP) 2011 and Wollondilly Development Control Plan (DCP) 2016.

### Section 4.16(11) of the EP & A Act - Other restrictions on determination of development applications

The assessment process to date has been managed in accordance with Council's adopted conflict of interest policy as required by the Act and Section 66A of the EP & A Regulation 2021.

For this DA, the following management strategy was developed, exhibited and adhered to during the assessment process, in accordance with Section 30B of the Regulation:

Council conflict of interest management statement	
Project name	Proposed swimming pool
DA number	DA/2024/851/1
Potential conflict	The owner is a current councillor
Management strategy	<p>Council is managing potential conflicts of interest in this matter as follows:</p> <ul style="list-style-type: none"> <li>The development application will be determined by the Wollondilly Local Planning Panel.</li> <li>Assessment of the application will be outsourced to an independent consulting town planner.</li> <li>Council will not undertake the certification for the development.</li> </ul>
Contact	Concerns about Council fulfilling its obligations should be reported to Council's Manager Governance, Integrity & Ethics.
CEO approval	

### Financial Implications

This matter has no financial impact on Council's adopted budget or forward estimates.

### Recommended Conditions of Consent

GENERAL CONDITIONS					
Condition					
1.	<b>Approved plans and supporting documentation</b>				
	Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.				
	<b>Approved Plans</b>				
	Plan number	Revision number	Plan title	Drawn by	Date of plan
	Sheet 1 of 2	A	Site Plan	Bombora Constructions Pty Ltd	07/10/2024
	Sheet 2 of 2	A	Elevation Plans	Bombora Constructions Pty Ltd	07/10/2024
	20108/07	D	Structural Details Davinci Pool Range	ESEN Engineering	Feb 2020
	<b>Approved Documents</b>				
	Document title	Version number	Prepared by	Date of documents	



	Waste Management Plan	-	-	2024
	Statement of Environmental Effects	-	-	2024
In the event of any inconsistency between the approved plans and documents, the approved Plans/Documents prevail. In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.				
<i>Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</i>				
<b>2.</b>	<b>Offensive Noise POEO Act</b>			
	The person(s) having the benefit of this consent is advised that Council reserves the right to restrict the days and hours of operation of specific activities if considered necessary to prevent the emission of an “offensive noise” as defined in the Protection of the Environment Operations Act, 1997. Offensive Noise means noise:			
	a) That by reason of its level, nature, character or quality or the time at which it is made, or any other circumstances: <ul style="list-style-type: none"> <li>i. Is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted; or</li> <li>ii. Interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted; or</li> <li>iii. That is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.</li> </ul>			
	<i>Condition Reason: To protect the amenity of the local area.</i>			

## BUILDING WORK

### BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition	
<b>3.</b>	<b>Long Service Levy Payment</b>
	Prior to the issue of any Construction Certificate, evidence / receipt to confirm that the required Long Service Levy payment has been paid, must be provided to the nominated Certifier. (Note: this only applies to building and construction works with a cost of \$250,000 or more).
	<i>Condition Reason: to demonstrate compliance with Part 6.8 of the Environmental Planning and Assessment Act 1979 and the Building and Construction Industry Long Service Payments Act 1986.</i>
<b>4.</b>	<b>Detailed Stormwater Drainage System Design</b>
	Prior to the issue of the Construction Certificate, a detailed storm water hydraulic drainage plan for the disposal of storm water from the site, prepared in accordance with Council’s Design Standards shall be submitted to Council and approved by Council’s Development Engineer.
	<i>Condition Reason: To ensure adequate stormwater management.</i>

