



New South Wales

# **Wollondilly Local Environmental Plan 2011 (Amendment No 45)**

under the

**Environmental Planning and Assessment Act 1979**

The following local environmental plan is made by the local plan-making authority under the *Environmental Planning and Assessment Act 1979*.

CATHERINE VAN LAEREN  
As delegate for the Minister for Planning and Public Spaces

## **Wollondilly Local Environmental Plan 2011 (Amendment No 45)**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of plan**

This plan is *Wollondilly Local Environmental Plan 2011 (Amendment No 45)*.

### **2 Commencement**

This plan commences as follows—

- (a) for Schedule 2—on 15 December 2023,
- (b) otherwise—on the day on which this plan is published on the NSW legislation website.

### **3 Land to which plan applies**

This plan applies to the land identified as “Appin (Part) Precinct” on the State Environmental Planning Policy (Precincts—Western Parkland City) 2021 Greater Macarthur Growth Area Land Application Map.

### **4 Maps**

The maps adopted by the following instruments are amended or replaced, as the case requires, by the maps approved by the local plan-making authority on the making of this plan—

- (a) *Campbelltown Local Environmental Plan 2015*,
- (b) *State Environmental Planning Policy (Precincts—Western Parkland City) 2021*,
- (c) *Wollondilly Local Environmental Plan 2011*.

## Schedule 1 **Amendment of State Environmental Planning Policy (Precincts—Western Parkland City) 2021**

### [1] **Section 3.8 Names of maps adopted by Chapter**

Insert in alphabetical order—

***Additional Permitted Uses Map***, for a precinct in the Greater Macarthur Growth Area, means the State Environmental Planning Policy (Precincts—Western Parkland City) 2021 Greater Macarthur Growth Area Additional Permitted Uses Map.

***Koala Corridors Map***, for a precinct in the Greater Macarthur Growth Area, means the State Environmental Planning Policy (Precincts—Western Parkland City) 2021 Greater Macarthur Growth Area Koala Corridors Map.

***Transport Corridors Map***, for a precinct in the Greater Macarthur Growth Area, means the State Environmental Planning Policy (Precincts—Western Parkland City) 2021 Greater Macarthur Growth Area Transport Corridors Map.

### [2] **Section 3.8, definition of “Height of Buildings”, paragraph (c)**

Insert after section 3.8, definition of ***Height of Buildings Map***, paragraph (b)—

- (c) for a precinct in the Greater Macarthur Growth Area—the State Environmental Planning Policy (Precincts—Western Parkland City) 2021 Greater Macarthur Growth Area Height of Buildings Map.

### [3] **Section 3.8, definition of “Heritage Map”, paragraph (c)**

Insert after section 3.8, definition of ***Heritage Map***, paragraph (b)—

- (c) for a precinct in the Greater Macarthur Growth Area—the State Environmental Planning Policy (Precincts—Western Parkland City) 2021 Greater Macarthur Growth Area Heritage Map.

### [4] **Section 3.8, definition of “Land Application Map”, paragraph (c)**

Omit the paragraph. Insert instead—

- (c) for a precinct in the Greater Macarthur Growth Area—the State Environmental Planning Policy (Precincts—Western Parkland City) 2021 Greater Macarthur Growth Area Land Application Map.

### [5] **Section 3.8, definition of “Land Zoning Map”, paragraph (c)**

Insert after section 3.8, definition of ***Land Zoning Map***, paragraph (b)—

- (c) for a precinct in the Greater Macarthur Growth Area—the State Environmental Planning Policy (Precincts—Western Parkland City) 2021 Greater Macarthur Growth Area Land Zoning Map.

### [6] **Section 3.8, definition of “Lot Size Map”, paragraph (c)**

Insert after section 3.8, definition of ***Lot Size Map***, paragraph (b)—

- (c) for a precinct in the Greater Macarthur Growth Area—the State Environmental Planning Policy (Precincts—Western Parkland City) 2021 Greater Macarthur Growth Area Lot Size Map.

### [7] **Section 3.10 Controls applying to growth centre precincts after finalisation of precinct planning**

Insert after Table 2—

**Table 3—Greater Macarthur Growth Area**

Column 1	Column 2
Growth centre precinct	Appendix
Appin (Part) Precinct	Appendix 10

**[8] Appendix 10**

Insert after Appendix 9, as inserted by *State Environmental Planning Policy (Precincts—Western Parkland City) Amendment (Wilton Town Centre Precinct) 2022*—

## **Appendix 10 Appin (Part) Precinct Plan**

section 3.10

### **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 *Appin (Part) Precinct Plan 2023*.

#### **1.1A Commencement**

This precinct plan commences on 15 December 2023.

