



New South Wales

# **State Environmental Planning Policy (Sydney Region Growth Centres) Amendment (Wilton Town Centre Precinct) 2021**

under the

**Environmental Planning and Assessment Act 1979**

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

ROB STOKES, MP  
Minister for Planning and Public Spaces

## **State Environmental Planning Policy (Sydney Region Growth Centres) Amendment (Wilton Town Centre Precinct) 2021**

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Environmental Planning and Assessment Act 1979

### **1 Name of Policy**

This Policy is *State Environmental Planning Policy (Sydney Region Growth Centres) Amendment (Wilton Town Centre Precinct) 2021*.

### **2 Commencement**

This Policy commences on 31 March 2022 and is required to be published on the NSW legislation website.

### **3 Repeal of Policy**

This Policy is repealed on the day following the day on which this Policy commences.

### **4 Maps**

The maps adopted by the following instruments are amended or replaced, as the case requires, by the maps approved by the Minister on the making of this Policy—

- (a) *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*,
- (b) *Wollondilly Local Environmental Plan 2011*.

## Schedule 1 Amendment of State Environmental Planning Policy (Sydney Region Growth Centres) 2006

### [1] Clause 7 Controls applying to precincts after finalisation of precinct planning process

Insert in the Table after the item relating to “South East Wilton Precinct”—

North Wilton Precinct	Appendix 15
Wilton Town Centre Precinct	Appendix 16

### [2] Clause 21 Land to which Part applies

Insert after clause 21(4)(n)—

- (o) land to which the *Wilton Town Centre Precinct Plan 2021*, as referred to in Appendix 16, applies.

### [3] Appendix 16

Insert after Appendix 15—

## Appendix 16 Wilton Town Centre Precinct Plan

### Part 1 Preliminary

**Note—** The *Standard Instrument (Local Environmental Plans) Order 2006* sets out matters to be included in standard local environmental plans. While this Precinct Plan is not a standard local environmental plan, a number of clauses from the *Standard Instrument (Local Environmental Plans) Order 2006* have been included in this Precinct Plan and the clause numbering from that Order has been retained. This means the numbering in this Precinct Plan may contain some gaps. Additional provisions have been inserted and are numbered accordingly.

#### 1.1 Name of Precinct Plan

This Precinct Plan is the *Wilton Town Centre Precinct Plan 2021*.

#### 1.2 Aims of Precinct Plan

The aims of this Precinct Plan are as follows—

- (a) to rezone land to allow for development to occur in the manner envisaged by the Wilton Town Centre structure plans,
- (b) to deliver housing choice and affordability by accommodating a wide range of residential dwelling types catering for housing diversity,
- (c) to guide the nature and scale of future development in the Wilton Town Centre Precinct,
- (d) to protect and enhance conservation areas and areas of significant native vegetation and habitat, as well as to establish development controls requiring the assessment of the impact of development on native flora and fauna including koalas,
- (e) to rezone land to allow for retail and commercial uses to meet the needs of future residents of the Wilton Town Centre Precinct.

#### 1.3 Land to which Precinct Plan applies

This Precinct Plan applies to land in the Wilton Town Centre Precinct as shown on the Land Application Map.

#### 1.4 Definitions

In this Precinct Plan—

**Council** means Wollondilly Shire Council.

**Major Town Centre** means the land identified as “Area A”, “Area B” and “Area C” on the Wilton Town Centre Precinct Key Sites Map.

**Wilton Town Centre structure plans** means the following—

- (a) *Wilton 2040: A Plan for the Wilton Growth Area* dated 28 September 2018 and published on the Department’s website,
- (b) *Wilton Town Centre Precinct Structure Plan* dated 2 August 2021 and published on the Department’s website.

**Note—** The Dictionary at the end of this State environmental planning policy defines words and expressions for the purposes of this Precinct Plan, including the relevant maps.

#### 1.5 Notes

Notes in this Precinct Plan are provided for guidance and do not form part of this Plan.

#### 1.6 Consent authority

The consent authority for the purposes of this Precinct Plan is, subject to the Act, the Council.

#### 1.8 Repeal of other local planning instruments applying to land

- (1) All local environmental plans and deemed environmental planning instruments applying only to the land to which this Precinct Plan applies are repealed.
- (2) All local environmental plans and deemed environmental planning instruments applying to the land to which this Precinct Plan applies and to other land cease to apply to the land to which this Precinct Plan applies.

