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Plan finalisation report – PP 2022-3979

Wollondilly LEP 2011 (Amendment 45) Appin (Part)
Precinct.

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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1 Introduction

1.1 Overview

1.1.1 Name of the draft LEP

Wollondilly Local Environmental Plan 2011 Amendment No. 45

1.1.2 Site description

Table 1 Site description

Site Description	<p>The planning proposal (Attachment A) applies to land in Appin NSW 2560, within the Greater Macarthur Growth Area. The site (Figure 1) has an approximate area of 1,378ha. The site covers land from the Cataract and Nepean Rivers in the west to Appin and Wilton Road in the east. It also extends to Ousedale Creek in the north. At its greatest extent, it is approximately 6,130m (east-west) and 5,570m (north-south).</p> <p>It is primarily within the Wollondilly Shire (Local Government Area) LGA however, a small northern tip of the site is within the Campbelltown City LGA. The portion of the proposal within the Campbelltown City LGA is approximately 3ha and is proposed to be zoned C2-Environmental Conservation.</p> <p>The site contains large areas of cleared vegetation due to grazing and low intensity live-stock, with isolated residences. However significant vegetation is located along creeks and rivers. Elladale Creek and Rocky Ponds Creek traverse the site. While Ousedale Creek and the Nepean River partially inform the site boundaries.</p> <p>Several heritage items are located on or near the site including:</p> <ul style="list-style-type: none"> • Elladale estate (local heritage) • Northhampton Dale Group (local heritage) • Appin Massacre Cultural Landscape (State heritage listed) • Upper Nepean Canal (State heritage listed) • Windmill Hill Group: Brennans Farm, Larkin`s Farm and Winton Farm is east of the site (local and State heritage listed). <p>Appin Village sits along Appin Road to the east of the site. The surrounding area is largely used for rural proposes such as grazing land holdings and low-density development.</p> <p>A series of electrical transmission lines and gas pipeline easements traverse the site from north to south. The Upper Canal also runs north south through the site.</p> <p>Appin is 16km south of Campbelltown, 13km north east of Wilton and 35km north west of Wollongong. The Dharawal National Park is east of Appin.</p>
Type	Site Specific (Part of the Appin Precinct)
Council	Wollondilly and a small portion (approx. 3ha) in the Campbelltown LGA

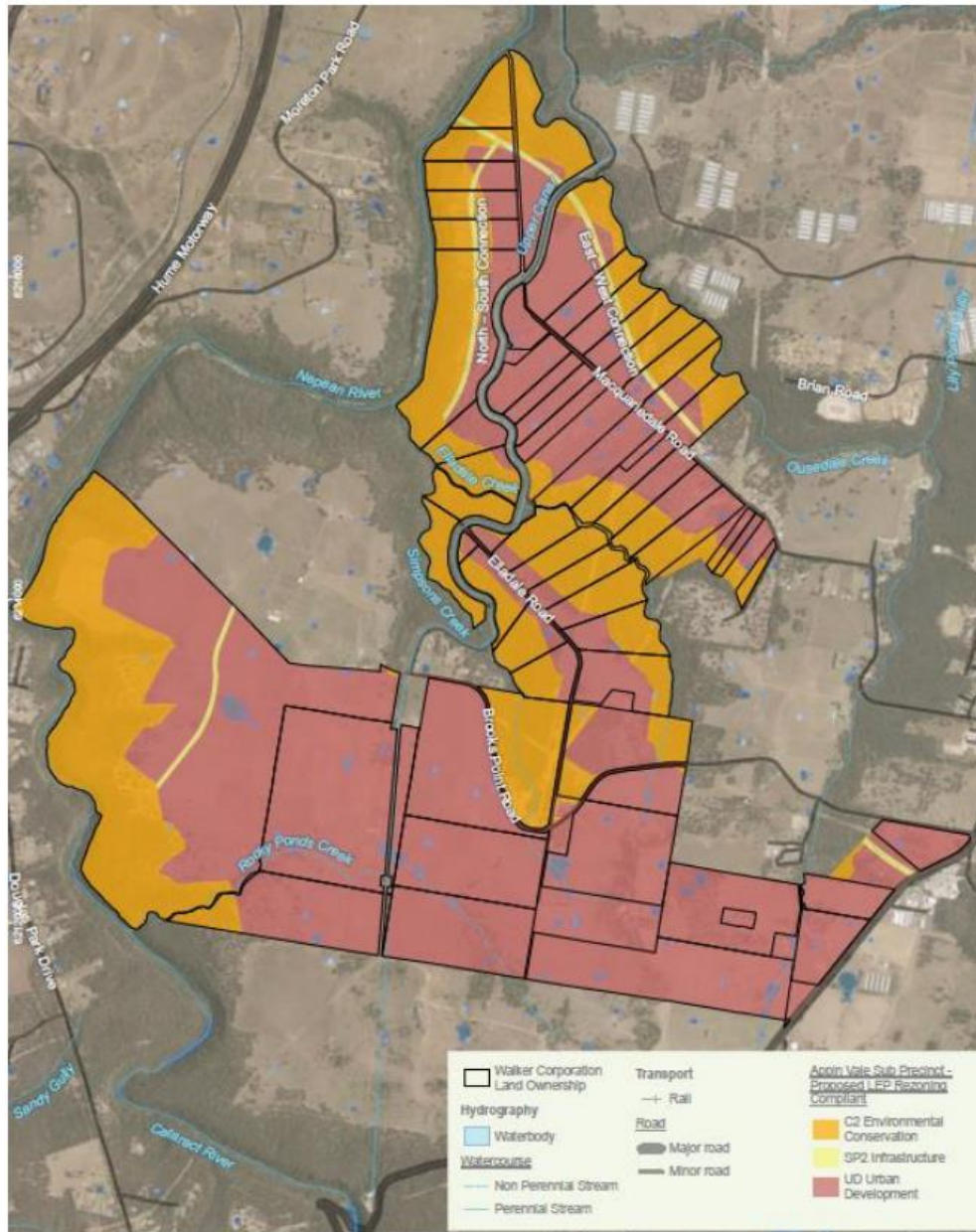


Figure 1 Rezoning site showing exhibited draft zones.

1.1.3 Purpose of the draft LEP

The draft LEP seeks to implement the planning proposal, which is to rezone the site from the current RU2 Rural Landscape zoning to the Urban Development Zone (UDZ) and C2 Environmental Conservation zones. The UDZ portion of the site will facilitate up to approximately 12,900 homes in the longer term, and three local centres. The proposed C2 land comprises approximately 470ha, which is 34% of the site.

The draft LEP (also referred to as the 'draft instrument') will insert a new Appendix (10) into the State Environmental Planning Policy – Precincts Western Parkland City 2021 (WPC SEPP). This Appendix will become the "Precinct Plan" containing the new development controls for the site. The new Precinct Plan is based on the controls proposed in the exhibited planning proposal and other existing precinct plans in the WPC SEPP.