### BEFORE BUILDING WORK COMMENCES

Condition	
<b>5.</b>	<b>Erosion and sediment controls in place</b>

	Before any site work commences, the Principal Certifier, must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been reestablished in accordance with the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time).
	<i>Condition Reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways</i>
<b>6.</b>	<b>Construction Certificate required</b>
	Construction shall not commence on the site, including the placement of temporary buildings, site sheds, earthworks, site excavation, filling or other site preparation works (with the exception of site survey work), prior to the issue of a Construction Certificate by Council or a nominated Certifier.
	<i>Condition Reason: To ensure site management measures are implemented during the carrying out of site work</i>
<b>7.</b>	<b>Toilet Facilities</b>
	Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
	<i>Condition Reason: To ensure site management measures are implemented during the carrying out of site work</i>
<b>8.</b>	<b>Garbage Bin</b>
	A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed. The garbage receptacle must have a tight-fitting lid and be suitable for the reception of food scraps and papers
	<i>Condition Reason: To ensure site management measures are implemented during the carrying out of site work</i>
<b>9.</b>	<b>Sydney Water Tap In / Building Plan Approval</b>
	Prior to the commencement of any building works, approval obtained via Sydney Water via 'Tap inTM' ( <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a> ) or a Sydney Water - Water Service Co-Ordinator shall be submitted to the Principal Certifier.
	<i>Condition Reason: To ensure that the Sydney Water infrastructure is not damaged or impacted by the development.</i>
<b>10.</b>	<b>Swimming Pool Construction Sign</b>
	Prior to the commencement of any construction works, a sign stating "this swimming pool is not to be occupied or used", shall be erected in a prominent position in the immediate vicinity of the proposed swimming pool. The sign shall be maintained until such time as any Occupation Certificate is issued for the Swimming Pool by the Principal Certifier.
	<i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i>

<b>DURING BUILDING WORK</b>	
Condition	
<b>11.</b>	<b>Surveys by a registered surveyor</b>
	While building work is being carried out, the positions of the following must be measured and marked by a registered surveyor and provided to the principal certifier:
	a) All footings / foundations in relation to the site boundaries and any registered and proposed easements
	b) At other stages of construction – any marks that are required by the principal certifier.
	<i>Condition Reason: To ensure buildings are sited and positioned in the approved location</i>
<b>12.</b>	<b>Construction hours</b>
	Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.
	<i>Condition Reason: To protect the amenity of the surrounding area</i>
<b>13.</b>	<b>Site Management</b>
	All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held. Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
	<i>Condition Reason: To ensure site management measures are implemented during the carrying out of site work</i>

<b>14.</b>	<b>Earthworks</b> Any earthworks (including any structural support or other related structure for the purposes of the development): <ul style="list-style-type: none"> <li>– Must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and</li> <li>– Must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and</li> <li>– That is fill brought to the site—must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997, and</li> <li>– That is excavated soil to be removed from the site—must be disposed of in accordance with any requirements under the Protection of the Environment Operations (Waste) Regulation 2005.</li> <li>– Any excavation must be carried out in accordance with Excavation Work: Code of Practice (ISBN 978-0-642-785442), published in July 2012 by Safe Work Australia.</li> </ul> <i>Condition Reason: To ensure site management measures are implemented during the carrying out of site work</i>
<b>15.</b>	<b>Procedure for critical stage inspections</b> While building work is being carried out, the work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate. <i>Condition Reason: To require approval to proceed with building work following each critical stage inspection</i>
<b>16.</b>	<b>Vehicle Movements</b> All vehicles entering or leaving the site must have their loads covered, and before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads. <i>Condition reason: To promote safe entry and exit to the construction site.</i>
<b>17.</b>	<b>Excavated Areas</b> Excavated area/s adjacent to the building shall be retained and drained to prevent the subsidence of the excavation and/or entry of surface water to the building. <i>Condition reason: To ensure all earthworks are adequately retained</i>
<b>18.</b>	<b>Temporary Swimming Pool Barrier</b> A temporary child-resistant barrier that complies with the requirements of the Building Code of Australia and AS 1926.1—2012, Swimming pool safety—Part 1: Safety barriers for swimming pools must be erected around the swimming pool during construction. <i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i>
<b>19.</b>	<b>Swimming Pool Legislation Compliance</b> The swimming pool shall comply with: <ol style="list-style-type: none"> <li>1. the Swimming Pools Act 1992;</li> <li>2. the Swimming Pools Regulation 2018;</li> <li>3. AS 1926.1-2012 'Swimming Pool Safety' Part 1: Safety barriers for swimming pools;</li> <li>4. AS 3500.2-2003 'Plumbing and drainage – Sanitary plumbing and drainage';</li> <li>5. AS1926.3 'Water recirculation systems' and the BCA.</li> </ol> <i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i>
<b>20.</b>	<b>Swimming Pool Filter Equipment Disposal – Sewered Land</b> <p><u>Sand Filter</u> - Waste water shall be drained or pumped to the sewer; or</p> <p><u>Cartridge filters</u> - Do not need to be connected to sewer, however when the cartridge needs cleaning it is to be hosed out in a location that does not adversely impact adjoining properties, and must not cause water to enter a waterway, the stormwater system or roadway.</p> <i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992 and the requirements of the development consent.</i>
<b>21.</b>	<b>Paved Area Around Swimming Pool</b> Any paved areas around the swimming pool shall be graded and drained so as not to cause a nuisance to adjoining properties.