**Note—** *Wollondilly Local Environmental Plan 2011* ceases to apply to the land to which this Precinct Plan applies.

- (3) This clause does not affect the operation of other provisions of this State environmental planning policy.

#### 1.8A Savings provision relating to pending development applications

If a development application has been made before the commencement of this Precinct Plan in relation to land to which this Precinct Plan applies and the application has not been finally determined before the commencement, the application must be determined as if this Precinct Plan had not commenced.

#### 1.9 Application of SEPPs

- (1) This Precinct Plan is subject to the provisions of a State environmental planning policy prevailing over this Precinct Plan as provided by the Act, section 3.28.

**Note—** The Act, section 3.28 generally provides that SEPPs prevail over LEPs and other instruments. However, an environmental planning instrument may, by an additional provision included in the instrument, displace or amend a SEPP or LEP to deal specifically with the relationship between the instrument and the SEPP or LEP.

- (2) If there is an inconsistency between this Precinct Plan and another provision of this or another environmental planning instrument, whether made before or after the commencement of this Precinct Plan, this Precinct Plan prevails to the extent of the inconsistency.

**Note—** The other provisions of this State environmental planning policy also contain provisions applying development controls to the Wilton Growth Area Precinct.

### **1.9A Suspension of covenants, agreements and instruments**

- (1) For the purpose of enabling development on land to be carried out in accordance with this Precinct Plan or with a consent granted under the Act, an agreement, covenant or other similar instrument restricting the carrying out of the development does not apply to the extent necessary to enable the development.
- (2) This clause does not apply to the following—
  - (a) a covenant imposed by the Council or that the Council requires to be imposed,
  - (b) a biodiversity certification conferred under the *Biodiversity Conservation Act 2016*, Part 8,
  - (c) a private land conservation agreement within the meaning of the *Biodiversity Conservation Act 2016*,
  - (d) a relevant instrument within the meaning of the *Crown Land Management Act 2016*, section 13.4,
  - (e) the relevant provisions of a land management (native vegetation) code, and the necessary mandatory code compliant certificate, for a set aside area under the *Local Land Services Act 2013*, Part 5A,
  - (f) a conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*,
  - (g) a Trust agreement within the meaning of the *Nature Conservation Trust Act 2001* that is continued in force by the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*,
  - (h) a property vegetation plan within the meaning of the *Native Vegetation Act 2003* that is continued in force by the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*,
  - (i) a planning agreement within the meaning of the Act, Division 7.1.
- (3) This clause does not affect the rights or interests of a public authority under a registered instrument.
- (4) Under the Act, section 3.16, the Governor, before the making of this clause, approved of subclauses (1)–(3).

## **Part 2 Permitted or prohibited development**

### **2.1 Land use zones**

The land use zones under this Precinct Plan are as follows—

#### **Urban Development Zone**

1 Urban Development

#### **Special Purposes Zones**

SP2 Infrastructure

#### **Environmental Protection Zones**

E2 Environmental Conservation

## 2.2 Zoning of land to which Precinct Plan applies

For the purposes of this Precinct Plan, land is within the zones shown on the Land Zoning Map.

## 2.3 Zone objectives and Land Use Table

- (1) The Land Use Table at the end of this Part specifies the following for each zone—
  - (a) the objectives for development,
  - (b) development that may be carried out without consent,
  - (c) development that may be carried out only with consent,
  - (d) development that is prohibited.
- (2) The consent authority must consider the objectives for development in a zone when determining a development application for development on land in the zone.
- (3) In the Land Use Table at the end of this Part—
  - (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and
  - (b) a reference to a type of building or other thing does not include, despite a definition in this Policy, a reference to a type of building or other thing referred to separately in the Table in relation to the same zone.
- (4) This clause is subject to the other provisions of this Precinct Plan.

### Notes—

- 1 This Precinct Plan, Schedule 1 sets out additional permitted uses for particular land.
- 2 This Precinct Plan, clause 2.6 requires consent for the subdivision of land.
- 3 This Precinct Plan, Part 5 contains other provisions which require consent for particular development.

## 2.5 Additional permitted uses for particular land

- (1) Development on particular land described or referred to in this Precinct Plan, Schedule 1 may be carried out, in accordance with the conditions specified in the Schedule in relation to the development—
  - (a) with development consent, or
  - (b) if the Schedule so provides—without development consent.
- (2) This clause has effect despite anything to the contrary in the Land Use Table at the end of this Part or another provision of this Precinct Plan.

