

CPo/NC/PR

17485

20 September 2017

Lendlease Communities

Level 2, 88 Phillip Street

PARRAMATTA NSW 2150

Attention: Ms Tamara Rasmussen

CONFIDENTIAL AND PRIVILEGED

INTERIM WILTON LAND USE AND INFRASTRUCTURE IMPLEMENTATION PLAN (THE INTERIM PLAN) AND THE DRAFT PLAN FOR WILTON SOUTH-EAST

1.0 OVERVIEW

This submission has been prepared by Ethos Urban for Lendlease Communities, as developer of the Bingara Gorge community (the Site) within the Bingara Gorge Precinct (the Precinct) of the Wilton Priority Growth Area. It addresses issues relating to two separate but concurrent exhibitions:

- Interim Wilton Land Use and Infrastructure Implementation Plan
- Draft Wilton South East Precinct rezoning proposal

Interim Wilton Land Use and Infrastructure Implementation Plan

The draft *Interim Wilton Land Use and Infrastructure Implementation Plan* (Implementation Plan), the Explanation of the Intended Effect (EIE), and the draft Section 117 Direction, are on public exhibition from 5 August 2017 to 20 September 2017. Once adopted these plans will guide development and infrastructure delivery in the Wilton Priority Growth Area for the next two to three decades and consequently affect the development potential of a significant growth area of Sydney.

The exhibited documents propose changes to infrastructure delivery, existing zoning, and development contribution and suggest fresh heritage investigations - arrangements that have been previously established for the Bingara Gorge development. Ethos Urban's assessment concludes that applying these provisions to the Site is not appropriate and would be counter to the established planning framework for the Site. The Bingara Gorge masterplan was approved in 2006 as a Staged Development Consent, prior to the Greater Macarthur investigations, and development is currently

being delivered on the Site. The development of the Site is also subject to a Voluntary Planning Agreement (The Deed) that determines and provides mechanisms for the delivery of infrastructure appropriate to service the development.

The Implementation Plan acknowledges that the Site is currently under construction, however the proposed framework does not acknowledge the approved masterplan or The Deed. Instead, a new Special Infrastructure Contributions Scheme (SIC) and Section 94A contributions scheme are proposed to apply to the whole of the Wilton Priority Growth Area, including the Site.

Further to this, there is discussion of the potential heritage significance of the existing homestead on the Site and matters of aboriginal heritage. Significant heritage studies have previously been completed for the Site at both rezoning and Development Application stages. The planning controls that apply to Bingara Gorge have been informed by these investigations, and to revisit environmental and heritage constraints through the planning process for the Wilton Priority Growth Area is not appropriate.

There is a disconnect between the strategic merits of the Site and the development standards proposed in the draft amendments to the Growth Centres State Environmental Planning Policy, especially when considering the existing approved masterplan and The Deed. Whilst the intent to ensure infrastructure capacity is sufficient to support growth is acknowledged and supported, the Site has already been rezoned and development commenced many years ago and continues to this day. There is a clear case for excluding the Site from the infrastructure and development planning for the Wilton Priority Growth Area.

Draft Wilton South East: Rezoning Proposal

The draft Wilton South East: Rezoning Proposal (Rezoning Proposal) is on public exhibition from 5 August 2017 to 20 September 2017. The proposal will guide development in the Wilton South East Precinct which part of the Wilton Priority Growth Area immediately to the south of the Bingara Gorge Precinct and the existing township of Wilton.

2.0 CONTEXT

The Site

The Site is in the north-east quadrant of the Wilton Priority Growth Area generally bounded by the Hume Highway to the west and Picton Road/Wilton village to the south. The Site was rezoned for urban development a decade ago and has been, and continues to be developed in accordance with an approved masterplan development consent granted on 15 May 2006.

The masterplan was modified by the Land Environment Court (158921 of 2016) increasing the allotment yield from 1,165 residential allotments to 1,800 residential allotments.

The environmental impacts of the Bingara Gorge development have therefore been subject to extensive interrogation through the previous rezoning process under Wollondilly Local Environment Plan 1991, the review of the zoning during the transition to Wollondilly Local Environment Plan 2011, and, since rezoning, the individual development applications including the master plan.

Master Concept Plan



Figure 1 – Concept Plan

Source: Wollondilly DCP 2011

The master plan (refer to **Figure 1**) was approved as a component of a Staged Development Application on 15 May 2006. Development consent has since been granted for approximately half of the land under subsequent Development Applications. Wollondilly LEP applies a range of urban zonings to the Site consistent with the masterplan.

Voluntary Planning Agreement (The Deed)

On 2 October 2012 The Minister for Planning and Infrastructure agreed The Deed, which provides the mechanism for the funding and delivery of the infrastructure required to service the development of the Site. The objective of the Planning Agreement is to facilitate the delivery of the Owner's Development Contributions and to make provision for infrastructure to meet the demands of the development. Schedule 4 of The Deed (refer to **Appendix A**) provides for the allocation of the Development Contributions and the distribution to the natural environment, environmental protection and recreation (EPR) lands, Sewer Treatment Plant (STP) and roads.