Among the proposed controls, the Precinct Plan will:

- Include new aims
 - To give effect to the Greater Macarthur 2040 plan and Structure Plan and Guide updated and published by the Department in November 2022,
 - To protect and enhance environmental heritage (such as the Upper Canal and Aboriginal Cultural Heritage)
- Set out requirements for a structure plan to be finalised and adopted by the Planning Secretary. The requirements include several matters, some of which are:
 - Areas of medium and low density residential development
 - Areas of existing native vegetation which are to be protected and enhanced within the Urban Development Zone (UDZ)
 - Any educational facilities
 - Roads and transport infrastructure
 - At least 108.6 ha of open space, including at least 52.59 ha of active open space and at least 56.01 ha of passive open space, but excluding the koala corridors
 - Land to be rezoned to C2
- Specify permitted uses for the UDZ consistent with the North Wilton and South East Wilton Precincts.
- Require Planning Secretary's concurrence before development consent can be granted to any proposed development within a mapped koala corridor. The koala corridors are all proposed to be rezoned C2- Environmental Conservation and are mapped in the 'Koala Corridors Map'.
- Provide for a limited range of permissible uses in the C2- Environmental Conservation zone consistent with the Office of Chief Scientist and Engineer (OCSE) advice:
 - Environmental facilities
 - Environmental protection works
- Require concurrence from Transport for NSW (TfNSW) before consent can be granted to development located on transport corridor land (that is, land identified on the Transport Corridors Map), that:
 - Has a capital investment value of more than \$200,000, or
 - Involves the penetration of ground to a depth of at least 2 metres below existing ground level on land within 25 metres of transport corridor land.
- Require concurrence from the Planning Secretary for any development to ensure that the impact of development on the provision of State public infrastructure is addressed.
- Require Council to be satisfied that public utility infrastructure is available or that adequate arrangements have been made, prior to granting consent to any development.

The table below (**Table 2**) outlines the current and proposed controls for the Wollondilly LEP, Campbelltown LEP and WPC SEPP.

Table 2 Current and proposed controls

Control	Current – Wollondilly LEP	Proposed – WPC SEPP
Zone	RU2 Rural Landscape	Urban Development Zone, C2 Environmental Conservation
Maximum height of the building	N/A	N/A
Floor space ratio	N/A	N/A
Minimum lot size	40Ha	No Minimum lot size for UDZ, 40ha minimum lot size for the C2 Environmental Conservation Zone
Number of dwellings	N/A	12,900
Number of jobs	N/A	Although there are no controls proposed, it is noted that the Appin and North Appin Precincts are expected to generate around 4,550 local jobs in the longer term

1.1.4 State electorate and local member

The site falls within the Campbelltown state electorate. Greg Warren MP is the State Member.

The site falls within the Hume federal electorate. Angus Taylor MP is the Federal Member.

To the team's knowledge, neither MP has made any written representations regarding the proposal. The Member for Wollongong, Member of Campbelltown, and Member of Wollondilly (members prior to the March 2023 NSW State Election) have forwarded submissions on behalf of constituents to the Department for consideration in its assessment of the proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

2 Gateway determination and alterations

The Gateway determination issued on 16 November 2022 (**Attachment B**) determined that the proposal should proceed subject to conditions.

All the Gateway determination conditions have been met.

The Gateway determination requires the draft LEP to be finalised on or before 17 July 2023.

3 Public exhibition and post-exhibition changes

3.1 Submissions during exhibition (and late submissions)

In accordance with the Gateway determination, the proposal was publicly exhibited by the Department for 28 days from 21 November until 19 December 2022, the Planning and Land Use Strategy (PLUS) branch of Department has made several minor post exhibition changes in response to submissions and the final assessment of the proposal.

3.1.1 Number of submissions received

A total of 204 submissions were received, 184 from the public, four from elected MPs on behalf of constituents, 15 from State government agencies and utilities, and one from Wollondilly Shire Council.

Of 184 public submissions received, six were received from development organisations or action groups including, Save Sydney's Koalas, Urban Taskforce Australia, Community Housing Industry Association NSW, Wilton Action Group, Appin Orbital Motorway Support Group and Total Environment Centre.

Of the submissions, 158 objected to the proposal (78%), 12 supported the proposal (6%) and 34 commented on the proposal (16%).

3.1.2 Submissions supporting the proposal

Some larger landowners in the GMGA supported the proposal, with several of these expressing their desire for their sites to be considered for urban development. They also noted the proposed east-west road is contentious and that arguments for and against should be determined by the opportunity to maximise new housing in this development area.

Community Housing Industry Association NSW (CHIA NSW) strongly supports the proposal to introduce requirements for affordable rental housing contributions in these locations. CHIA NSW strongly recommends that a contribution requirement is extended to all residential development, including low-density housing.

Other supporting points raised in submissions, included:

- Leadership shown by government in delivering major housing proposals
- Support bypass of Council
- Significant benefit to the broader community including:
 - Thousands of new homes
 - New local centres
 - A considerable amount of open space and environmental lands
 - The preservation of koala corridors
- Timely delivery of infrastructure
- Accelerated delivery of infrastructure and housing supply
- Deliver an efficient transit system

3.1.3 Submissions objecting to or raising issues about the proposal

The key issues raised in the submissions in six main themes as:

- 51% of respondents raised concerns on preservation of koala population, habitat, and corridors
- 41% of respondents raised concerns on impacts to biodiversity
- 30% of submitters raised concerns of the loss of Aboriginal and European Heritage
- 26% of submitters raised items relating to inadequate transport links into and out of Appin
- 21% of submitters raised concerns regarding the lack of infrastructure in the area
- 14% of submitters mentioned items relating to overdevelopment and/or interruption to the rural lifestyle

These are further discussed in **Table 3** below.

Table 3 Summary of Key Issues

Issue raised	Department (PLUS) response
<p>Inadequate transport links into and out of Appin -</p> <ul style="list-style-type: none"> • Concerns of congestion along Appin Road • Staging and development of new road links • Active transport links being provided • Requests to move the SP2 road corridors 	<p>In November 2022, the Department updated the structure plan for the GMGA.</p> <p>The structure plan included an indicative regional road layout which included key features such as:</p> <ul style="list-style-type: none"> - Outer Sydney Orbital Stage 2 (OSO2) - Greater Macarthur Transit Corridor <p>Updated traffic modelling from the Greater Macarthur Transport Network Plan will be the basis of further traffic and transport modelling (Transport Management Accessibility Plan (TMAP) for planning proposals in the GMGA, including this Appin (Part) Precinct.</p> <p>A TMAP will inform the final precinct structure planning for the site. The TMAP will confirm the role and hierarchy of the required road network to support future development. The TMAP will also inform investment decisions in relation to transport and access across the site. The transport assessment accompanying the proposal also provided recommendations for the staging and delivery of regional roads supporting Appin. State and Local Planning Agreements will address delivery of key transport connections, informed by the transport assessment and TMAP.</p> <p>A transit corridor is being planned to link Appin with Campbelltown via Gilead. This will include dedicated public transit priority lanes. The anticipated corridor width is 45m and designed for a speed of 70kmh. It will link new local centres and areas of medium density to reduce overall car dependency.</p> <p>Active transport can be considered at the development control plan and structure planning stage. The planning vision acknowledges the need to increase the mode share for public transport, walking and cycling to create healthier and more connected communities. Neighbourhoods should be compact, permeable and logical to minimise travel times, maximise</p>