#### **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 generally in the way envisaged by the growth 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 Appin (Part) Precinct to be generally consistent with the growth centre structure plans,
- (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 Appin (Part) Precinct,
- (f) to protect and enhance Aboriginal cultural heritage and environmental heritage.

#### **1.3 Land to which precinct plan applies**

This precinct plan applies to land in the Appin (Part) Precinct.

#### **1.4 Definitions**

In this precinct plan—

**Appin (Part) Precinct** means the land identified as “Appin (Part) Precinct” on the Land Application Map.

**Council** means—

- (a) for land within the Wollondilly Shire local government area—the Wollondilly Shire Council, or
- (b) for land within the Campbelltown City local government area—the Campbelltown City Council.

#### **1.5 Notes**

Notes in this precinct plan are provided for guidance and do not form part of this precinct 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 all or part of the Appin (Part) Precinct are repealed.
- (2) All local environmental plans and deemed environmental planning instruments applying to all or part of the Appin (Part) Precinct and to other land cease to apply to the Appin (Part) Precinct.

**Note**— *Wollondilly Local Environmental Plan 2011* and *Campbelltown Local Environmental Plan 2015* cease to apply to the land to which this precinct plan applies.

- (3) This section does not affect the operation of Chapter 3 or this precinct plan.

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

If a development application in relation to the Appin (Part) Precinct was made before the commencement of *Wollondilly Local Environmental Plan 2011 (Amendment No 45)* and the application was not finally determined before the commencement, the application must be determined as if that 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**— This policy, Chapter 3 also contains provisions applying development controls to the Greater Macarthur Growth Area.

## Part 2 Permitted or prohibited development

### 2.1 Land use zones

The land use zones under this precinct plan are as follows—

#### **Urban Development Zones**

1 Urban Development

#### **Conservation Zones**

C2 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, Chapter 3 or this precinct plan, a reference to a type of building or other thing referred to separately in the Land Use Table in relation to the same zone.
- (4) This section is subject to the other provisions of this precinct plan.

**Note 1—**This precinct plan, Schedule 1 sets out additional permitted uses for particular land.

**Note 2—**This precinct plan, section 2.6 requires consent for the subdivision of land.

**Note 3—**This precinct plan, Part 5 contains other provisions that 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 section 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

Land in the Appin (Part) Precinct may be subdivided, but only with development consent.

**Note 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.

**Note 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**.

## 2.7 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 Appin (Part) Precinct.
- To ensure a range of uses, and uses located in a way, consistent with the strategic planning for the Appin (Part) 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; Freight transport facilities; Heavy industrial storage establishments; Heavy industries; Home occupations (sex services); Mooring pens; Moorings; Open cut mining; Port facilities; Resource recovery facilities; Rural industries

## **Zone C2 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

### **4 Prohibited**

Any development not specified in item 2 or 3

## **Part 4 Principal development standards**

### **4.1 Minimum subdivision lot size**

- (1) The objectives of this section 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 section 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 section applies must not be less than the minimum size shown on the Lot Size Map in relation to the land.
- (4) This section does not apply to a subdivision—
  - (a) in a strata plan, or
  - (b) that results in a lot that is to be reserved or dedicated for a public purpose.

### **4.3A Residential density**

- (1) Development consent must not be granted to development resulting in more than 12,900 dwellings in the Appin (Part) Precinct.
- (2) The density for development for the following purposes must be—
  - (a) for development for the purposes of dwelling houses and dual occupancies—between 15 and 25 dwellings per hectare,
  - (b) for development for the purposes of residential flat buildings, multi dwelling housing, mixed use development, seniors housing and shop top housing—between 25 and 45 dwellings per hectare,
  - (c) for development for the purposes of attached dwellings—between 15 and 45 dwellings per hectare.
- (3) Subsection (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) In this section—