Greater Macarthur Land Release Investigation Area

The rezoning of land surrounding the Site was first publicised by the release of investigation studies for the Greater Macarthur Land Release Investigation Area (GMLRI) that included the Site. Those

studies contemplated the continued operation of the existing planning framework for the Site with the surrounding lands being subject to further investigation and ultimately rezoning.

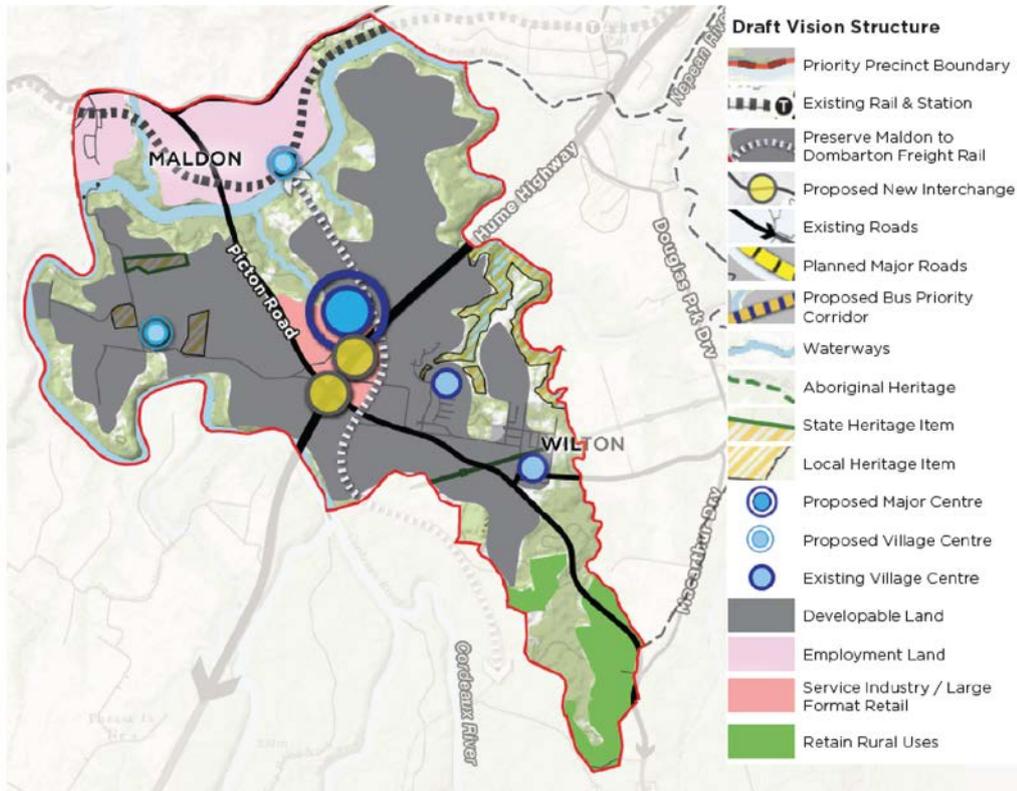


Figure 2 - Wilton Structure

Source: NSW Planning and Environment Greater Macarthur Land Release Investigation Preliminary Strategy & Action Plan

Land and Environment Court Appeal

Development Application 010.2015.00000283.001 was lodged with Council for the following:

- (a) Increasing the maximum permitted yield from the total development from 1,165 to 1,800 (an increase of 635 allotments);
- (b) Consent to construct sections of a planned combined fire-trail and cycleway/walking pathway through portions of the environmentally sensitive land near parts of the escarpment at the top of the gorges; and
- (c) Consent to remove all existing vegetation on Precincts 1,2,7 and 8 in the original concept plan for the overall Bingara Gorge scheme and from the orphan parcel in Precinct 3.

A Class 1 Appeal was lodged with the Land and Environment Court (Court), being case 15891 of 2016 (formerly 10554 of 2015). The hearing was split into four phases with a number of expert witnesses providing evidence. A decision was made by the Court on the 30 August 2016 with the appeal being upheld for:

- (a) *The removal of vegetation within development precincts 1 Rural, 2 Fairways West, 3 Fairways East, 7 Bushland and 8 Golf Town;*

- (b) The construction of pedestrian paths, cycle ways and fire trails within the EP&R Lands and the associated removal of a maximum of 1.2 hectares of vegetation; and
- (c) Concept approval for up to 827 residential allotments within development precincts 1 Rural, 2 Fairways West, 3 Fairways East, 7 Bushland and 8 Golf Town, Wilton resulting a maximum of 1,800 residential allotments;
on Lots 5, 31 and 36 DP: 270536, Lots 205, 206, 207, 208, 210 and 211 DP 1104390, Lot 5 in DP 280045, and Part Lot 1 and Lot 29 in DP 270536, Kirkwood Chase, Condell Park Road, Fairway Drive and Stirling Drive, Bingara Gorge, Wilton, subject to the conditions of consent annexed and marked "A".

