



New South Wales

Wollondilly Local Environmental Plan 1991 (Amendment No 56)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (P03/00378/PC)

FRANK SARTOR, M.P.,
Minister for Planning

2005 No 575

Clause 1 Wollondilly Local Environmental Plan 1991 (Amendment No 56)

Wollondilly Local Environmental Plan 1991 (Amendment No 56)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Wollondilly Local Environmental Plan 1991 (Amendment No 56)*.

2 Aims of plan

The aims of this plan are:

- (a) to provide for a residential zone for comprehensive development (Zone No 2 (e)) under *Wollondilly Local Environmental Plan 1991* (the *principal plan*), and
- (b) to allow, with the consent of Wollondilly Shire Council, development for the purpose of home enterprises (amongst other development) within Zone No 2 (e), and
- (c) to make provision in the principal plan for the protection of environmentally sensitive land, and
- (d) to rezone certain land:
 - (i) to permit comprehensive, well designed, residential development that is environmentally sensitive and complements the natural environment, and
 - (ii) to permit a range of retail, commercial, recreational, community, employment and education uses to meet the needs of residents of the locality (including a golf course development that will make use of treated effluent, resulting from residential and other development, for irrigation purposes), and
 - (iii) to integrate new development with the township of Wilton, and
 - (iv) to ensure that the continuation or expansion of coal mining operations (including associated surface infrastructure) under mining leases or exploration licences is not unduly constrained by residential development, and
 - (v) to encourage development that is undertaken in pursuit of sustainable development principles, and

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- (vi) to protect and manage environmentally significant areas and the watercourses within those areas, and
 - (vii) to prohibit certain development including development for the purpose of multiple dwellings.

3 Land to which plan applies

To the extent that this plan rezones land, it applies to Lot 101, DP 1045369 and Lot 6, DP 836296, generally east of the Hume Highway and north of Picton Road, near Wilton, as shown edged heavy black on the map marked “Wollondilly Local Environmental Plan 1991 (Amendment No 56)”, deposited in the office of Wollondilly Shire Council.

Otherwise this plan applies to all of the land to which *Wollondilly Local Environmental Plan 1991* applies.

4 Amendment of Wollondilly Local Environmental Plan 1991

Wollondilly Local Environmental Plan 1991 is amended as set out in Schedule 1.

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Schedule 1 Amendments

Schedule 1 Amendments

(Clause 4)

[1] Clause 6 Definitions

Insert in alphabetical order in clause 6 (1):

environmentally significant land map means the map marked “Wollondilly Local Environmental Plan 1991 Environmentally Significant Land Map” as amended by the maps (or specified sheets of the maps) marked as follows:

Wollondilly Local Environmental Plan 1991 (Amendment No 56)

[2] Clause 6 (1), definition of “the map”

Insert in appropriate order:

Wollondilly Local Environmental Plan 1991 (Amendment No 56)

[3] Clause 9 Zones indicated on the map

Insert after the matter relating to Zone No 2 (d):

Zone No 2 (e) (Residential “E” Comprehensive Development Zone)—black edging and lettered “2 (e)”.

[4] Clause 10 Zone objectives and development control table

Insert after the matter relating to Zone No 2 (d):

Zone No 2 (e) (Residential “E” Comprehensive Development Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to provide for the comprehensive development of land for primarily residential and recreational purposes in a way that is environmentally sensitive and complements the natural environment, and
- (b) to permit a range of retail, commercial, recreational, community, employment and education uses to meet the needs of residents of the locality, and
- (c) to enable the appropriate location within the zone of gas drainage infrastructure required for underground coal mining, having regard to the impact on the amenity of

residential areas, and to ensure that such infrastructure is designed in accordance with industry best practice guidelines, where existing, and

- (d) to ensure that development has regard to any applicable mine subsidence requirements of the Mine Subsidence Board, and
- (e) to encourage development that meets sustainable development principles, including integrated water cycle management and high quality, water sensitive, urban design practices, and
- (f) to encourage development that demonstrates a high quality of urban design and building design, including optimisation of passive solar design and energy efficiency, and
- (g) to provide for pedestrian and bicycle access to and within development, and
- (h) to encourage local employment by facilitating home-based business and employment opportunities.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in Item 2 or 4.