## 2.6 Subdivision—consent requirements

- (1) Land to which this Precinct Plan applies may be subdivided, but only with development consent.

### Notes—

- 1 If a subdivision is specified as **exempt development** in an applicable environmental planning instrument, such as this Precinct Plan or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the Act enables it to be carried out without development consent.
  - 2 *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, Part 6 provides that the strata subdivision of a building in certain circumstances is **complying development**.
- (2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal

dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map for the land.

**Note—** The definition of **secondary dwelling** in the Dictionary requires the dwelling to be on the same lot of land as the principal dwelling.

## 2.7 Demolition

The demolition of a building or work may be carried out only with development consent.

**Note—** The demolition of certain buildings and works is identified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* as exempt development.

## Land Use Table

### **Note—**

This Precinct Plan, Parts 6 and 7 set out local provisions which include additional permissible land uses and heads of consideration for assessment.

## **Zone 1            Urban Development**

### **1 Objectives of zone**

- To manage the transition of land from non-urban uses to urban uses.
- To encourage the development of well-planned and well-serviced new urban communities in accordance with the Wilton Town Centre structure plans.
- To ensure a range of uses, and uses located in a way, consistent with the strategic planning for the Wilton Town Centre Precinct.
- To safeguard land used for non-urban purposes from development that could prejudice the use of the land for future urban purposes.
- To ensure land adjacent to environmental conservation areas is developed in a way that enhances biodiversity outcomes for the Precinct.

### **2 Permitted without consent**

Home occupations

### **3 Permitted with consent**

Any development not specified in item 2 or 4

### **4 Prohibited**

Air transport facilities; Animal boarding or training establishments; Boat building and repair facilities; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Electricity generating works; Extractive industries; Farm buildings; Forestry; Heavy industrial storage establishments; Heavy industries; Home occupations (sex services); Mooring pens; Moorings; Open cut mining; Port facilities; Resource recovery facilities; Rural industries

## **Zone SP2        Infrastructure**

### **1 Objectives of zone**

- To provide for infrastructure and related uses.

- To prevent development that is not compatible with or that may detract from the provision of infrastructure.

**2 Permitted without consent**

Nil

**3 Permitted with consent**

The purpose shown on the Land Zoning Map, including any development ordinarily incidental or ancillary to development for the purpose

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone E2 Environmental Conservation**

**1 Objectives of zone**

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

**2 Permitted without consent**

Nil

**3 Permitted with consent**

Environmental facilities; Environmental protection works; Information and education facilities; Kiosks; Recreation areas; Roads

**4 Prohibited**

Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

**Part 4 Principal development standards**

**4.1 Minimum subdivision lot size**

- (1) The objectives of this clause are as follows—
  - (a) to ensure the minimum size for lots is sufficient for the provision of usable areas for building and open space,
  - (b) to encourage the efficient use of land for residential purposes.
- (2) This clause applies to a subdivision of land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Precinct Plan.
- (3) The size of a lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to the land.
- (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan.



### 4.3 Height of buildings

- (1) The objectives of this clause are as follows—
  - (a) to establish the maximum height of buildings,
  - (b) to minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space,
  - (c) to facilitate higher density development in and around commercial centres and major transport routes.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Wilton Town Centre Precinct Height of Buildings Map.

### 4.3A Residential density

- (1) The consent authority must not grant development consent to development resulting in more than 1,600 dwellings on the land to which this Precinct Plan applies.
- (2) The consent authority must not grant development consent to development on land if the development will result in the density of—
  - (a) for dwelling houses and dual occupancies—
    - (i) 15 or fewer dwellings per hectare, or
    - (ii) more than 25 dwellings per hectare,
  - (b) for residential flat buildings, multi dwelling housing, mixed use development and shop top housing—
    - (i) 25 or fewer dwellings per hectare, or
    - (ii) more than 45 dwellings per hectare,
  - (c) for attached dwellings—
    - (i) 15 or fewer dwellings per hectare,
    - (ii) more than 45 dwellings per hectare.
- (3) Subclause (2) does not prevent a subdivision providing for individual dwellings to be on separate lots if the consent authority is satisfied the subdivision does not also involve the creation of additional dwelling entitlements.
- (4) This clause has effect despite anything to the contrary in another provision of this Precinct Plan.
- (5) In this clause—

**density** means the ratio of the number of dwellings to the area of the land to be occupied by the development, including internal streets and half the width of roads adjoining the development that provide vehicular access to the development, but excluding land used for non-residential purposes.