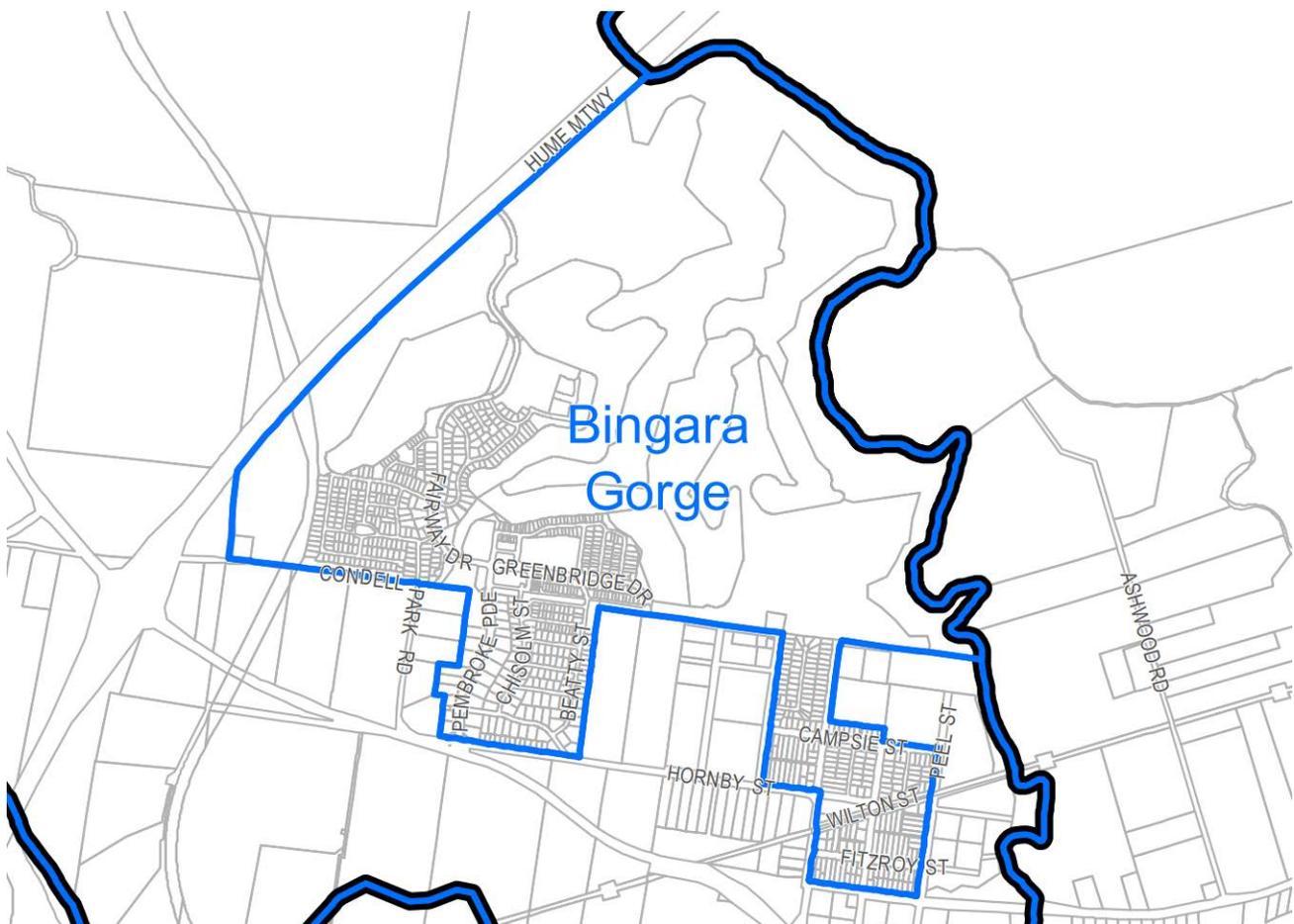


Figure 3 – Wilton Priority Growth Area

Source: NSW Legislation Website

Growth Centres SEPP

Wilton Priority Growth Area was included in the Growth Centres SEPP in 2016, and includes a specific Bingara Gorge Precinct which includes the Site and part of the existing Wilton township. Clause 7A of the Growth Centres SEPP specifies controls under Wollondilly LEP as applying to the Site which acknowledges that the Site was zoned for urban development prior to the Greater Macarthur investigations. The Greater Macarthur Priority Growth Area Land Release Investigation Area studies are generally cognisant that a separate planning regime has been previously

established for the Site though the Implementation Plan appears to seek to implement the new planning regime over the whole Priority Growth Area including the Site.

2.1 Development Standards

Table 1 below summarises the existing and future controls for the Sites under the SEPP. It would appear that environmental constraints have been identified for further investigation on the Site. Specifically the heritage potential of the homestead and the significance of the identified aboriginal heritage items are drawn out for further investigation.