**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.

#### **4.6 Exceptions to development standards**

- (1) The objectives of this section are as follows—
- to provide an appropriate degree of flexibility in applying certain development standards to particular development,
  - to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Subject to this section, 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 section.
- (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 that seeks to justify the contravention of the development standard by demonstrating—
- compliance with the development standard is unreasonable or unnecessary in the circumstances, and
  - 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 the consent authority is satisfied—
- the applicant's written request has adequately addressed the matters required to be demonstrated by subsection (3), and
  - the 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.
- (5) Development consent must not be granted for a subdivision under this section of land in Zone C2 Environmental Conservation if—
- the subdivision will result in 2 or more lots of less than the minimum area specified for the lots by a development standard, or
  - the subdivision will result in 1 or more lots with less than 90% of the minimum area specified for the lots by a development standard.
- (6) After determining a development application for development that contravenes a development standard, 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 subsection (3).
- (7) This section does not allow development consent to be granted for development that would contravene 1 or more of the following—
- 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 (Sustainable Buildings) 2022* applies or for the land on which the building is situated,
- (c) section 4.3A,
- (d) section 5.4,
- (e) section 6.6.

## Part 5 Miscellaneous provisions

### 5.1A Consideration of development applications

Development consent must not be granted to the carrying out of development on land in Appin (Part) Precinct unless the consent authority is satisfied mining operations, within the meaning of the *Mining Act 1992*, have ceased on the land.

### 5.2 Classification and reclassification of public land

- (1) The objective of this section 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 that excepts 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), before a description of public land is inserted in this precinct plan, Schedule 4, Part 2, the Governor must approve subsection (5) applying to the land.

#### **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 50m<sup>2</sup> 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 50m<sup>2</sup> 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) 400m<sup>2</sup>.

##### **(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 20m<sup>2</sup>.

##### **(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 400m<sup>2</sup>.

##### **(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 75m<sup>2</sup>.

##### **(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) 60m<sup>2</sup>,
- (b) 25% of the total floor area of the principal dwelling.

#### **5.8 Conversion of fire alarms**

- (1) This section 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 subsection (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 section is subject to a condition that 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 section—  
*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 section are as follows—
  - (a) to conserve the environmental heritage of the Appin (Part) 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, including by making changes to the detail, fabric, finish or appearance of a building—
    - (i) a heritage item,
    - (ii) an Aboriginal object,
    - (iii) a building, work, relic or tree in a heritage conservation area,

- (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 section is not required if—

- (a) the applicant has notified the consent authority of the development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied the 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 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 development on heritage significance**

The consent authority must, before granting development consent under this section for development involving a heritage item or heritage conservation area, and regardless of whether a heritage management document is prepared under subsection (5) or a heritage conservation management plan is submitted under subsection (6), consider the effect of the development on the heritage significance of the item or area.

**(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 development would affect the heritage significance of a heritage item or a heritage conservation area before granting development 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 development consent under this section.

**(7) Archaeological sites**

The consent authority must, before granting development consent under this section 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 section to the carrying out of development in an Aboriginal place of heritage significance—

- (a) consider the effect of the 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 development consent under this section 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 development 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 development is in accordance with a heritage management document approved by the consent authority,
- (c) consent to the development will require all necessary conservation work identified in the heritage management document to be carried out,
- (d) the 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 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—

- (a) without development consent on land in Zone 1 Urban Development, and
- (b) with development consent on land in Zone C2 Environmental Conservation.

**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 (Transport and Infrastructure) 2021*, Chapter 2.
- (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 Additional local provisions**

### **6.1 Structure plan**

- (1) The Planning Secretary may approve a structure plan for the Appin (Part) Precinct.
- (2) A structure plan must provide for the general layout of the precinct, including by identifying the following—
  - (a) the land proposed to be used for medium and low density residential development,
  - (b) the land proposed to be used for drainage and stormwater management,
  - (c) the land in Zone 1 Urban Development on which existing native vegetation must be protected and enhanced,
  - (d) the land in Zone C2 Environmental Conservation,
  - (e) the proposed height of buildings,
  - (f) the location of educational facilities, roads and transport infrastructure and business and retail premises,
  - (g) the location of at least 108.6ha of open space, including—
    - (i) at least 52.59ha of open space for outdoor community sports, including playing fields and associated facilities, and