### 4.3B Retail floor areas

The total gross floor area used for the purposes of retail premises in the Major Town Centre must not exceed 50,000 square metres.

### 4.6 Exceptions to development standards

- (1) The objectives of this clause are as follows—

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Subject to this clause, development consent may be granted for development even though the development would contravene a development standard imposed by this or another environmental planning instrument, other than a development standard expressly excluded from the operation of this clause.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant seeking to justify the contravention of the development standard by demonstrating the following—
  - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,
  - (b) there are sufficient environmental planning grounds to justify the contravention.
- (4) Development consent must not be granted for development that contravenes a development standard unless—
  - (a) the consent authority is satisfied of the following—
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3),
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development in the zone in which the development is proposed to be carried out, and
  - (b) the concurrence of the Planning Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Planning Secretary must consider the following—
  - (a) whether contravention of the development standard raises a matter of significance for State or regional environmental planning,
  - (b) the public benefit of maintaining the development standard,
  - (c) other matters required to be taken into consideration by the Planning Secretary before granting concurrence.
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone E2 Environmental Conservation if—
  - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for a lot by a development standard, or
  - (b) the subdivision will result in 1 or more lots with less than 90% of the minimum area specified for a lot by a development standard.
- (7) After determining a development application made under this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow development consent to be granted for development that would contravene 1 or more of the following—
  - (a) a development standard for complying development,
  - (b) a development standard arising, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a

building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which the building is situated,

- (c) clause 5.4,
- (d) clause 6.2,
- (e) clause 7.1.

## Part 5 Miscellaneous provisions

### 5.1A Consideration of development applications

- (1) Development consent must not be granted to the carrying out of development on land in Zone 1 Urban Development unless the consent authority—
  - (a) has notified the Planning Secretary about the proposed development, and
  - (b) has considered a submission made by the Planning Secretary about the proposed development, and
  - (c) is satisfied the development is consistent with the Wilton Town Centre structure plans, and
  - (d) is satisfied there is no mining lease, within the meaning of the *Mining Act 1992*, over the land.
- (2) If the Planning Secretary fails to make a submission to the consent authority within 14 days of being notified of the proposed development, the consent authority may determine the development application without complying with subclause (1)(b).

**Note—** Under *State Environmental Planning Policy (Infrastructure) 2007*, clause 85 the consent authority must notify the rail authority for the Maldon-Dombarton Rail Corridor before considering a development application for land in or adjacent to the corridor.

### 5.1 Relevant acquisition authority

- (1) The objective of this clause is to identify, for the purposes of the Act, section 3.15 the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under the *Land Acquisition (Just Terms Compensation) Act 1991*, Part 2, Division 3 (*the owner-initiated acquisition provisions*).

**Note—**

If the landholder will suffer hardship if there is delay in the land being acquired by the relevant authority the *Land Acquisition (Just Terms Compensation) Act 1991*, section 23 requires the authority to acquire the land.

- (2) The authority of the State that will be the relevant authority to acquire land, if the land is required to be acquired under the owner-initiated acquisition provisions, is—
  - (a) the authority of the State specified below in relation to the land shown on the Land Reservation Acquisition Map, or
  - (b) if an authority of the State is not specified in relation to land required to be acquired—the authority designated or determined under the owner-initiated acquisition provisions.

Type of land shown on Map or on Map for underlying zone for land	Authority of the State
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Zone SP2 Infrastructure and marked “Local drainage”	Council
Zone SP2 Infrastructure and marked “Local road”	Council
Zone SP2 Infrastructure and marked “Classified Road”	Transport for NSW

- (3) Development on land acquired by an authority of the State under the owner-initiated acquisition provisions may be carried out for any purpose—
- (a) before it is used for the purpose for which it is reserved, and
  - (b) with development consent.

**Note—** If land, other than land specified in the table to subclause (2), is required to be acquired under the owner-initiated acquisition provisions, the Minister is required to take action to enable the designation of the acquiring authority under this Part. Pending the designation of the acquiring authority for the land, the acquiring authority is to be the authority determined by order of the Minister. See the *Land Acquisition (Just Terms Compensation) Act 1991*, section 21.