Table 1- Existing and future planned controls

	Existing	Proposed	Change
Land Use Zone	R2 Low Density Residential B4 Mixed Use IN2 Light Industrial (011C map)	Potential for the precinct to be zoned to 'urban zone'	Introduction of a new zone applying to a whole precinct Not clear how this will relate to Bingara Gorge given controls under Wollondilly LEP are already specified for the Site
Density	No minimum or maximum dwellings per hectare	R2 Low Density Residential Minimum of 15 dw/ha Maximum of 25dw/ha	Not clear how this will apply to the site
Building Height	Maximum of 9m (011C map)	Maximum of 9m	No change
Lot Size	C 250m2 AB2 20ha AB1 16ha AB5 40ha AD 100ha U2 1500m2 Y2 1.5ha No min for B4 zoned land	C 250m2 AB2 20ha AB1 16ha AB5 40ha AD 100ha U2 1500m2 Y2 1.5ha	No change
FSR	No change	No change	No change
Heritage	Part Lot 1, DP 270536 local Heritage Item (I285) identified as ' <i>Aboriginal shelter sites</i> '	Potential Heritage listing of the Homestead and Aboriginal Items deemed to be of heritage significance	Introduction of new Aboriginal and European heritage items.
Natural Resources – Biodiversity	Sensitive land	No change	No change

	Existing	Proposed	Change
Natural Resources – Water Map	10m and 30m	No change	No change
Urban Release Areas	Within an Urban Release Area	No change	No change
Additional Permitted Uses	<p>Clause 7 – Allow recreation facilities (indoor) and residential accommodation excluding residential flat buildings, rural works' dwellings and shop top housing are permitted with consent.</p> <p>Clause 8 -Development for the purposes of business premises, entertainment facilities, function centres, hotel or motel accommodation, information and educational facilities, office premises, pubs, recreation facilities (indoor), registered clubs, restaurants, take away food and drink premises, shops</p>	No change	No change

Zoning

The Implementation Plan intends to apply a single zoning over the Wilton Priority Growth Area that will subsequently be amended to apply site specific zoning consistent with the individual masterplans for development sites as they are developed. The implementation of a single zoning across the Priority Growth Area is consistent with the original zoning of the Site as Residential 2(e) under WLEP1991. That single zoning however was transformed into site specific zoning under WLEP2011 some years after the Bingara Gorge master plan development consent was granted. It would be counterproductive to reverse this zoning process in relation to the Site only to repeat a process that has already previously been undertaken.

Density

It is not clear if the intention is to apply minimum and maximum density controls to the Site consistent with the draft North West Priority Growth Area Infrastructure and Implementation Plan however we would contend that it is not appropriate to alter the existing planning framework established by the zoning, master plan development consent and the amended development consent granted by the Court which already established the development yield and infrastructure provisions necessary to meet the demands of that yield.

We assume that, because clause 7A of the Growth Centres SEPP specifies that the provisions of Wollondilly LEP apply to Bingara Gorge Precinct, any proposed new controls like density would not apply. However, it is not clear from the documentation released by the Department how the Bingara Gorge Precinct will be treated under any planning controls that may be introduced as a result of the Wilton Priority Growth Area planning process.

Heritage

The heritage significance of the Site has been previously studied, assessed and the outcomes have been agreed. It is our opinion that is not appropriate to revisit this aspect, or any aspect, of the planning framework for the Site.

3.0 POTENTIAL ISSUES

The Implementation Plan intends to prioritise the delivery of infrastructure, urban development and open space to 2040. The plan also reflects updated strategic thinking throughout the Sydney Basin, referencing future directions guided by the updated *A Plan for Growing Sydney* the draft *South West District Plan* and planning for the Western Sydney Airport City. Ultimately it proposes to facilitate a transition of the controls from the Growth Centres State Environmental Planning Policy (SEPP) to the local plan (LEP). We assume that, because planning controls are already specified for Bingara Gorge, the planning process envisaged by the Implementation Plan will not apply. Clarification is however requested that this is correct

The Interim Wilton Land Use and Infrastructure Plan gives rise to a number of potential matters impacting the Site. The Land Use Plan from the Interim Plan is provided below.

3.1 Interim Land Use and Infrastructure Implementation Plan

The Implementation Plan outlines seven key actions, which aim to guide the ongoing development of the Wilton Priority Growth Area. These key actions include consultation with Council, funding and delivery of infrastructure, co-existence of urban development and coal mining. The current planning framework for the Site reflects the past resolution of these matters as they pertain to the Site. The proposed amendments fail to consider the already established development and the planning investigations on the Site and have the potential to impose new constraints on the development of the Site not least of which could be delays to the delivery of housing whilst previously resolved constraints are re-examined.