- (ii) at least 56.01ha of open space for recreation, including parks, gardens, conservation bushland and nature reserves.
- (3) The 108.6ha of open space identified in the structure plan under subsection (2)(g) must not include land identified as “koala corridor” on the Koala Corridors Map.
- (4) A structure plan may contain other matters the Planning Secretary considers appropriate.
- (5) A structure plan must be consistent with this precinct plan and the growth centre structure plan for the Greater Macarthur Growth Area.
- (6) A structure plan approved by the Planning Secretary must be published on the Department’s website and takes effect on the day it is published.
- (7) A structure plan may be amended and this section applies to the amendment of the structure plan in the same way it applies to a structure plan.
- (8) Development consent must not be granted to development unless the consent authority is satisfied that the development is generally consistent with the structure plan.
- (9) Subsection (8) does not apply to development for the following purposes—
  - (a) a subdivision for the purpose of a realignment of boundaries that does not create additional lots,
  - (b) a subdivision of land if any of the lots proposed to be created is to be reserved or dedicated for public open space, public roads or any other public or environment protection purpose,
  - (c) a subdivision of land in a zone in which the erection of structures is prohibited,
  - (d) development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the development would be consistent with the objectives of the zone in which the land is situated.

## 6.2 Development control plan

- (1) The objective of this section is to ensure that development occurs—
  - (a) in a logical and cost-effective manner, in accordance with a staging plan, and
  - (b) only after a development control plan that includes specific controls has been prepared for the land.
- (2) Development consent must not be granted to development on land in the Appin (Part) Precinct unless a development control plan that complies with subsection (3) has been prepared for the land.
- (3) The development control plan must provide for the following—
  - (a) a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing,
  - (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
  - (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,

- (d) a network of active and passive recreation areas,
  - (e) stormwater and water quality management controls,
  - (f) amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,
  - (g) detailed urban design controls for significant development sites,
  - (h) measures to encourage higher density living around transport, open space and service nodes,
  - (i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,
  - (j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.
- (4) Subsection (2) does not apply to development for the following purposes—
- (a) a subdivision for the purpose of a realignment of boundaries that does not create additional lots,
  - (b) a subdivision of land if any of the lots proposed to be created are to be reserved or dedicated for public open space, public roads or any other public or environment protection purpose,
  - (c) a subdivision of land in a zone in which the erection of structures is prohibited,
  - (d) development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the development would be consistent with the objectives of the zone in which the land is situated.

### **6.3 Concurrence of Planning Secretary—general**

- (1) Development consent must not be granted to development in Appin (Part) Precinct 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 been, 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 the impacts, including whether a planning agreement has been, or will be, entered into that contributes 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 section does not apply to development if all or part of the land on which the development will be carried out is in a special contributions area to which a determination under the Act, section 7.23 applies.

- (5) This section prevails over another provision of this precinct plan to the extent of an inconsistency.
- (6) In this section—  
*designated State public infrastructure* means public facilities or services of the following kinds to the extent the facilities or services are provided or financed by the State—
  - (a) State and regional roads,
  - (b) bus interchanges and bus lanes,
  - (c) regional open space,
  - (d) social infrastructure and facilities, including schools, hospitals, emergency services and justice facilities.

#### **6.4 Concurrence of Planning Secretary—koala corridor**

- (1) This section applies to land identified as “koala corridor” on the Koala Corridors Map.
- (2) Development consent must not be granted to development on the land unless the consent authority has obtained the concurrence of the Planning Secretary.
- (3) In deciding whether to grant concurrence, the Planning Secretary must consider the impact of the development on—
  - (a) the protection of the koala population in the Appin (Part) Precinct, and
  - (b) the maintenance and delivery of the koala corridor.
- (4) This section applies in addition to section 6.3.

#### **6.5 Concurrence of Transport for NSW**

- (1) Development consent must not be granted to the following development unless the consent authority has obtained the concurrence of Transport for NSW—
  - (a) development with a capital investment value of more than \$200,000 on transport corridor land,
  - (b) development that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land within 25m, measured horizontally, of transport corridor land.
- (2) In deciding whether to grant concurrence, Transport for NSW must consider the following—
  - (a) the appropriateness of the development in relation to planned infrastructure on transport corridor land, including the service capability of planned infrastructure and the provision of sustainable transport options,
  - (b) the timing of the carrying out of the proposed development and the timing for constructing infrastructure on transport corridor land,
  - (c) the effect of the development on planned infrastructure, including the additional costs of constructing infrastructure on transport corridor land if the development is carried out.
- (3) In this section—  
*transport corridor land* means land shown as “Transit Corridor”, “OSO2 Corridor Option” and “Indicative East-West Road” on the Transport Corridors Map.