Issue raised	Department (PLUS) response
	<p>accessibility and a walkable scale to ensure access to amenities. Active transport networks will also be integrated with existing transport.</p> <p>The removal of the SP2 road corridors is discussed in Part 4 of this report.</p>
<p>Preservation of koala population, habitat, and corridors.</p> <ul style="list-style-type: none"> • Koala protection and the need to maintain koala habitats • Concerns with the width of the proposed koala corridors • Concerns about the proposed C2 zoning of these Koala corridors, with a C1 zoning suggested 	<p>The Department is protecting koala habitat through the rezoning of this site. The Cumberland Plain Conservation Plan (CPCP) was approved by the State Minister for the Environment in August 2022, which provides for the protection of large areas of the Cumberland Plain Woodland across western Sydney. It provides protections of koala habitat in the majority of the GMGA.</p> <p>The Department has shown its commitment to conservation of the local koala population through its Greater Macarthur 2040 publications and the advice provided to the two State Assessed Planning Proposal (SAPP) proponents via the Technical Assurance Panel (TAP) pilot program. Preservation of habitat and guiding future development in an ecological sensitive direction has been one of the Department’s primary focuses.</p> <p>The proposed rezoning secures a new C2 conservation zone over identified koala corridors and habitat in the GMGA (i.e., Corridor E – Ousedale Creek, Corridor F – Simpsons Creek and Elladale Creek and Nepean River Corridor).</p> <p>The proposed C2 zone aligns to land identified as ‘avoided for biodiversity’ in the CPCP.</p> <p>The list of permissible uses in the koala corridors is limited to ensure appropriate land activities in line with the OCSE advice, such as seating, walking trails and board walks.</p> <p>Furthermore, development consent must not be granted in the koala corridors unless the consent authority has obtained the concurrence of the Planning Secretary. This concurrence clause will apply to any Development Application for land identified on the Koala Corridors Map. In deciding whether to grant concurrence, the Planning Secretary must consider the impact of the development on:</p> <ol style="list-style-type: none"> (a) the protection of the Wollondilly koala population, and (b) the maintenance and delivery of the koala corridor. <p>Koala corridors are proposed throughout Greater Macarthur and will be incrementally protected at time of future rezonings. These will meet the requirements as specified by the OCSE for widths.</p> <p>While roads are not permissible in the C2 zone, the OCSE noted that some roads transecting corridors are inevitable and would be acceptable if they are designed in a way that prevents koala deaths and maintains safe passage for the koalas through the corridor. The draft LEP makes roads a permissible use where mapped on the Transport Corridors Map.</p>

Issue raised	Department (PLUS) response
<p>Concerns regarding the lack of infrastructure in the area -</p> <ul style="list-style-type: none"> • Lack of existing social infrastructure and much more would be needed to support a larger population • Concerns on the cost of providing infrastructure • Concerns on water safety and provision 	<p>A social infrastructure assessment and infrastructure delivery plan (IDP) accompanied this proposal. This includes recommendations for additional infrastructure including emergency services, education, civic and recreational facilities. The IDP outlines the proposed responsibilities and mechanisms for the delivery of the required infrastructure. Further, the IDP outlines the proposed infrastructure ownership and maintenance responsibilities following the delivery of the infrastructure. It advises of the likely staging of the urban development on the site, to inform the alignment and timing of the components of the proposed infrastructure network.</p> <p>The Department (PLUS) has engaged with various State government agencies and Wollondilly and Campbelltown councils during the TAP pilot program. The Department also engaged with agencies such as NSW Rural Fire Service (NSW RFS), Schools Infrastructure NSW (SINSW) and NSW Health to obtain their requirements for infrastructure in the area as it is developed. These agencies were also consulted during the exhibition of this planning proposal. Advice has been provided by these agencies will be taken into consideration during negotiation on the State Planning Agreement and the formation of the Appin (part) Precinct Structure Plan.</p> <p>Sydney Water advised that based on anticipated development projects supplied by the proponent, growth can be accommodated up to 2025. From 2026 onwards, additional upgrades will be required. Endeavour Energy has advised that there is capacity for between 1,200 and 1,400 dwellings to be serviced using the existing Appin Zone substation, after which a new zone substation will need to be established to support further growth. A concurrence clause will ensure that development and the provision of state Infrastructure and public utility is aligned before any development consent can be granted.</p> <p>The Department is undertaking a review of infrastructure studies and planning to date so that the scope of State and regional infrastructure required to support growth in Appin and the GMGA is comprehensive and considered holistically.</p> <p>In Appin, State and regional infrastructure will be delivered via:</p> <ul style="list-style-type: none"> - A State Planning Agreement with the proponent securing critical enabling infrastructure - The proposed State Infrastructure Contributions framework that will provide a funding source for longer-term infrastructure needs across Appin and the broader GMGA - Discussions and negotiations on the State Planning Agreement(s) are underway <p>In addition, the Secretary's concurrence is required to ensure that the impact of development, including cumulative impact, is</p>

Issue raised	Department (PLUS) response
	<p>addressed prior to the granting of any development consent. This approach will be taken for the other rezonings in the Growth Area.</p> <p>Local Planning Agreements (with the proponent) will also address and partially fund local infrastructure such as community and recreational facilities. Wollondilly Contributions Plan July 2020 outlines the monetary rates, land and types of development affected, procedures, and other relevant provisions. Council collects contributions from developers to help fund this public infrastructure. Council have also commenced a benchmarking exercise to review local amenities and services for the Wollondilly part of the GMGA.</p> <p>Local and State Planning Agreements are a separate process to this planning proposal, and will be publicly exhibited for the community to review and comment on before the agreements are signed and finalised</p> <p>The draft LEP includes a clause that requires a final structure plan be prepared that includes</p> <ul style="list-style-type: none"> - 108.6 ha open space - Of which 52.59 ha is active open space and at least 56.01 ha of passive open space. This is in addition to the koala corridors which will provide for additional passive open space. <p>Sydney Water have indicated that Appin can have its drinking water provided by the Macarthur Water Filtration Plant in the short to medium term. Long term (10 years plus) servicing planning is subject to the outcomes of future studies.</p> <p>For wastewater, servicing this area will be through the Glenfield wastewater system in the short to medium term. Long term servicing for this development may be from a potential future Upper Nepean Treatment Plant.</p> <p>The Department notes that the proponent is currently investigating alternative servicing arrangements.</p>
<p>Perception the proposal will result in overdevelopment -</p> <ul style="list-style-type: none"> • Concerns over loss of the rural lifestyle • Lots being too small 	<p>The site is within the Appin precinct of the GMGA which was declared by the NSW Government as a growth area in 2019. Growth areas provide for the long-term delivery of housing needs for Greater Sydney, and they help coordinate and align infrastructure delivery for future communities. The GMGA 2040 Interim Plan and the 2022 Update to the GMGA Structure Plan, outlines how the Department is planning for more homes, jobs and essential services in the region. While nearby to the Appin precinct, rural lifestyles including rural towns and villages are being protected in areas mapped in the Metropolitan Rural Area (MRA) in the Western City District Plan. Given Appin is located within a growth area, the rezoning is consistent with the strategic framework to deliver more houses and jobs in this location.</p>