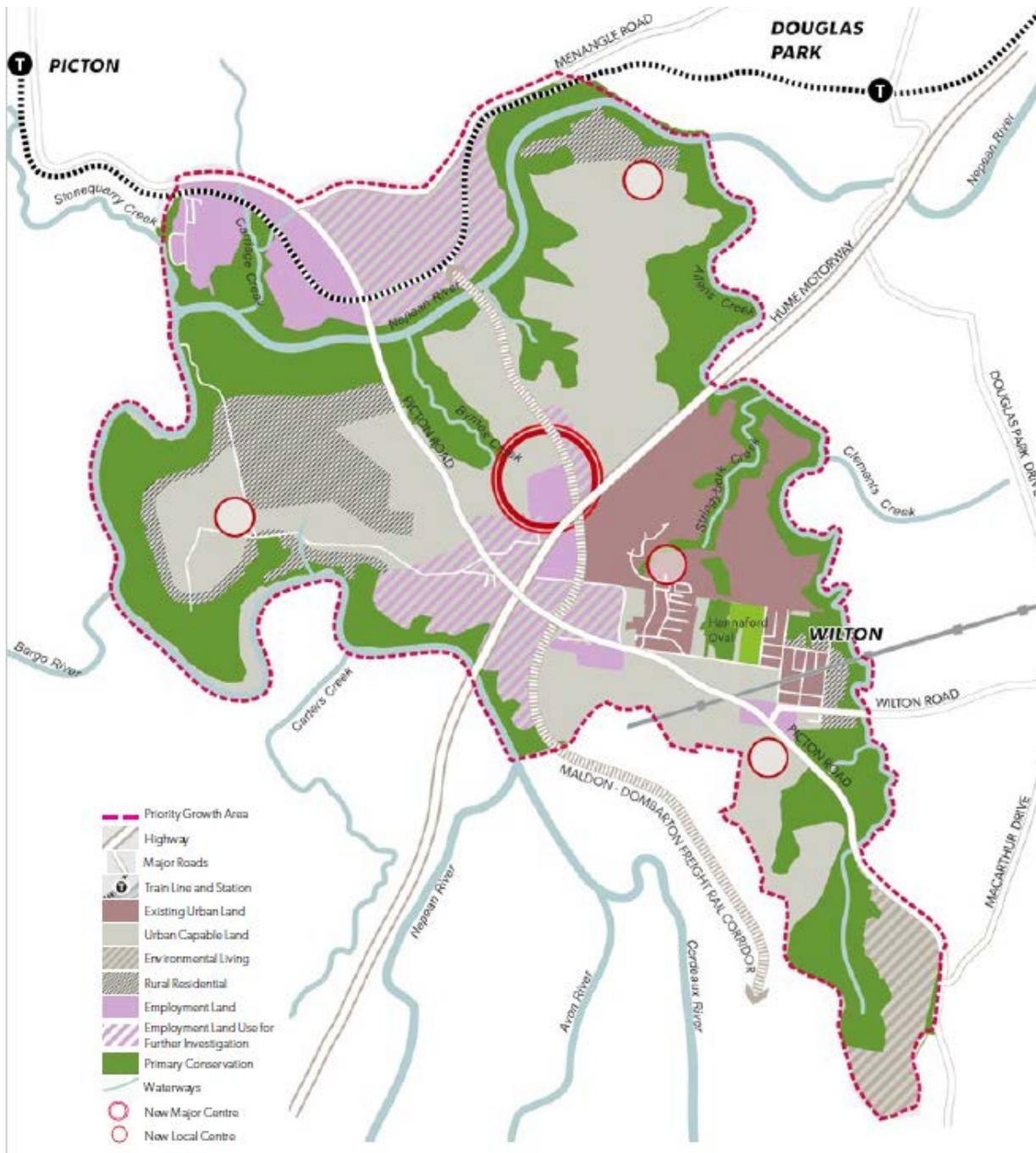


Figure 4- Interim Wilton Land Use and Infrastructure Plan

Source: Department of Planning and the Environment

3.1.1 Conflict with other references

The interim strategy refers to the Site as having been previously rezoned for urban development of up to 1,800 homes. This conflicts with other references (discussed below) that foreshadow

additional information & investigations and potential infrastructure contributions intended to be derived from the Site as a result of the outcomes of future investigations.

3.1.2 Aboriginal Heritage

Section 5.18 Heritage of the Implementation Plan states that *“development will protect the significance of heritage items and sites”* and *“further investigation will be conducted as part of the planning and development process”*. The Greater Macarthur Investigation Area Aboriginal and Historic Heritage – Gap Analysis and Future Direction technical report for the Implementation Plan was on public exhibition from the 22 September 2015 to the 18 November 2015. The comments received in relation to the Site specifically relate to potential archaeological deposit (PAD)s.

The comments in the report were provided as follows:

“Lendlease acknowledged the ‘broad brush’ approach in many of the background studies and understands the general lack of ‘ground truthing’ to reach this stage. However, this has resulted in a number of inconsistencies and discrepancies between the GMLRI background studies and the approved situation at Bingara Gorge. Examples of where such ‘inconsistencies’ arise include (but are not limited to) the following: ...Archaeology: does not reflect the location of the Potential Archaeological Deposit (PAD)s”.

Considering the detailed investigations that have informed the rezoning of the Site, the adopted Aboriginal Cultural Heritage Management Plan, and the approved master plan and subsequent development consents, Lendlease categorically disputes this statement.

The Aboriginal Heritage Information Management System (AHMS) recommendation states *“that Lendlease provide OEH”* (Office of Environment and Heritage) *“with further information regarding Aboriginal archaeological assessment (any site card and archaeological reports) prepared on its behalf, so as to better understand the presence of cultural material at Bingara Gorge”*. The recommendation does not include the location of the PADs or if the PADs are located outside of the site for the heritage item I128 or any details regarding funding.

The AHMS findings included *“aboriginal consultation including a cultural mapping workshop with a selection of stakeholders resulted in the identification of six areas of cultural value along with areas of observed Aboriginal site abundance and diversity”*. The Site was identified as requiring further investigation prior to development being considered even though development has commenced and continues under the current planning framework and in accordance with the master plan development consent that includes all land at Bingara Gorge.

As a requirement of the master plan development consent Lendlease, Tharawal Aboriginal Land Council, Cubbich Barta Native Title Claimants and Wollondilly Council agreed an Aboriginal Cultural Heritage Management Plan (ACHMP) that identifies all of the sites of significance and the identified actions required to conserve these sites.