## **6.6 Public utility infrastructure**

- (1) Development consent must not be granted to development in the Appin (Part) Precinct unless the consent authority is satisfied—
  - (a) public utility infrastructure that is essential for the development is available, or
  - (b) adequate arrangements have been made to make the infrastructure available when it is required.
- (2) This section does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing public utility infrastructure referred to in this section.
- (3) In this section—  
*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.

## **6.7 Development in Zone C2**

- (1) This section applies to land in Zone C2 Environmental Conservation, other than land owned by a public authority.
- (2) Development consent must not be granted to development on land to which this section applies unless the consent authority has considered a vegetation management plan that relates to all of the land.
- (3) The vegetation management 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—
    - (i) to control threats to the health of remnant riparian vegetation on the land, and
    - (ii) to increase species diversification and riparian vegetation cover on the land, and
    - (iii) to improve the land's resistance to future weed colonisation.
- (4) For subsection (2), a biodiversity stewardship agreement, within the meaning of the *Biodiversity Conservation Act 2016*, is taken to be a vegetation management plan.

## **6.8 Development on land adjoining Zone C2**

- (1) The objectives of this section are as follows—
  - (a) to ensure the rehabilitation and revegetation of land in Zone C2 Environmental Conservation, other than land owned by a public authority,
  - (b) to ensure land in Zone C2 Environmental Conservation is managed and conserved in a holistic and sensitive way.

- (2) This section applies to development carried out on an area of land that is in both Zone C2 Environmental Conservation and another zone.
- (3) Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied arrangements have been made for the revegetation and rehabilitation of the land in Zone C2 Environmental Conservation that—
  - (a) provide for the ongoing monitoring and management of the land, and
  - (b) will take effect before, or at the same time as, the development, and
  - (c) are appropriate when considered in conjunction with the vegetation management plan referred to in section 6.7.

## 6.9 Earthworks

- (1) The objectives of this section 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) In deciding whether to grant development consent to 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 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.

## 6.10 Location of sex services premises

- (1) The objective of this section 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 land that adjoins, is directly opposite or is separated only by a road from land used for the purposes of a centre-based child care facility, community facility, place of public worship or school.

#### **6.11 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, place of public worship or school.
- (2) In deciding whether to grant development consent to development for the purposes of restricted premises, the consent authority must consider the following—
- the impact of the development on places of high pedestrian activity,
  - the impact of the development on land frequented by children for care, recreational or cultural purposes,
  - whether the appearance of the restricted premises is sufficiently discreet.

#### **6.12 Affordable housing**

- (1) This section applies to development involving the erection of the following—
- attached dwellings,
  - multi-dwelling housing,
  - residential flat buildings,
  - shop top housing.
- (2) Development consent must not be granted to the development unless the consent authority is satisfied—
- at least 5% of the gross floor area of a building resulting from the development will be used for the purposes of affordable housing, and
  - each dwelling used for the purposes of affordable housing—
    - will have a gross floor area of at least 50m<sup>2</sup>, and
    - will be located within 400m walking distance of existing or proposed public transport, retail premises or public open space.

#### **6.13 Environmental facilities prohibited in koala corridor**

Development for the purposes of environmental facilities is prohibited on land in Zone C2 Environmental Conservation that is identified as “koala corridor” on the Koala Corridors Map if the development involves a building.

### **Schedule 1 Additional permitted uses**

section 2.5

#### **1 Use of transport corridor land**

- (1) This section applies to land identified as “Transit Corridor”, “OSO2 Corridor Option” and “Indicative East-West Road” on the Transport Corridors Map.
- (2) Development for the purposes of roads is permitted with development consent.

## Schedule 4 Classification and reclassification of public land

section 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

section 5.10

Precinct	Item name	Address	Property description	Significance	Item no
Appin	Elladale	80 Elladale Road	Lot 101, DP 790844	Local	I11
Appin	Northamptondale Group—house, trees, slab, farm, outbuildings and stables	6080 Northamptondale Road	Lots 201 and 203, DP 819476	Local	I13

## **Schedule 2      Amendment of Wollondilly Local Environmental Plan 2011**

### **Schedule 5 Environmental Heritage**

Omit items I11 and I13 from Part 1.