4 Prohibited

Abattoirs; advertising structures; agriculture; amusement centres; bulk stores; caravan parks; earth moving establishments; extractive industries; generating works; industries referred to in Schedule 2; institutions; junk yards; liquid fuel depots; motels; motor showrooms; multiple dwellings; plant and equipment hire; roadside stalls; sawmills; stock and sale yards; turf farming; warehouses.

[5] Clause 14C

Insert after clause 14B:

14C Home enterprises

- (1) Development of land to which this plan applies for the purpose of home enterprises must not be carried out except as provided by this clause, despite any other provision of this plan.

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- (2) Development of the kind referred to in subclause (1) may be carried out on land within Zone No 2 (e) but only with the consent of the consent authority.
- (3) In this clause:
home enterprise means the use of a dwelling or the land on which a dwelling is located, or of another building associated with a dwelling on any such land, for the purpose of an office, light industry or business, but only if:
 - (a) the use is undertaken by the permanent residents of the dwelling, whether or not others are employed, and
 - (b) the use does not interfere unreasonably in any way with the amenity of adjoining properties or the locality in which the dwelling is situated, and
 - (c) the use does not involve the public display or retail sale of any goods from the premises, and does not include a different land use defined in clause 6, and
 - (d) the use does not employ more than 4 non-residents at any one time or have a floor space exceeding 50 square metres, and
 - (e) the use does not involve a brothel.

[6] Clauses 48–50

Insert after clause 47:

48 Limitations on development within Zone No 2 (e)

A development control plan relating to land within Zone No 2 (e) may recommend restrictions on specific types of development allowed with consent on the land.

49 Environmentally significant land

- (1) This clause applies to all land shown on the environmentally significant land map with diagonal hatching and specified in Schedule 7.
- (2) The objectives of designating land as environmentally significant land and for development of that land are as follows:
 - (a) to identify environmentally significant land, and
 - (b) to maintain biodiversity, and
 - (c) to retain and enhance the natural functions of riparian corridors, and

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- (d) to provide for controlled pedestrian and bicycle access to, and sensitively integrated fire trails on, such land, and
 - (e) to allow for controlled recreational uses having regard to environmentally significant values of the land, and
 - (f) to protect items and places of Aboriginal heritage significance, and
 - (g) to enable the appropriate location on such land of gas drainage infrastructure required for underground coal mining, having regard to environmentally significant values of the land, and to ensure that such infrastructure is designed in accordance with industry best practice guidelines, where existing.
- (3) Before granting consent to the carrying out of development on land to which this clause applies, the consent authority must be satisfied that the development:
- (a) would substantially retain existing vegetation, and
 - (b) would not adversely affect to a significant extent:
 - (i) the ecological value of the existing bushland vegetation, or
 - (ii) native fauna, or
 - (iii) the scenic qualities of the locality.
- (4) Before granting consent to the carrying out of development on land to which this clause applies, the consent authority must consider whether:
- (a) the locality has high biological diversity, and
 - (b) the locality contains:
 - (i) a disjunct population of native species or a species that is near the limit of its geographic range, or
 - (ii) riparian vegetation, or
 - (iii) vegetation associated with wetlands, and
 - (c) the land has connective importance as, or as part of, a corridor of bushland forming a connection that allows for the potential passage of species of flora or fauna between two or more areas of bushland, and
 - (d) the vegetation is adequately represented on land in the general locality, and
 - (e) the land is important as a site along a migratory route for wildlife, and