Issue raised	Department (PLUS) response
<p>Concerns on impacts on biodiversity -</p> <ul style="list-style-type: none"> • Enforcement of the Cumberland Plain Conservation Plan (CPCP) • Protection of Cumberland Plain Woodland, Shale Sandstone Transition Forest and River Flat Eucalypt Forest • Protection of habitats for species including the Grey Headed Flying Fox 	<p>Further to the discussion on koala protection measures, the Department is protecting biodiversity and ecological communities by rezoning land identified with biodiversity values under the CPCP as C2 Environmental Conservation. The koala corridors also provide additional opportunities for revegetation within the Nepean River koala corridor. This is consistent with OCSE advice to ensure an overall corridor width of 390m.</p> <p>The planning proposal report identifies there will be opportunities to revegetate areas via the proposal for green streets supporting native vegetation through the precinct with staggered planting of endemic woodland species on the main roads to celebrate its bushland setting. The species to be selected will be mindful to discourage koalas from coming into urban areas and will be explored in later planning stages. Note that over time as new street plantings mature, the tree canopy will significantly increase compared to today.</p> <p>The Urban Development Zone (UDZ) will also have opportunities for additional protection and regenerating biodiversity within proposed open space areas.</p> <p>Furthermore, a clause in the Appin (part) Precinct in the WPC SEPP requires the Precinct Structure Plan to show areas where existing native vegetation will be protected and enhanced the Urban Development Zone, such as within or adjacent to local parks or the broader open space network.</p> <p>The planning proposal seeks only to implement rezoning of the current RU2 Rural Landscape to UDZ Urban Development Zone and C2 Environmental Conservation. New planning maps will define the zones as well as provide a concurrence overlay to establish the proposed koala corridors.</p> <p>The next phase of the proposal will be to further define a precinct structure plan for the site and draft a Development Control Plan (DCP).</p>
<p>Protection of Aboriginal and European Heritage -</p> <ul style="list-style-type: none"> • Protection of Aboriginal heritage, particularly from the Appin cultural massacre site, including concerns remain about protecting the sites from development 	<p>Heritage NSW investigated the potential State Heritage Register (SHR) listing for the Appin Massacre Cultural Landscape, which covers a significant area in the southern portion of the GMGA. The draft curtilage and significance assessment was exhibited between 3 August 2022 and 31 August 2022 and sites were formally listed on 25 November 2022. The listing on the SHR means any development application within the listed curtilage will also require approval under the NSW <i>Heritage Act 1977</i> before any works can be carried out. The SHR listing provides protection of sites of the Appin Massacre Cultural Landscape. Details of the listing can be found here, https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=5067855.</p> <p>The 2022 Update to the GMGA Structure Plan, provides guidance on starting with Country and acknowledges the landscape</p>

Issue raised	Department (PLUS) response
<ul style="list-style-type: none"> Incorporation of other heritage buildings such as Elladale House was also raised 	<p>connections associated with the heritage of the place. Urban design which responds to and allows for connection of sites will be explored through precinct structure planning and possibly incorporated in DCP controls.</p> <p>Incorporation of heritage buildings into the Appin (part) Precinct such as Elladale House will be explored in precinct structure planning.</p> <p>It should also be noted the Upper Canal, which divides the Appin (part) Precinct, in a SHR listed item and has guidelines for development adjacent to the Upper Canal. These can be found here.</p>

3.1.4 Other issues raised

Other matters of concern raised by submissions included:

- Inadequate exhibition period and notification process

The planning proposal was exhibited from 21 November 2022 to 19 December 2022 for a period of 28 days. The close of the exhibition period ensured there was no overlap with the end of Term 4 and the commencement of the Christmas school holiday period (21 December 2022). Letters were sent out to approximately 1,700 residents and landowners to addressees provided by Wollondilly Shire Council. This was in addition to published notifications in the Sydney Morning Herald, Daily Telegraph, Camden Reporter and Koori Mail newspapers as well as an online campaign.

Further, submissions received after the close of the exhibition period have been considered in this assessment.

It is considered the submission period and notification processes were adequate.

- Lack of transparency with the Technical Assurance Panel process

Concerns were raised about transparency of the former TAP pilot program which ran from October 2020 to July 2022. The TAP program was completed prior to the commencement of this current statutory rezoning process, and included a final assurance letter, which stated requirements for the proponent to update to the draft prior to any formal lodgement of the Planning Proposal. The finalisation report does not assess the role or outcomes of the former TAP program. Information on the TAP program, including the Department's review which addresses issues such as transparency (see page 14), can be found [here](#).

- Concerns that properties will be compulsorily acquired

The proposal does not include any compulsory property acquisitions. Local open space will be delivered via a local planning agreement with Council. As a precinct structure plan has not been completed, it is expected that these spaces will be located on the proponent's property to allow for their delivery.

Later acquisition may be needed to deliver regional road corridors. Where possible, acquisition will occur when the landowner is ready to sell and is subject to a negotiation process. Acquiring authorities are required to comply with the *Land Acquisition (Just Terms Compensation) Act 1991*.

- Whether the Greater Macarthur Growth Area is being rezoned in an equitable and logical manner.

Any landowner may propose the rezoning of land. Landowners within the GMGA are encouraged to engage with their local Council to discuss opportunities and constraints relating to their land. The Department has published the Greater Macarthur 2040 Interim Plan (2018), Community Update (2021) and the GMGA Structure Plan and Guide (2022), which set out the strategic planning framework for the GMGA and will assist in the preparation of further planning proposals.

Further work is being carried out across the GMGA to ensure that the planning for infrastructure is managed holistically.

- Rezoning of land not owned by Walker Corporation.

Land subject to the planning proposal includes twelve land holdings that are not owned by the proponent Walker Corporation. The proponent owns 1,284ha (93%) of the 1,378ha precinct. Six submissions were received by landowners in the rezoning site. Three of these landowners objected to the CPCP or the proposed part rezoning of their land to C2 – Environmental Conservation.

The proposed C2 zoning is consistent with the Ministerial Direction 3.6 Strategic Conservation Planning. Further analysis of the proposal against this Ministerial Direction is provided in section 4.1 of this report. The C2 zone is the appropriate zone to be applied to 'avoided land' under the CPCP. The 'certified land' (non-avoided) portion of these landholdings is proposed to be the Urban Development Zone (UDZ) which provides for a wide range of urban uses than the current RU2 zoning. It should be noted the portion of the land which is identified as avoided under the CPCP is a reflection of existing vegetation, such as koala habitat, and other high biodiversity values. The proposed C2 zone is the mechanism to implement the CPCP and achieve the objectives for the GMGA. These sites have remained in the planning proposal and are recommended to be rezoned as proposed, as to exclude them from the proposal could result in perverse biodiversity outcomes.