## 5.2 Classification and reclassification of public land

- (1) The objective of this clause is to enable the Council to classify or reclassify public land as “operational land” or “community land” in accordance with the *Local Government Act 1993*, Chapter 6, Part 2.
- (2) The public land described in this Precinct Plan, Schedule 4, Part 1 or Part 2 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*.
- (3) The public land described in this Precinct Plan, Schedule 4, Part 3 is classified, or reclassified, as community land for the purposes of the *Local Government Act 1993*.
- (4) The public land described in this Precinct Plan, Schedule 4, Part 1—
  - (a) does not cease to be a public reserve to the extent it is a public reserve, and
  - (b) continues to be affected by trusts, estates, interests, dedications, conditions, restrictions or covenants affecting the land before its classification, or reclassification, as operational land.
- (5) The public land described in this Precinct Plan, Schedule 4, Part 2, to the extent it is a public reserve, ceases to be a public reserve when the description of the land is inserted into Part 2 and is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or a part of the land, except—
  - (a) those specified for the land in this Precinct Plan, Schedule 4, Part 2, Column 3, and
  - (b) a reservation excepting land out of the Crown grant relating to the land, and
  - (c) reservations of minerals, within the meaning of the *Crown Land Management Act 2016*.

**Note—** In accordance with the *Local Government Act 1993*, section 30(2), the approval of the Governor to subclause (5) applying to the public land concerned is required before the description of the land is inserted in this Precinct Plan, Schedule 4, Part 2.

#### **5.4 Controls relating to miscellaneous permissible uses**

(1) **Bed and breakfast accommodation**

If development for the purposes of bed and breakfast accommodation is permitted under this Precinct Plan, the accommodation provided to guests must consist of no more than 3 bedrooms.

**Note—** Development providing for a certain number of guests or rooms may involve a change in the class of building under the *Building Code of Australia*.

(2) **Home businesses**

If development for the purposes of a home business is permitted under this Precinct Plan, the carrying on of the business must not involve the use of more than 50 square metres of floor area.

(3) **Home industries**

If development for the purposes of a home industry is permitted under this Precinct Plan, the carrying on of the home industry must not involve the use of more than 50 square metres of floor area.

(4) **Industrial retail outlets**

If development for the purposes of an industrial retail outlet is permitted under this Precinct Plan, the retail floor area must not exceed the lesser of the following—

- (a) 43% of the gross floor area of the industry or rural industry located on the same land as the retail outlet,
- (b) 400 square metres.

(5) **Farm stay accommodation**

If development for the purposes of farm stay accommodation is permitted under this Precinct Plan, the accommodation provided to guests must consist of no more than 5 bedrooms.

(6) **Kiosks**

If development for the purposes of a kiosk is permitted under this Precinct Plan, the gross floor area must not exceed 20 square metres.

(7) **Neighbourhood shops**

If development for the purposes of a neighbourhood shop is permitted under this Precinct Plan, the retail floor area must not exceed 400 square metres.

(8) **Roadside stalls**

If development for the purposes of a roadside stall is permitted under this Precinct Plan, the gross floor area must not exceed 75 square metres.

(9) **Secondary dwellings**

If development for the purposes of a secondary dwelling is permitted under this Precinct Plan, the total floor area of the dwelling, excluding an area used for parking, must not exceed the greater of the following—

- (a) 60 square metres,
- (b) 25% of the total floor area of the principal dwelling.

#### **5.6 Architectural roof features**

- (1) The objective of this clause is to ensure architectural roof features are decorative elements only.

- (2) Development consent must not be granted to development that includes an architectural roof feature unless the consent authority is satisfied that—
  - (a) the architectural roof feature—
    - (i) comprises a decorative element on the uppermost portion of a building, and
    - (ii) is not an advertising structure, and
    - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
    - (iv) will cause minimal overshadowing, and
  - (b) building identification signage or equipment for servicing the building, such as plant, lift motor rooms or fire stairs, contained in or supported by the roof feature is fully integrated into the design of the roof feature.

### 5.8 Conversion of fire alarms

- (1) This clause applies to a fire alarm system that can be monitored by Fire and Rescue NSW or by a private service provider.
- (2) The following development may be carried out, but only with development consent—
  - (a) converting a fire alarm system from connection with the alarm monitoring system of Fire and Rescue NSW to connection with the alarm monitoring system of a private service provider,
  - (b) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with the alarm monitoring system of another private service provider,
  - (c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.
- (3) Development to which subclause (2) applies is complying development if it consists only of—
  - (a) internal alterations to a building, or
  - (b) internal alterations to a building together with the mounting of an antenna, and a support structure, on an external wall or roof of a building so as to occupy a space of not more than 450mm × 100mm × 100mm.
- (4) A complying development certificate for complying development under this clause is subject to a condition that the building work may only be carried out between 7am and 6pm on Monday to Friday and between 7am and 5pm on Saturday, and must not be carried out on a Sunday or a public holiday
- (5) In this clause—

*private service provider* means a person or body that has an agreement in force with Fire and Rescue NSW to monitor fire alarm systems.