The recommendations to further investigate the aboriginal heritage on the Site and specifically the PADs fail to acknowledge the previous planning investigations and the ACHMP.

3.1.3 Heritage potential of the homestead

Section 5.18 Heritage of the draft Implementation Plan states “*the Homestead in Bingara Gorge has potential local significance and archaeological sensitivity, and is neither locally nor state listed*”. The draft Implementation Plan also intends that “*where appropriate, significant heritage items will be set aside with adequate curtilages for long-term protection*”. The heritage study by Archaeological and Heritage Management Solutions identifies the Homestead as being of Local heritage significance with moderate to high historical archaeological potential.

The heritage study does not include a location and any boundaries demonstrating the extent of land including any recommended curtilage. The homestead has not previously been identified as having significance despite the extensive studies previously completed to rezone the Site. Consequently, the homestead was not identified for retention in the master plan consent and was not identified for protection in the LEP.

The retention of the homestead and any curtilage therefore has the potential to reduce developable land area thus likely also reducing the approved yield for the Site and increasing the individual apportionment of infrastructure funding. Further, no provision has been made for any restoration and ongoing maintenance work to the homestead.

3.1.4 Wastewater

The technical utilities report for the Implementation Plan *Sydney Water Wastewater Servicing Strategy* identifies two potential options for proposed infrastructure works to be upgraded by 2018 to support development. ‘*The first option assumes agreement for utilisation of capacity within the privately-owned treatment plant at Bingara Gorge. The second option would implement and utilise pre-packaged treatment plants, which would be sympathetic to the flexibility required for the staging and allow scaling up to support development progression*’.

Schedule 4 of the Deed (refer to **Appendix A**) requires the developer of the Site to deliver, at its own expense and risk, an STP within the Site with sufficient capacity to treat and dispose of all waste water from the Site. The STP has been delivered by Lendlease and is being operated as private infrastructure under the provisions of the Water Industry Competition Act.

The two potential options in the Implementation Plan do not acknowledge the works in kind from the Deed (refer to **Appendix A** and **Figure 4**), therefore whether the works in kind are consistent with the either of the potential options is unknown. Notwithstanding the apparent lack of clarity, it is inappropriate for any assumption to be made that future development of lands unrelated to the Site, can or will be accommodated by private infrastructure developed and delivered specifically for the Site.

3.1.5 Electricity Infrastructure

Section 7.17 Utility Infrastructure of the Implementation Plan indicates that a strategic utilities servicing study has demonstrated that it is feasible to service the Priority Growth Area to accommodate urban development. One of the identified utility requirements is for a new electricity zone substation at Bingara Gorge.

“The consultation with the Endeavour Energy has indicated that the existing sub-transmission network capacity for Wilton is limited to 2,500 lots without augmentation works. To provide supply for the projected development rate, augmentation of Wilton zone substation is required by 2026 along with augmentation of 66Kv sub-transmission cabling. “

The strategic utility study does not provide any details in relation to the proposed location, the size and the area that the substation will be servicing. There is an existing substation in the south-western corner of The Site and we do not know if there is capacity for the substation to be expanded within the current landholding. Further land acquisition would need to be negotiated with Lendlease so as not to impact the approved master plan.

3.1.6 Employment

Section 5.4 Employment of the Implementation Plan states that *“Wollondilly Shire Council has adopted a goal of achieving one job per dwelling”*. The Implementation plans states that planning for employment should: *“contribute to a jobs self-containment target across the Priority Growth Area of one job per household by 2046”*. The Plan does not include any detail as to how the jobs target will be applied the Site. The development of the Site includes a number of approved commercial uses including a golf course and childcare centre and retail within the town centre. However, the Site has a residential yield of 1,800 dwellings and significant amendment to the approved master plan would be required to be capable of achieving the target of one job per household.

The Implementation Plan, and any planning controls that arise from the Wilton Priority Growth Area Planning Process, need to clearly articulate that requirements to achieve employment self-containment are an outcome of Council and DPE expectations relating to the Wilton Junction planning process, and not Bingara Gorge. There should be no implication from the strategy or any related planning controls that Council is required to be satisfied that job creation targets have been met when determining development applications for residential uses at Bingara Gorge.

3.1.7 Special Infrastructure Contributions (SIC) scheme

Section 7 Infrastructure of the Implementation Plan states that the NSW Government intends to establish a Special Infrastructure Contributions (SIC) scheme to fund and deliver infrastructure. The SIC is a financial payment made by developers during the development to share the costs of regional infrastructure. The details of the implementation of SIC are unknown thus the impacts on The Deed contribution are unknown. Section 5.4 Transport references that *“the final transport network will be funded primarily through private sector investment in the form of a Special Infrastructure Scheme”*. The Minister for Planning has indicated that the Implementation Plan and proposed amendments to the SEPP will not be finalised until such time as traffic, transport and infrastructure matters are satisfactorily resolved.

The Deed specifically states that if a SIC is established, contribution rates will be determined by it (not the Deed). The SIC rates are, as yet, unknown and this creates uncertainty in relation to the cost of development of the Site. The Deed provides for the delivery and funding of the regional and local infrastructure demands of the Site therefore any SIC should exclude the Site.