One objection was received in relation to the proposed location of a bulk supply point and heritage discussed below.

- Inappropriate proposed location of the Bulk Supply Point (BSP) in the Infrastructure Phasing Plan

Endeavour Energy has advised that Transgrid will require a 26,000m² site for a future BSP, to assist with the delivery of electricity for the development. The Urban Context Report indicates a proposed location, close to Elladale House, a locally listed heritage item. Concerns have been raised regarding the proposed BSP's proximity to the Elladale House. The Department notes that this location is indicative only and the Department (PLUS) will work with the proponent and authorities to identify a more sensitive location in the final precinct structure plan.

3.2 Advice from agencies, utilities and Wollondilly Council

The Department (PLUS) consulted extensively with NSW Government agencies, including Wollondilly Shire Council (Council), throughout the exhibition process, receiving 16 submissions.

Submissions from NSW Government agencies and utilities were received from:

- Wollondilly Shire Council
- Transport for NSW (TfNSW)
- Western Parkland City Authority (WPCA)

- Greater Cities Commission
- Heritage NSW
- Sydney Water
- Water NSW
- Endeavour Energy
- Environmental Protection Authority (EPA)
- Environment and Heritage Group (EHG)
- Regional NSW (Geological Survey of NSW)
- Fire and Rescue New South Wales
- NSW Rural Fire Service (NSW RFS)
- Department of Education (Schools Infrastructure SI NSW)
- Department of Health (South West Sydney Local Health District)
- NSW Subsidence Advisory.

The Department (PLUS) also received advice from TNSW, Water NSW, SI NSW, Council, Geological Survey of NSW, NSW RFS and EHG post exhibition. The issues raised included environmental conservation lands, provision for utilities, planning and development controls, permissible land uses and protection of transport corridor items.

It should be noted Wollondilly Shire Council objected to the planning proposal, advising the rezoning

- Is not consistent with Wollondilly 2040 Local Strategic Planning Strategy (LSPS)
- Will impact the timely delivery of critical infrastructure needed for Wilton
- Has been planned and progressed without consultation with the elected Council and the Wollondilly community

It should also be noted Water NSW advised they are not able to support the proposal in its current form as it is potentially too intensive in the vicinity of the Upper Canal Corridor. They also suggest has not been effective consideration of the Canal in the designs and planning controls proposed.

The table of agency submissions (**Attachment E**) outlines the issues raised in each submission including these two objections and the Department's response to the issues raised.

On 21 April 2023, the PLUS wrote to EHG to consult under section 3.25 of the Act and provided further information on 4 May 2023.

EHG provided a response to the PLUS on 16 May 2023. Key concerns raised have all been adequately addressed and included:

- Noting that parts of the 'OSO2 Corridor Option', 'Transit Corridor' and 'Indicative East-West Road' are not part of the Cumberland Plain Conservation Plan (CPCP) Certified-Urban Capable land. They will require environmental assessment under the *Biodiversity Conservation Act 2016* for any biodiversity impacts.
- Proposed zone boundaries should be reviewed to ensure that all the CPCP Avoided and Strategic Conservation Area (SCA) is zoned C2-Environmental Conservation.
- Koala Corridors should match the C2 zoned land and CPCP protected Koala Habitat, and
- Additional Permitted Uses should not be allowed on land identified under the CPCP as Avoided, protected Koala Habitat or Potential Restoration for Protected Koala Habitat.

A response to these matters is provided in section 4.15 of this report.

3.3 Post-exhibition changes

The Department (PLUS) has made several post-exhibition changes to the draft LEP to respond to issues raised in submissions and due to the PLUS' detailed finalisation assessment. The tables below outline these changes. It should be noted there were a few administrative changes because of legal drafting and mapping specifications, these minor administrative changes are not discussed below. No re-exhibition is required as all the changes are:

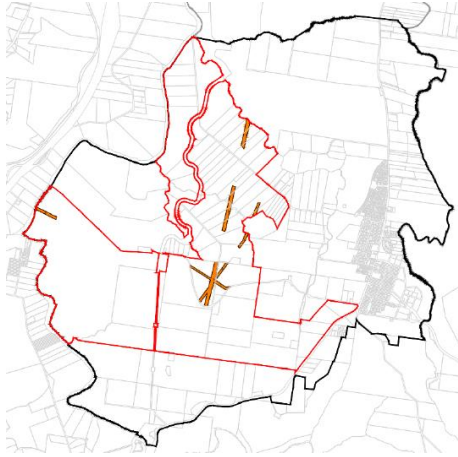
- minor in nature
- implement the intent of the proposal
- address issues raised in submissions.


3.3.1 The Department's recommended changes

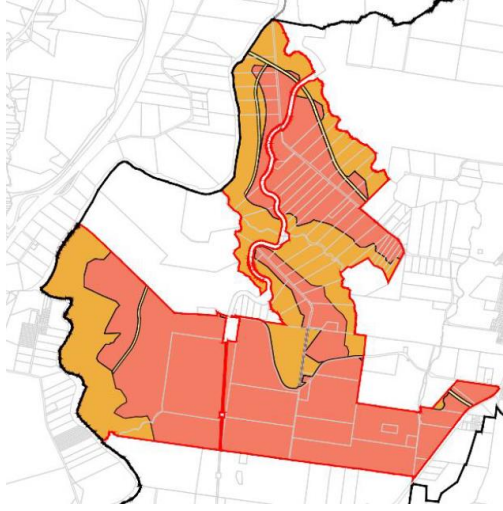
Table 4 outlines post exhibition changes to the exhibited maps.

Table 5 outlines post exhibition changes to the proposed written provisions.

Table 4 Post exhibition changes to maps

Map title	Exhibited Map	Final Map
Additional Permitted Uses (APU)	<p>The exhibited APU Map was to allow additional land uses on land mapped as C2 Environmental Conservation and outside a koala corridor. Outside the koala corridors there is more flexibility in what land uses could be allowed.</p> <p>The exhibited map showed additional uses being proposed in cleared easements.</p> 	<p>Following further consultation, it has been confirmed that all the proposed C2 land within the rezoning site is anticipated to be within the koala exclusion fencing. Therefore, there is no 'left over' C2 land where additional permitted uses could apply and as such, there is no APU map.</p>