### 5.10 Heritage conservation

**Note—** Heritage items are listed and described in this Precinct Plan, Schedule 5. Heritage conservation areas are shown on the Heritage Map as well as being described in Schedule 5.

#### (1) Objectives

The objectives of this clause are as follows—

- (a) to conserve the environmental heritage of the Wilton Town Centre Precinct,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

**(2) Requirement for consent**

Development consent is required for the following—

- (a) demolishing, moving or altering the exterior of 1 or more of the following—
  - (i) a heritage item,
  - (ii) an Aboriginal object,
  - (iii) a work, relic or tree in a heritage conservation area,
- (aa) demolishing, moving or altering the exterior of a building in a heritage conservation area, including by making changes to its detail, fabric, finish or appearance,
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified for the item in this Precinct Plan, Schedule 5,
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (d) disturbing or excavating an Aboriginal place of heritage significance,
- (e) erecting a building on land—
  - (i) on which a heritage item is located or in a heritage conservation area, or
  - (ii) on which an Aboriginal object is located or in an Aboriginal place of heritage significance,
- (f) subdividing land—
  - (i) on which a heritage item is located or in a heritage conservation area, or
  - (ii) on which an Aboriginal object is located or in an Aboriginal place of heritage significance.

**(3) When consent not required**

Development consent under this clause is not required if—

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied the proposed development—
  - (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place in the heritage conservation area, and
  - (ii) will not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or

- (b) the development is in a cemetery or burial ground and the proposed development—
    - (i) is the creation of a new grave or monument, or the excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
    - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or
  - (c) the development is limited to the removal of a tree or other vegetation the Council is satisfied is a risk to human life or property, or
  - (d) the development is exempt development.
- (4) **Effect of proposed development on heritage significance**
- The consent authority must, before granting consent under this clause for development involving a heritage item or heritage conservation area, and regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6), consider the effect of the proposed development on the heritage significance of the item or area concerned.
- (5) **Heritage assessment**
- The consent authority may require a heritage management document to be prepared to assess the extent to which the carrying out of a proposed development would affect the heritage significance of a heritage item or a heritage conservation area before granting consent to development on the following land—
- (a) land on which a heritage item is located,
  - (b) land in a heritage conservation area,
  - (c) land near land referred to in paragraph (a) or (b).
- (6) **Heritage conservation management plans**
- After considering the heritage significance of a heritage item and the extent of change proposed to it, the consent authority may require the submission of a heritage conservation management plan before granting consent under this clause.
- (7) **Archaeological sites**
- The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site, other than land listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies—
- (a) notify the Heritage Council of its intention to grant consent, and
  - (b) if the Heritage Council provides a response within 28 days after the notice is sent, take the response into consideration.
- (8) **Aboriginal places of heritage significance**
- The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance—
- (a) consider the effect of the proposed development on the heritage significance of the place, and an Aboriginal object known or reasonably likely to be located at the place, by an adequate investigation and assessment, which may involve consideration of a heritage impact statement, and



- (b) notify local Aboriginal communities, in writing or another appropriate manner, about the application and if a community provides a response within 28 days after the notice is sent, take the response into consideration.

(9) **Demolition of nominated State heritage items**

The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item—

- (a) notify the Heritage Council about the application, and
- (b) if the Heritage Council provides a response within 28 days after the notice is sent, take the response into consideration.

(10) **Conservation incentives**

The consent authority may grant consent to development involving a building that is a heritage item or on the land on which the building is erected, or on an Aboriginal place of heritage significance, even though the development would otherwise not be allowed by this Precinct Plan, if the consent authority is satisfied of the following—

- (a) conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent,
- (b) the proposed development is in accordance with a heritage management document approved by the consent authority,
- (c) consent to the proposed development will require all necessary conservation work identified in the heritage management document to be carried out,
- (d) the proposed development will not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance,
- (e) the proposed development will not have a significant adverse effect on the amenity of the surrounding area.

**5.11 Bush fire hazard reduction**

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out without development consent.