	<i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992 and the requirements of the development consent.</i>
<b>22. Water Quality</b>	Swimming pool water quality shall be maintained in a clean and healthy condition at all times so as to protect user health and safety and to prevent conditions that support the activity of water borne organisms (including bacteria, viruses and algae), insects and aquatic pests.
	<i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i>
<b>23. Easements</b>	No changes to site levels, or any form of construction shall occur within any easements that may be located on the allotment.
	<i>Condition reason: To ensure the development complies with restrictions burdening the land.</i>

## BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition	
<b>24. Disturbed Areas</b>	The disturbed areas surrounding the building work shall be reinstated to the satisfaction of the Principal Certifier upon completion of the work.
	<i>Condition reason: To ensure no substance other than rainwater enters the stormwater system and waterways</i>
<b>25. Swimming Pool Barrier Requirement</b>	Prior to filling the swimming pool with water and prior to the issue of any Occupation Certificate, the swimming pool shall be surrounded by and separated from the dwelling house and adjoining properties by a swimming pool barrier that is compliant with AS1926.1-2012 'Safety Barriers for Swimming Pools'. The construction, installation and use of the swimming pool and swimming pool barrier shall be in accordance with the Swimming Pools Act 1992.
	<i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i>
<b>26. NSW Swimming Pool Register</b>	All swimming pools and spa pools must be registered on the NSW Swimming Pool Register. Property owners may register online at <a href="http://www.swimmingpoolregister.nsw.gov.au">http://www.swimmingpoolregister.nsw.gov.au</a> or you can request Council perform the registration for a fee. Penalties apply for unregistered swimming pools or spa pools.
	<i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i>
<b>27. CPR / Resuscitation Chart</b>	A resuscitation sign / warning notice complying with the provisions of the Swimming Pools Regulation 2018, must be displayed and maintained in a prominent position in the immediate vicinity of the swimming pool, in accordance with the Swimming Pools Act 1992. The principal certifier shall ensure that this warning notice is provided and displayed prior to the issue of the Occupation Certificate.
	<i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i>
<b>28. Filtration / Recirculation System</b>	A certificate of compliance, or other documentary evidence confirming that the proposed recirculation system and filtration system complies with AS1926.3, must be provided to the principal certifier prior to the issue of an occupation certificate.
	<i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i>
<b>29. Prohibited structures within pool area</b>	Prohibitions within swimming pool enclosure - The swimming pool safety fencing enclosure must not contain any other non-related buildings, structures or like such as sheds, installation of children's play equipment or clothes drying lines.
	<i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i>
<b>30. Landscaping Near Swimming Pools</b>	Landscaping of the swimming pool enclosure and surrounds including the provision of outdoor furniture, construction of barbecues and pergolas must not reduce the effectiveness of the swimming pool safety fencing. All landscaping, furniture, and other similar structures shall be located at least 900mm from the outside of the pool safety fencing.