Map title	Exhibited Map	Final Map
<p>Koala Corridors Map</p>	<p>The exhibited map was originally titled “Clause Application Map” and identified land to which the proposed associated concurrence clause would apply.</p> <p>Development consent must not be granted unless the consent authority has obtained the concurrence of the Planning Secretary for areas identified on this map.</p>	<p>The exhibited map has been amended to include all the proposed C2 land in the rezoning site, to:</p> <ul style="list-style-type: none"> - be consistent with the CPCP Sub Plan B commitment that ‘corridor F’ will be accessible to koalas. This also implements OCSE Advice on the protection of the Campbelltown Koala population 2020 which says, <i>‘the habitat in Corridor F should be protected including with exclusion fencing to minimise risks from threats, and with monitoring of risks to avoid a population sink.’</i> Given this, the map has been amended to include Corridor F, and - include vegetation south of Ousedale Creek (Corridor E), <p>Further, the map name has changed to ‘Koala Corridors Map’, and individual labelling of each corridor has been replaced with a single ‘koala corridor’ label in the map legend.</p>
<p>Land Application Map and Lot Size Map</p>	<p>The exhibited map included seven additional lots which were not part of the proposed rezoning site.</p>	<p>These seven lots (outlined in blue) have been removed from the relevant maps</p> 

Map title	Exhibited Map	Final Map
Land Zoning Map	<p>The exhibited zone map included SP2 Infrastructure for the Outer Sydney Orbital Stage 2 and an East-West connection.</p> 	<p>The SP2 zone is no longer proposed. Instead, a new Transport Corridors Map will show indicative transport corridors being the Outer Sydney Orbital Stage 2 and an east-west connection. The change is in response to comments provided by TfNSW post exhibition.</p>
Transport Corridors Map	<p>This is a new map which was not included in the exhibition material with the planning proposal.</p>	<p>As discussed above, this new map is in response to discussions with TfNSW post exhibition and provides a link to the transport corridors concurrence clause to be inserted into the WPC SEPP.</p> <p>There may be further refinements to the Transport Corridors Map as further planning for the regional road network progresses.</p>
Heritage Map	<p>The exhibited Heritage Map showed both Local and State Heritage Register listings.</p>	<p>This final map only shows local heritage items.</p> <p>The change is to seek a consistent approach that only local heritage items are shown on the Growth Area SEPP maps. State heritage items can be included on the precinct structure plan as an important masterplanning consideration.</p> <p>The State Heritage listed Appin Cultural Masscare Listing is partly located within the site. Details of this and all other state heritage listed items, can be found on the Heritage NSW website here.</p>

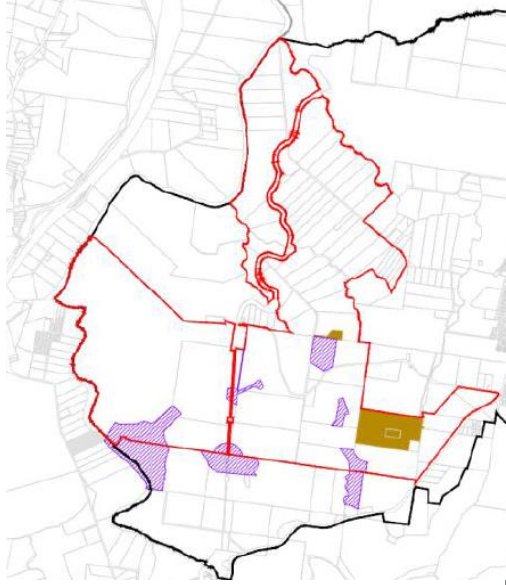
Map title	Exhibited Map	Final Map
		
Sequencing Development Map	A map was provided which showed release area 1 as a separate mapping layer to the rest of the Appin (part) precinct.	As there is no link between this proposed map and the Precinct Plan, this map is not needed.

Table 5 Post exhibition changes to the draft instrument (draft LEP).

Provision title	Exhibited provision	Final instrument
Aims of Precinct Plan	The planning proposal sought aims for the Appin (part) Precinct largely informed by existing aims in the WPC SEPP.	<p>In addition to the proposed aims the draft LEP now includes ‘to protect and enhance Aboriginal cultural heritage and environmental heritage</p> <p>Also, the draft LEP could not refer to the Appin Precinct Structure Plan as it has not yet been finalised and adopted by the Secretary. Instead, the plan refers to the three Greater Macarthur strategic documents. The three documents the aims refers to are,</p> <ul style="list-style-type: none"> • Greater Macarthur 2040 Interim Plan (November 2018) • Structure Plan (November 2022) • Guide to the Greater Macarthur Growth Area. (November 2022) <p>Once the precinct structure plan has been finalised and adopted by the Planning Secretary, PLUS will investigate whether the aims need to be updated. This is an administrative consequential amendment and would not require any further public exhibition.</p>
Suspension of covenants, agreements and instruments	The planning proposal sought to include a standard clause suspending covenants, agreements and instruments.	This clause has been removed from the instrument as approval is required from the Governor. The Department will progress the insertion of this standard clause following determination of the draft LEP as this is largely an administrative step for this proposal. Further public exhibition to insert this clause into the Precinct Plan is not considered necessary.
Consideration of Development Applications	The planning proposal sought to insert a clause requiring Council to refer DA’s in the UDZ to the Planning Secretary	The requirement for the consent authority to refer these DA’s has been removed as this is considered to be a local development matter and its removal will streamline the development assessment process.
Concurrence of Transport for NSW	None exhibited.	As noted above, in conjunction with the Transport Corridors map, an associated concurrence clause has been inserted into the draft LEP requiring the concurrence of TfNSW prior to the granting of development consent for land identified in or near an identified transport corridor. Further explanation on this clause is provided in section 4.1.2 of this report.
Consideration of Development Applications –	None exhibited.	Approvals have been issued to extract the coal using longwall mining techniques over the north western part of the site.

Provision title	Exhibited provision	Final instrument
Mining operations		As a result, a clause into the draft LEP has been added requiring development consent must not be granted unless the consent authority is satisfied that mining operations (within the meaning of the <i>Mining Act 1992</i>) under the land have completed.
Land Use Table	In accordance with the final TAP advice, the Planning Proposal sought to insert 'oyster aquaculture' and Flood Mitigation Works as a permissible use in the C2 zone.	<p>Further investigation has confirmed that the draft LEP is not bound by the Standard Instrument, therefore 'oyster aquaculture' is not a mandatory use in a C2 zone and has been removed.</p> <p>Following further consultation with EHG and the Department's Resilience and Urban Sustainability Team (who manage the CPCP), 'Flood Mitigation Works' have now been removed.</p> <p>Further, an additional provision has been included in the draft LEP, that clarifies that the definition of 'environmental facilities' does not include buildings.</p>
Deferred commencement	The planning proposal did not include a deferred commencement in the exhibition material.	A deferred commencement clause has now been added (15 December 2023). This is to provide more time for the State Planning Agreement to be further progressed.
Subdivision and Minimum Lot Size	The planning proposal included controls for subdivision of land on which a secondary dwelling is situated, in consideration of the Minimum Lot Size map.	As the MLS map only applies to the C2 land, there is no role for this provision, and it has been removed from the final draft LEP. Further, the minimum lot size controls clarify that they only apply to land shown on the MLS map, i.e. C2 zoned land and not the UDZ.
Precinct Structure Plan	The exhibited provision did not specify what must be shown on the Precinct Structure Plan.	<p>This requirement has been revised since exhibition to clarify what the Precinct Structure Plan must include, such as open space and height of buildings.</p> <p>The clause seeks to provide flexibility in the approach to finalising the Precinct Structure Plan so that amendments to the clause are not required should an alternative be supported for adoption by the Planning Secretary.</p>
Development Control Plan	The planning proposal did not include this proposed clause in the exhibition.	The draft LEP implements what currently appears in section 6.3 of the Wollondilly LEP. Development consent will not be granted for development on land unless a development control plan has been prepared in accordance with the requirements of the draft LEP.