**Note—** The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

**5.12 Infrastructure development and use of existing buildings of the Crown**

- (1) This Precinct Plan does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development, under *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Precinct Plan does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

## **Part 6 Urban release areas**

### **6.1 Definitions**

In this Part—

**designated State public infrastructure** means public facilities or services provided or financed by the State, or if provided or financed by the private sector, to the extent of a financial or in-kind contribution by the State, of the following kinds—

- (a) State and regional roads,
- (b) bus interchanges and bus lanes,
- (c) rail infrastructure and land,
- (d) regional parks and public space,
- (e) social infrastructure and facilities, such as schools, hospitals, emergency services and justice purposes.

**urban release area** means an area of land to which this Precinct Plan applies shown hatched and marked “Urban Release Area” on the Urban Release Area Map.

## 6.2 Designated State public infrastructure

- (1) Development consent must not be granted for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became, or became part of, an urban release area, unless the consent authority has obtained the concurrence of the Planning Secretary.
- (2) In deciding whether to grant concurrence, the Planning Secretary must consider the following—
  - (a) the impact of the development on—
    - (i) existing designated State public infrastructure, and
    - (ii) the need for additional designated State public infrastructure,
  - (b) the cumulative impact of the development with other development that has, or is likely to be, carried out in surrounding areas on—
    - (i) existing designated State public infrastructure, and
    - (ii) the need for additional designated State public infrastructure,
  - (c) the steps taken to address those impacts, including whether a planning agreement has been, or will be, entered into contributing to designated State public infrastructure.
- (3) In deciding whether to grant concurrence, the Planning Secretary must also consult the public authorities that the Planning Secretary considers relevant to the development.
- (4) This clause does not apply to the following—
  - (a) a lot identified by the Planning Secretary as a residue lot,
  - (b) a lot to be created by a subdivision of land the subject of a previous development consent granted in accordance with this clause,
  - (c) a lot proposed in the development application to be reserved or dedicated for public open space, public roads, public utility undertakings, educational facilities or another public purpose,
  - (d) a subdivision for the purpose only of rectifying an encroachment on an existing lot.
- (4) This clause does not apply to a development application to carry out development on land in an urban release area if the land or a part of the land is in a special contributions area, as defined in the Act, section 7.1.

### 6.3 Relationship between Part and remainder of Precinct Plan

A provision of this Part prevails over an inconsistent provision of this Precinct Plan to the extent of the inconsistency.

## Part 7 Additional local provisions

### 7.1 Public utility infrastructure

- (1) Development consent must not be granted for development on land to which this Precinct Plan applies unless the council is satisfied public utility infrastructure essential for the proposed development is available or that adequate arrangements have been made to make the infrastructure available when it is required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing public utility infrastructure referred to in this clause.
- (3) In this clause—  
*public utility infrastructure* includes infrastructure for the following—
  - (a) the supply of water,
  - (b) the supply of electricity,
  - (c) the disposal and management of sewage.

### 7.2 Development in Zone E2 Environmental Conservation

- (1) This clause applies to land in Zone E2 Environmental Conservation, other than land owned by a public authority.
- (2) The consent authority must not grant development consent for development on land to which this clause applies unless it has considered a plan for the management of the land, its ecosystems and native vegetation.
- (3) The plan must address, to the satisfaction of the consent authority, the following matters—
  - (a) the environmental values of the land,
  - (b) methods to be used to revegetate and rehabilitate the land,
  - (c) weed control,
  - (d) the monitoring and ongoing management of the land,
  - (e) other measures to—
    - (i) control threats to the health of remnant riparian vegetation on the land, and
    - (ii) increase species diversification and riparian vegetation cover on the land, and
    - (iii) improve the land's resistance to future weed colonisation.

### 7.3 Subdivision of land adjoining Zone E2 Environmental Conservation

- (1) The objectives of this clause are as follows—
  - (a) to ensure the rehabilitation and revegetation of land in Zone E2 Environmental Conservation, other than land owned by a public authority,
  - (b) to ensure land in Zone E2 Environmental Conservation is managed and conserved in a holistic and sensitive manner.

- (2) This clause applies to a lot that includes land in both Zone E2 Environmental Conservation and land in another zone.
- (3) The consent authority must not grant development consent for the subdivision of land to which this clause applies or other development on the land unless it is satisfied—
  - (a) appropriate arrangements have been made for the revegetation and rehabilitation of the land in Zone E2 Environmental Conservation, and
  - (b) the arrangements—
    - (i) provide for the ongoing monitoring and management of the land, and
    - (ii) will take effect before, or simultaneously with, the proposed subdivision or development concerned, and
    - (iii) are appropriate when considered in conjunction with a plan prepared under clause 7.2.