	<i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i>
<b>31.</b>	<b>Stormwater Drainage</b>
	The stormwater drainage works shall be carried out and implemented in accordance with the requirements of the approval.
	<i>Condition Reason: To ensure the development complies with the Swimming Pools Act 1992.</i>

## OCCUPATION AND ONGOING USE

Condition	
<b>32.</b>	<b>Occupation Certificate</b>
	The swimming pool shall not be occupied or used until an Occupation Certificate is issued by the Principal Certifier.
	<i>Condition reason: To ensure compliance with the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>

## PRESCRIBED CONDITIONS

Division 2 Conditions of development consent—the Act, s 4.17(11) - Subdivision 1 Development generally

Condition	
<b>33.</b>	<b>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</b>
	<ol style="list-style-type: none"> <li>1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia.</li> <li>2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.</li> <li>3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with the Building Code of Australia, Volume 1, Part B1 and NSW Part I5.</li> <li>4. In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the relevant date.</li> <li>5. In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.</li> <li>6. This section does not apply— <ol style="list-style-type: none"> <li>i. to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or</li> <li>ii. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.</li> </ol> </li> <li>7. In this section— relevant date has the same meaning as in the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, section 19.</li> </ol>
	<i>Condition reason: Prescribed condition (Environmental Planning and Assessment Regulation 2021).</i>

34.	<p><b>Erection of signs</b></p> <ol style="list-style-type: none"> <li>1. This section applies to a development consent for development involving building work, subdivision work or demolition work.</li> <li>2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out— <ol style="list-style-type: none"> <li>i. showing the name, address and telephone number of the principal certifier for the work, and</li> <li>ii. showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and</li> <li>iii. stating that unauthorised entry to the work site is prohibited.</li> </ol> </li> <li>3. The sign must be— <ol style="list-style-type: none"> <li>i. maintained while the building work, subdivision work or demolition work is being carried out, and</li> <li>ii. removed when the work has been completed.</li> </ol> </li> <li>4. This section does not apply in relation to— <ol style="list-style-type: none"> <li>i. building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or</li> <li>ii. Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.</li> </ol> </li> </ol> <p><i>Condition reason: Prescribed condition (Environmental Planning and Assessment Regulation 2021).</i></p>
35.	<p><b>Notification of Home Building Act 1989 requirements</b></p> <ol style="list-style-type: none"> <li>1. This section applies to a development consent for development involving residential building work if the principal certifier is not the council.</li> <li>2. It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following— <ol style="list-style-type: none"> <li>i. for work that requires a principal contractor to be appointed— <ol style="list-style-type: none"> <li>a. the name and licence number of the principal contractor, and</li> <li>b. the name of the insurer of the work under the Home Building Act 1989, Part 6,</li> </ol> </li> <li>ii. for work to be carried out by an owner-builder— <ol style="list-style-type: none"> <li>a. the name of the owner-builder, and</li> <li>b. if the owner-builder is required to hold an owner-builder permit under the Home Building Act 1989—the number of the owner-builder permit.</li> </ol> </li> </ol> </li> <li>3. If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information.</li> <li>4. This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.</li> </ol> <p><i>Condition reason: Prescribed condition (Environmental Planning and Assessment Regulation 2021).</i></p>
36.	<p><b>Shoring and adequacy of adjoining property</b></p> <ol style="list-style-type: none"> <li>1. This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor.</li> <li>2. It is a condition of the development consent that the person having the benefit of the development consent must, at the person's own expense— <ol style="list-style-type: none"> <li>i. protect and support the building, structure or work on adjoining land from possible damage from the excavation, and</li> <li>ii. if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.</li> </ol> </li> <li>3. This section does not apply if— <ol style="list-style-type: none"> <li>i. the person having the benefit of the development consent owns the adjoining land, or</li> <li>ii. the owner of the adjoining land gives written consent to the condition not applying.</li> </ol> </li> </ol>



	Condition reason: Prescribed condition (Environmental Planning and Assessment Regulation 2021).
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## ATTACHMENTS

1. Attachment 1 - Plans - 68 Cross Street TAHMOOR 2573 [7.3.1 - 3 pages]