3.1.8 Section 94 and S94A Contributions

Key Action 7 states that the Wollondilly Shire Council will prepare a Section 94A Plan for the Priority Growth Area. The Department will assist the Council in the process of costing local infrastructure upgrades recommended in the plan and coordinating the delivery S94A Plan with the delivery of infrastructure items being partly funded through the SIC. The prescribed percentages for cost of works are not included in the Implementation Plan. In any event the Deed excludes the operation of a S94 and 94A for residential development therefore the sum of contributions required to deliver local infrastructure will need to be levied in total on the lands excluding the Site.

3.1.9 Infrastructure Delivery

Section 7 of the Implementation Plan provides for the Site to deliver two road upgrades as detailed in **Table 2**.

Table 2- Infrastructure Schedule

Measure	Delivery	Timing	Assumptions
Regional/State road network			
Upgrade Pembroke Road and Picton Road intersection	Developer/RMS	Required prior to registration of first lot with middle sub-precinct of Wilton South East and Bingara Gorge	Funded by SIC or works in kind including contribution from Bingara Gorge
Upgrade Almond Street and Picton Road intersection	Developer/RMS	Required with 901 st lot for eastern stage of Wilton South East	Funded by SIC delivered as works in kind with potential contribution from Bingara Gorge

The Court Orders related to the amending staged development consent deal provide for the timing and value of works for these two intersections related to the Site. The future amendments to the Deed will ensure that it is consistent with the development consent. It is inappropriate for the Site to be obliged to provide contributions beyond those already agreed in the development consent, which account for the scope of infrastructure to service the Bingara Gorge development.

3.1.10 Planning Pathways - Introduction of an urban zone

Section 9.2 of the Implementation Plan states that “rezoning of land in the Priority Growth Area will occur over time, guided by the Land Use and Infrastructure Implementation Plan”. In addition, “the Department is proposing to use a new approach by introducing an urban zone under the Growth Centres State Environmental Planning Policy”. The new zone will be aimed at facilitating faster delivery of homes, jobs and infrastructure giving investment certainty about the future land uses expected in the area. The Implementation plan states that “the urban zone would apply to an entire precinct and confer development rights”. On the surface, the approach does not sound dissimilar to the approach previously employed in the original and subsequent rezoning of the Site. The Implementation Plan does not include any clarification or differentiation between the existing zoned

Site and the future zoning of the remainder of the Wilton Priority Growth Area. The Site should be excluded from any further rezoning and be permitted to continue development under the existing site-specific framework established and agreed for the Site.

3.1.11 Housing

Section 7.15 Housing of the Implementation Plan states that precinct planning should identify zones for medium and lower density housing, ensure adequate open space and consider the proximity to services, shops and bus routes to dwellings. The Implementation Plan also provide minimum and maximum residential densities that will apply as provided in **Table 3**.

Table 3- Minimum and maximum residential densities

Zone	Minimum density dw/ha	Maximum density dw/ha
R1/R2	15	25
R3	25	45

Provision for affordable housing is highlighted as an issue in providing essential and frontline services such as health care, firefighters, teachers and social workers. The Implementation Plan states that *“the Department will ensure that diverse housing is provided to cater for a range of needs within the community”*.

The Implementation Plan has not provided clarification of how the minimum and maximum density and if any affordable housing will apply to the Site. The Implementation Plan needs to clearly exclude the Site from the proposed density controls and any requirements for provision of affordable housing.

3.1.12 Hume Highway Access

Section 7 of the Implementation Plan provides an infrastructure schedule that identifies the need to investigate the location of a new Hume Motorway intersection. The design and intention for the new intersection is unknown and the location of the new intersection is not detailed however the siting of any new intersection on the Hume Highway directly adjacent the Site would likely require land acquisition unless the Hume Highway alignment is modified to accommodate the intersection within the Northern Precinct.

The potential for significant new road infrastructure through the Site will have implications for the delivery of the master plan development consent and should be avoided. New or expanded road infrastructure through the Site is likely to be met with significant community opposition.

Any land acquisition is unacceptable to Lendlease and the established Bingara Gorge community given it will serve the broader Wilton Priority Growth Area and have no benefit for the Site. Further, land acquisition is complicated as the entire Bingara Gorge Site is vested in a community title structure.

3.2 Wilton South-East Rezoning Proposal

3.2.1 Infrastructure Upgrades

New transport infrastructure or upgrades include the upgrade of the Pembroke and Picton Road intersection and the upgrade of Almond Street and Picton Road intersection with a new grade separated overpass. These works are necessitated by development outside the Site and therefore the Site should be excluded from contributing to them.

4.0 CONCLUSION

The Site has already been rezoned and development is proceeding in accordance with the master plan development consent approved by Council and amended by the Court.

It is understood that the key intent of the Implementation Plan and the associated changes to the Growth Centres SEPP, are to balance the level of permissible growth with the infrastructure that can be provided to support new homes. The infrastructure required for the development of the Site has been assessed and The Deed makes provision for funding and delivery.

There is a strong case to review the Implementation Plan to acknowledge that the Site has already been zoned for urban development and an existing community has already been established. Accordingly, the existing planning instruments, development consents, and infrastructure agreements for the Site should be recognised as the appropriate planning framework to continue to deliver urban development on the Site. We trust the issues raised in this submission will be given careful consideration by the Department. We would be happy to work with you and with the Department to provide our perspective on the continued development of the Site.