#### 7.4 Earthworks

- (1) The objectives of this clause are as follows—
  - (a) to ensure earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,
  - (b) to allow earthworks of a minor nature without requiring separate development consent.
- (2) Development consent is required for earthworks unless—
  - (a) the earthworks are exempt development under this Precinct Plan or another applicable environmental planning instrument, or
  - (b) the earthworks are ancillary to other development for which development consent has been given.
- (3) Before granting development consent for earthworks, the consent authority must consider the following matters—
  - (a) the likely disruption of, or detrimental effect on, existing drainage patterns and soil stability in the locality,
  - (b) the effect of the development on the likely future use or redevelopment of the land,
  - (c) the quality of the fill or the soil to be excavated, or both,
  - (d) the effect of the development on the existing and likely amenity of adjoining properties,
  - (e) the source of the fill material and the destination of the excavated material,
  - (f) the likelihood of disturbing Aboriginal objects,
  - (g) the proximity to and potential for adverse impacts on a watercourse, drinking water catchment or environmentally sensitive area,
  - (h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

**Note—** The *National Parks and Wildlife Act 1974*, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.

### **7.5 Location of sex services premises**

- (1) The objective of this clause is to minimise land use conflicts and adverse amenity impacts by providing a reasonable level of separation between sex services premises, specified land uses and places regularly frequented by children.
- (2) In deciding whether to grant development consent to development for the purposes of sex services premises, the consent authority must consider whether the premises will be located on adjoining land, directly opposite or separated only by a road from land used for the purposes of a centre-based child care facility, community facility, school or place of public worship.

### **7.6 Restricted premises**

- (1) Development consent must not be granted to development for the purposes of restricted premises if the premises will be located on land abutting or separated only by a road from land used for the purposes of a community facility, school or place of public worship.
- (2) In deciding whether to grant development consent to development for the purposes of restricted premises, the consent authority must consider the following—
  - (a) the impact of the proposed development on places of high pedestrian activity,
  - (b) the impact of the proposed development on land frequented by children for care, recreational or cultural purposes,
  - (c) whether the appearance of the restricted premises is sufficiently discreet.

### **7.7 Major Town Centre—additional controls**

- (1) The objectives of this clause are to ensure residential development on land in the Major Town Centre does not detract from the Major Town Centre's primary functions of providing for retail, business, entertainment and community uses.
- (2) Development consent must not be granted for development on land in the Major Town Centre unless the consent authority is satisfied the proposed development is consistent with the objectives for Zone 1 Urban Development set out in the Land Use Table.
- (3) Development consent must not be granted for development for the purposes of residential accommodation on land in the Major Town Centre unless the consent authority is satisfied that—
  - (a) for development on land identified as “Area A” on the Wilton Town Centre Precinct Key Sites Map—no more than 15% of the gross floor area of the development will be used for residential accommodation, and
  - (b) for development on land identified as “Area B” on the Wilton Town Centre Precinct Key Sites Map—no more than 25% of the gross floor area of the development will be used for residential accommodation, and
  - (c) for development on land identified as “Area C” on the Wilton Town Centre Precinct Key Sites Map—no more than 50% of the gross floor area of the development will be used for residential accommodation.

## Schedule 1 Additional permitted uses

clause 2.5

(When this Plan was made this Schedule was blank)

## Schedule 4 Classification and reclassification of public land

clause 5.2

### Part 1 Land classified, or reclassified, as operational land—no interests changed

Column 1	Column 2
Locality	Description
Nil	

### Part 2 Land classified, or reclassified, as operational land—interests changed

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
Nil		

### Part 3 Land classified, or reclassified, as community land

Column 1	Column 2
Locality	Description
Nil	

## Schedule 5 Environmental heritage

clause 5.10

(When this Plan was made this Schedule was blank)

#### [4] Dictionary

Insert in alphabetical order—

***Wilton Town Centre Precinct*** means the land shown in the Wilton Town Centre Precinct on the Wilton Growth Area Precinct Boundary Map.

***Wilton Town Centre Precinct Height of Buildings Map*** means the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 Wilton Town Centre Precinct Height of Buildings Map.

***Wilton Town Centre Precinct Key Sites Map*** means the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 Wilton Town Centre Precinct Key Sites Map.