Provision title	Exhibited provision	Final instrument
Additional Permitted Uses	The exhibited material sought additional permitted uses for C2 land that did not form part of a koala corridor.	As noted above, due to amendments to the koala corridors map, all C2 in the rezoning site will be included on the Koala Corridors Map and there is no additional C2 land for any additional permitted uses. Further, there is now an additional permitted use to ensure that roads are permissible where mapped on the Transport Corridors Map.
Architectural roof features	The exhibited proposal allowed roof features to exceed the height limit.	Building heights will be included on the Precinct Structure Plan, therefore this provision is no longer needed.
Affordable Housing	The exhibited proposal sought to enable satisfactory arrangements to be made for the provision of affordable housing.	To achieve this, a clause similar to the existing section 8.4 of the Campbelltown LEP has been prepared. This is to ensure that at least 5% of Residential Gross Floor Area will be used to provide affordable housing for any attached dwellings, multi-dwelling housing, residential flat buildings and shop top housing.
Greenfield Housing Code	The planning proposal alluded to a new code will be prepared for the Appin and North Appin Precincts.	PLUS has worked with the proponent and Council to confirm that the Wilton variation to the Greenfield Housing Code and the Low-rise Diversity Housing Code will apply to the site. This is to be achieved once the Precinct Structure Plan is finalised and in force, as certain complying development criteria requires the differentiation of low and medium density housing. It is not anticipated that any additional public exhibition is required to implement the complying code pathway to the site.

4 Department's (PLUS) assessment

The planning proposal has been subject to detailed review and assessment through the Department's Gateway determination (**Attachment B**), and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

The following reassesses the planning proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

As outlined in the Gateway determination report (**Attachment C**), the planning proposal submitted to the Department for finalisation:

- Remains consistent with the regional and district plans relating to the site
- Remains consistent with the Greater Macarthur Growth 2040 Interim Plan (2018) and the Growth Area Structure Plan (November 2022)
- Remains inconsistent with the Council's Local Strategic Planning Statement

- Remains inconsistent (or justifiably inconsistent) with some relevant Section 9.1 Directions
- Remains consistent with all relevant SEPPs

The following tables (**Tables 6 and 7**) identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 4.1.

Table 6 Summary of strategic assessment

	Consistent with Gateway determination report Assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
District Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Strategic Planning Statement	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
Section 9.1 Ministerial Directions	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

Table 7 Summary of site-specific assessment

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Environmental impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

4.1 Detailed assessment

The following section provides details of the Department's (PLUS) assessment of key matters and provides further discussion on recommended revisions to the planning proposal post exhibition.

4.1.1 Ministerial Directions

PLUS has reviewed the planning proposal against the Ministerial Directions. In addition to the Ministerial Directions already discussed in the Gateway determination report, the proposal is assessed to be consistent with the Directions, except for:

PLUS has reviewed the planning proposal against the Ministerial Directions. In addition to the Ministerial Directions already discussed in the Gateway determination report, the planning proposal is assessed to be consistent with the Directions, except for:

Direction 1.4 Site Specific Provisions

The objective of this direction is to discourage unnecessarily restrictive site-specific controls.

The draft LEP seeks to introduce several site-specific provisions, which will ultimately be rolled out across the broader Appin Precinct and Greater Macarthur Growth Area.

The inconsistency is justified as the proposed site-specific provisions are all required to achieve the strategic vision of the Greater Macarthur Growth Area, particularly to deliver the suite of koala corridor protection measures.

Table 5 above outlines the justification for post exhibition changes reflected in the draft instrument and addresses the justification for a number of site-specific provisions (such as the transport corridors, affordable housing, etc). It should be noted many of these provisions will be rolled out across the entire Greater Macarthur Growth Area, over time as land is rezoned.

There is also a consequential amendment proposed to the Environmental Planning and Assessment Regulation 2021, which will include the Appin (part) Precinct to an existing regulation 35, which will require future Development Applications to be accompanied by an ‘assessment of consistency’ against the final Precinct Structure Plan. The Department will progress this amendment to the EP&A Regulation later in 2023.

Direction 3.6 Strategic Conservation Planning

This Ministerial Direction’s main objective is to protect, conserve or enhance areas with high biodiversity value. It applies to land that, under the State Environmental Planning Policy (Biodiversity and Conservation) 2021, is identified as avoided land or a strategic conservation area.

PLUS has confirmed that the proposed C2 zone boundary aligns to land identified as avoided land or a strategic conservation area in the CPCP, and therefore is consistent with this Direction.

Direction 4.1 Flooding

This direction is created to ensure that development of flood prone land is consistent with the NSW Government’s Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005. It applies when preparing a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.

This direction applies as the proposal seeks to alter a zone on flood prone land.

The planning proposal is inconsistent with this direction as it will rezone small portions of flood Planning area from a rural zone to the Urban Development Zone.

PLUS considers the inconsistency to be justified and of minor significance as most lands below the 1% Annual Exceedance Probability (AEP) will not be developed for urban purposes. Parks, conservation areas and the like are appropriate on land below the 1% AEP and the uses proposed in these locations will be re-examined in the DCP and structure planning for the site to confirm that residential uses are not located within the 1% AEP and Probable Maximum Flood.

Direction 4.3 Planning for Bushfire Protection

This direction applies where a planning proposal will affect or is in proximity to land mapped as bushfire prone. The Gateway determination report advised a strategic bushfire study supporting this proposal concludes there is capacity for the future development with bushfire protection measures that meet the requirements of *Planning for Bushfire Protection* 2019, (PBP) and that most of the proposed urban development will be located outside of bushfire prone land. Consequently, the Gateway determination (**Attachment B**) included a condition to consult the NSW RFS.

PLUS has met with NSW Rural Fire Service on several occasions since and they also provided a submission on the proposal. NSW Rural Fire Service did not object to the proposal. They did however, request consideration of the relocation of the NSW Rural Fire Service Brigade Station for a new fire station. This may be negotiated in a proposed State Voluntary Planning Agreement. If agreed, the site for a relocated fire station will be further explored in the precinct structure plan

stage. PLUS is satisfied that the planning proposal is consistent with Ministerial Direction 4.3 Planning for Bushfire Protection.

It should also be noted the Department has also previously completed a strategic bushfire study for the Greater Macarthur Growth Area. The Strategic Bushfire Study examines whether the Greater Macarthur Growth Area is appropriate in the bushfire risk context or whether it represents 'inappropriate development' as per Planning for Bushfire Protection, and the strategic implications of future development for bushfire mitigation and management. This report suggests the Greater Macarthur Growth Area is not considered to have a significantly high bushfire risk context; it has good capacity for the provision of bushfire protection measures and will provide a low risk setting for a large proportion of the future development.