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- (f) the land functions as an important drought refuge for wildlife, and
 - (g) clearing of the land would be likely to contribute significantly to:
 - (i) soil erosion, or
 - (ii) salinisation of soil or water, or
 - (iii) acidification of soil, or
 - (iv) landslip, or
 - (v) deterioration in the quality of surface or ground water, or
 - (vi) increased flooding, or
 - (h) there is any need to conserve all or some of the bushland because:
 - (i) of its unusually good condition or its significance as a sample of its type, or
 - (ii) the development will increase the perimeter of the bushland, and so the ratio of the boundary to the area of the bushland, making it more vulnerable to negative impacts, or
 - (iii) there is an archaeological site that has Aboriginal heritage significance on the land.
- (5) Consent must not be granted to development on land to which this clause applies for the purpose of gas drainage infrastructure required for underground coal mining unless:
- (a) the consent authority is satisfied, after consultation with the Department of Primary Industries, and taking into account the environmentally significant values of the land, that the location of the infrastructure is appropriate, and
 - (b) the consent authority is satisfied that the design of the infrastructure is in accordance with industry best practice guidelines, where existing.

50 Development of certain land, Lot 101 DP 1045369 and Lot 6 DP 836296, Wilton

Schedule 8 has effect with respect to land at Wilton Park described in that Schedule.

[7] Schedule 1, heading

Omit “Items of the environmental heritage” from the heading.

Insert instead “Heritage items”.

[8] Schedule 1

Insert after item 4 under the heading “**WILTON**”:

- 5 Aboriginal shelter sites at Lot 101 DP 1045369 (Wilton).

[9] Schedules 7 and 8

Insert after Schedule 6:

Schedule 7 Environmentally significant land

(Clause 49 (1))

Location	Property description
<u>Wilton</u> Condell Park Road	Part of Lot 101, DP 1045369, known as “Wilton Park”

Schedule 8 Special provisions for land at Wilton Park

(Clause 50)

1 Land to which Schedule applies

The provisions of this Schedule apply to Lot 101, DP 1045369, and Lot 6, DP 836296, near Wilton, as shown edged heavy black on the map marked “Wollondilly Local Environmental Plan 1991 (Amendment No 56)”.

2 Development control plan for the land

- (1) Consent must not be granted to a development application relating to the land to which this Schedule applies unless a development control plan for the land has been approved by the consent authority.
- (2) If the consent authority has not approved a development control plan for the land within 60 days after the date of publication in the Gazette of *Wollondilly Local Environmental Plan 1991 (Amendment No 56)*, the consent authority must determine any development application made in respect of the land after the expiration of that period even though no development control plan has been approved by the consent authority.

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3 Residential development

- (1) Consent must not be granted to a subdivision that creates an allotment if the consent authority is of the opinion that the allotment will be used for residential purposes unless the consent authority is satisfied that:
 - (a) the allotment is capable of being serviced by a reticulated sewerage system that allows treated water to be supplied to residences for watering gardens and to any golf course within the land to which this Schedule applies for the purpose of its irrigation, and
 - (b) the allotment will be supplied by an adequate water supply and serviced by an adequate reticulated sewerage system of the kind referred to in paragraph (a), and
 - (c) if the allotment includes land the surface of which is or, after any proposed filling has been carried out, will be below the 1 percent annual event probability post-mining flood level, appropriate flood control measures can be taken or imposed to ensure that any residential building on the allotment will not be detrimentally affected by flooding.
- (2) Consent must not be granted to residential development:
 - (a) on land the surface of which is or, or after any proposed filling has been carried out, will be below the 1 percent annual event probability post-mining flood level, or
 - (b) if the floor level of any habitable part of a residential building resulting from the carrying out of the development will be less than the height above that flood level that is considered by the consent authority as adequate to avoid any adverse effect from flooding.
- (3) Consent must not be granted to a subdivision for the purpose of residential development in the vicinity of a sewage treatment plant unless the consent authority:
 - (a) has considered an odour impact study:
 - (i) that identifies the land potentially affected by offensive odour from the plant, and
 - (ii) that is prepared in accordance with such relevant requirements of the consent authority, the Department of Environment and Conservation and Sydney Water Corporation, as have been notified to, and are available from, the council, and