Should you have any queries about this matter, please do not hesitate to contact Nathan Croft on ncroft@ethosurban.com or 0419 845 089.

Yours sincerely,



Paul Robilliard
Director

ETHOS URBAN

Appendix A – Schedule 4 Development Contributions of the Deed

Table 4- Schedule 4 Development Contributions

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ETHOS

Development Contribution	Notional Value (at date of execution)	Timing and Manner of Delivery
<p>1. Developer levy on sales for Natural Environment Management Fund</p>		
<p>Owner must contribute 1% of revenue net of GST from all sales of Residential Allotments and Englobe Lots (excluding any lots transferred to Authorities) with those contributions to be held in the Environmental Fund (being an account in the name of the legal entity responsible for the EPR lands in Annexure B).</p>	<p>\$5,336,214 (security not applicable)</p>	<p>Payment of funds quarterly</p>
<p>2. EPR Lands</p>		
<p>Progressive creation and transfer by the Owner of land identified as EPR Lands in Annexure B to the legal entity responsible for those lands.</p>	<p>\$17,500,000 (security not applicable)</p>	<p>The relevant percentage of the PR Lands must have been transferred to the legal entity responsible for the EPR Lands in the Community Governance Structure in accordance with the following stages:</p> <ul style="list-style-type: none"> 10% of EPR Lands created prior to registration of Draft Plan of Subdivision for 251 Residential Allotments; 30% of EPR Lands created prior to registration of Draft Plan of Subdivision for 451 Residential Allotments; 60% of EPR Lands created prior to registration of Draft Plan of Subdivision for 801 Residential Allotments; 100% of EPR Lands created prior to registration of Draft Plan of Subdivision for 1001 Residential Allotments.
<p>3. Community association Environmental Fund</p>		
<p>Operation of an annual community levy to a maximum of \$250,000 on registration of the Draft Plan of Subdivision for the 1,165th Residential Allotment.</p> <p>Community Governance Structure must oblige members of the community association to contribute to Environmental Fund to the legal entity established under item 1 above.</p>	<p>\$3,108,291 (security not applicable)</p>	<p>On registration of the Draft Plan of Subdivision for the 1,165th Residential Allotment</p>

ETHOS

Development Contribution	Notional Value (at date of execution) and Manner of Delivery	Timing
<p>4. Sewer Treatment Plant System</p> <p>The Owner must, at its own expense and risk, provide an STP system within the Bingara Gorge project located at the site within the Land identified as "Sewer Treatment Plant" on the plan annexed C with sufficient capacity to treat and dispose of all waste water from the Development.</p>	<p>\$5,625,000 (works in kind)</p>	<p>In each 31 July, the STP system must have the necessary licences(s) and the necessary capacity to service the extent of the Development currently implemented and the extent of Development expected in the next 12 months.</p>
<p>5. Sound Barriers to F5 Hume Highway and Picton Road</p> <p>The Owner must, at its own expense and risk, provide sound amelioration measures to the F5 Hume Highway and Picton Road at the locations and according to all specifications reasonably required by the Relevant Agency to adequately ameliorate the impact of sound from the F5 Hume Highway and Picton Road to Residential Allotments.</p> <p>The Owner must confirm the sound amelioration measures required by the Relevant Agency.</p> <p>Subsequent to confirmation from the Relevant Agency, the Owner must construct the sound amelioration measures to the F5 Hume Highway and Picton Road at the locations (shown as "Sound Barrier to Picton Road" on the plan annexed as Annexure C) and according to all specifications reasonably required by the Relevant Agency.</p>	<p>\$3,790,000 (works in kind)</p>	<p>The sound amelioration measures must have been completed prior to registration of the Draft Plan of Subdivision for any Residential Allotment situated within 200 metres of either the F5 Hume Highway or Picton Road (as applicable) in accordance with all design specifications and other reasonable requirements of the Relevant Agency.</p>

ETHOS

Development Contribution	Notional Value (at date of execution) and Manner of Delivery	Timing
<p>6. Internal Spine Road</p> <p>The Owner must, at its own expense and risk, construction an internal spine road according to all design, specification and other reasonable requirements of the Relevant Agency, being a carriageway with an 11 metre width (shown as “Spine Road (Future)” on the plan annexed as Annexure C) and adequately connect to Picton Road and to the F5 Bridge (shown as “Highway Bridge Crossing” on the plan annexed as Annexure C) and to dedicate (or otherwise transfer_ that Internal Spine Road to the Relevant Agency.</p>	<p>\$427,000 (works in kind)</p>	<ul style="list-style-type: none"> • The Owner must confirm to the Minister in writing the timeline for the stage delivery and have completed the scope and design of the Internal Spine Road in accordance with the requirements of the Relevant Agency prior to the registration of the 451st Residential Allotment. • The Owner must have completed the Internal Spine Road (on a staged basis) by the times determined by the Owner and the Relevant Agency and in accordance with all design specifications and other reasonable requirements of the Relevant Agency. • The Owner must have dedicated the completed Internal Spine Road to the Relevant Agency.