- (b) is satisfied that the development will be located at an appropriate distance away from the plant and in accordance with any guidelines adopted by the consent authority for the location of dwelling-houses in proximity to sewage treatment plants.
- (4) Consent must not be granted to residential development unless the consent authority:
 - (a) has considered the likely impact on the proposed development of authorised underground coal mining operations in the vicinity, and
 - (b) has considered a report prepared by a suitably qualified and experienced coal geologist that examines the risk relating to geological anomaly within the coal resource under the land the subject of the proposed development, and
 - (c) is satisfied, after consultation with the Department of Primary Industries, that the proposed development is not likely to unduly constrain underground coal mining.
- (5) Consent must not be granted to a subdivision for the purpose of residential development unless:
 - (a) the consent authority has considered any guidelines adopted by the consent authority for the location of dwelling-houses in proximity to gas drainage boreholes (being guidelines prepared by the consent authority after consultation with the Department of Primary Industries, the Department of Planning and the Department of Environment and Conservation), and
 - (b) the consent authority has considered, in consultation with the Department of Primary Industries, whether any exploration:
 - (i) that is required in the vicinity in connection with authorised underground coal mining operations, and
 - (ii) that the consent authority considers is likely to have an impact on or be impacted on, by the proposed development,has been completed and, if not completed, the scheduled, and the likely, time for its completion, and
 - (c) the consent authority has considered, in consultation with the Department of Primary Industries, whether the proposed development is likely to unduly constrain the continuation or expansion of authorised underground coal mining operations in the vicinity, and

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- (d) the consent authority has identified, in consultation with the Department of Primary Industries, appropriate sites for air vent shafts and gas drainage boreholes, in connection with authorised underground coal mining operations, in approved locations on or in the vicinity of the land the subject of the proposed development.
 - (6) Consent must not be granted to development for the purpose of gas drainage infrastructure required in connection with authorised underground coal mining operations unless the consent authority is satisfied:
 - (a) that the infrastructure is or will be designed in accordance with industry best practice guidelines, where existing, and
 - (b) the infrastructure will be located in an approved location.
- 4 Further restriction on subdivision for purpose of residential development**
- (1) Consent must not be granted to a subdivision for the purpose of residential development that will create a lot with an area of less than 40 hectares unless:
 - (a) the Director-General has certified in writing to the council that satisfactory arrangements have been made for contributions to the provision of regional transport infrastructure and services in relation to the land comprising that lot, and
 - (b) the provisions of any agreement for those or any other contributions relating to the proposed development have been complied with.
 - (2) The object of contributions referred to in subclause (1) (a) is to require assistance towards the provision of regional transport infrastructure and services to satisfy needs that will arise from intensive urban development of land to which this Schedule applies.
 - (3) The reference in subclause (1) to a lot of less than 40 hectares does not include a reference to any such lot:
 - (a) that is identified in the certificate of the Director-General as a residue lot, or
 - (b) that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utilities, educational facilities or any other public purpose.

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- (4) This clause does not apply to a subdivision of land for the purpose of rectifying an encroachment on any existing allotment.
 - (5) *State Environmental Planning Policy No 1—Development Standards* does not apply to development to which this clause applies.
 - (6) This clause has effect despite any other provisions of this plan.

5 Development in vicinity of heritage items

- (1) Consent must not be granted to the erection of a building or the carrying out of a work within 250 metres of a heritage item unless the consent authority has considered a conservation management plan for the item.
- (2) Subclause (1) operates in addition to, and does not derogate from, any other provision of this plan relating to heritage items.

6 Definitions

In this Schedule:

approved location in relation to coal mining infrastructure (including air vent shafts and gas drainage boreholes) means:

- (a) a location shown for such infrastructure on the map marked “Wollondilly Local Environmental Plan 1991 (Amendment No 56) Coal Mining Infrastructure Map”, or
- (b) a location that has been approved by the Director-General of the Department of Primary Industries for such infrastructure.

conservation management plan means a document prepared to the satisfaction of the council that establishes the heritage significance of an item or place and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

authorised underground coal mining operations means underground coal mining operations carried out under mining leases or exploration licences.