The proponent also completed a Bushfire Evacuation Traffic Study and a Bushfire Strategic Study for Appin. These were placed on exhibition with the planning proposal. The strategic study concludes that the site is in a bushfire landscape that is moderated through various mitigation advantages, with a decreasing risk profile due to planned urban growth, along with the precinct's capacity for the provision of appropriate bushfire protection measures. Furthermore, the evacuation study also advised based on the worst-case scenario assessment, subject to timely decisions to commence the evacuation, the proposed road network has sufficient capacity to facilitate the evacuation of the number of residents planned in the Appin and North Appin Precincts.

Direction 8.1 Mining, Petroleum Products and Extractive Industries

The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

Longwall mining has been completed for most of the site. This Direction is relevant as five small longwalls remain to be mined (**Figure 2** below). They are located beneath Macquariedale Road and cover the north west portion of the site. The proposal states extraction could take place between 2035 and 2040. The mining would be constrained by the Nepean River, Ousedale Creek, Upper Canal and gas pipelines.

Consultation with the Division of Resources and Geoscience of the Department of Regional New South Wales has now been completed in accordance with the Gateway determination. A submission on the proposal was provided as part of the exhibition. The advice included measures to avoid or minimise any incompatibility with future mining uses in the site's immediate vicinity should be used. The draft LEP includes a provision requiring the consent authority to be satisfied that mining operations (within the meaning of the *Mining Act 1992*) have been completed prior to granting development consent over the land.

A submission on the proposal was provided as part of the exhibition from New South Wales Subsidence Advisory. Advice noted the site is located within a Mine Subsidence District and that future development (including subdivision) may require further consultation with the title holder regarding mining impacts at the Development Assessment stage.

PLUS notes that future development will also require approval from New South Wales Subsidence Advisory.

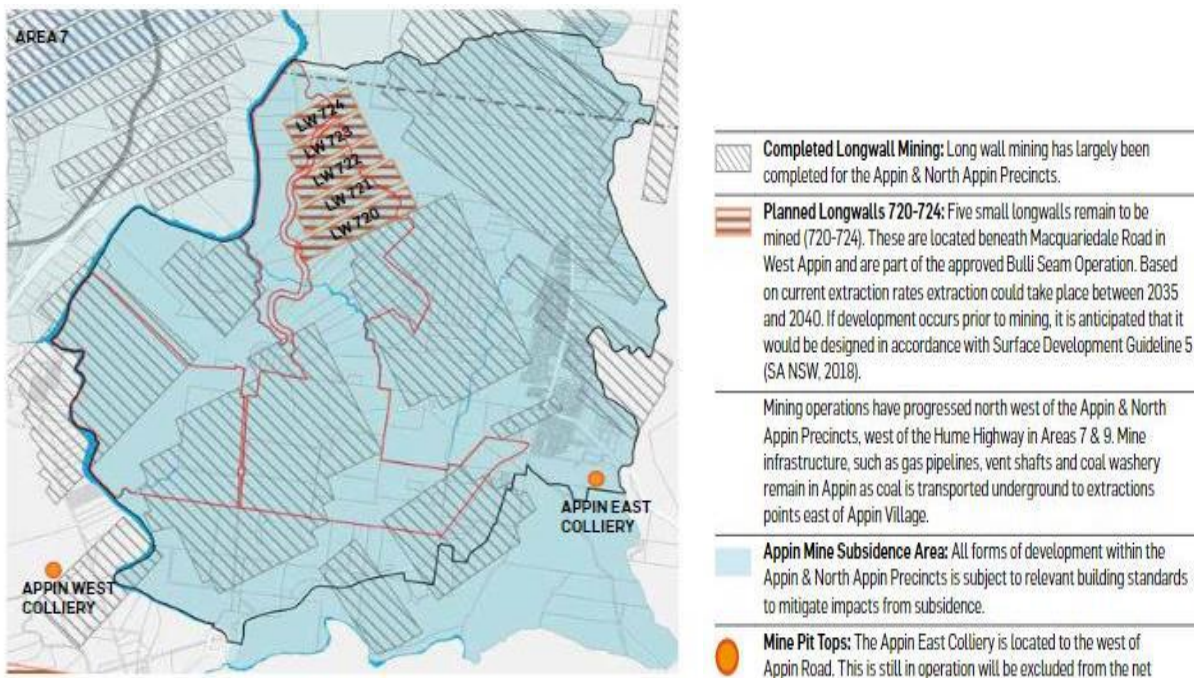


Figure 2 – Planned Longwall Mining in the Appin precinct

4.1.2 Removal of SP2 zoning and new Transport Corridors Map

The exhibited maps as part of this planning proposal identified SP2 zoning for two transport corridors on the land zoning map. These included an east-west road and the OSO2 within the Appin (part) precinct. The SP2 zoning of these corridors no longer forms part of the land zoning maps to be inserted into the SEPP. The reason for this change is explained below.

Role of Transport Corridors Map

The Transport Corridors Map will indicate the location of key arterial and sub-arterial roads required in the future instead of having a SP2 Infrastructure applied to these corridors on the land zoning map. This approach has already been implemented in Part 4.4 – Development Controls – general 4.27 Transport Corridors, for land subject to the Western Sydney Aerotropolis in the Western Parkland City SEPP. There is the potential for additional roads to be included on this map, as a result of the outcomes of the Transport Management and Accessibility Plan. This Transport Corridors Map is an overlay and will be supported by a provision requiring the concurrence of Transport for NSW in certain circumstances. This provision is aimed at protecting transport corridors by requiring Transport for New South Wales to provide concurrence to development that has the potential of preventing roads from being built on land identified on the transport corridor map.

Outer Sydney Orbital Stage 2 (OSO2) as shown on the exhibited precinct plan

The location of the OSO2 was shown in the updated *Greater Macarthur Structure Plan (November 2022)*. This proposed road will provide long-term transport connections between Western Sydney and the Illawarra-Shoalhaven region, and the proposed alignment goes through the Appin (part) Precinct.

The OSO2 is no longer being showed as SP2 Infrastructure on the land zoning map, as noted above. Instead, it will be shown as an overlay in the Transport Corridor Map and supported by a SEPP provision requiring Transport for New South Wales concurrence.

It should also be noted that the alignment of the OSO2 may be amended as further refinement of the regional road network is undertaken. The Department will ensure that the Transport Corridors

Map is updated accordingly to align to the NSW Governments position. Minor adjustments would not be anticipated to require further public consultation, however the Department will work with TfNSW to confirm any necessary exhibition requirements.

Indicative East-West Road

A proposed East-West road was shown in the exhibited planning proposal with a SP2 zoning. Following consultation with TfNSW, this road has been included on the Transport Corridors Map. As noted above, refinements to this road corridor may be required as further planning is undertaken to understand the regional road network. The Department understands that the intention is for there to be a single crossing of the Nepean River, and that this crossing will be for the OSO2 and that the proposed East-West road may potentially connect to the OSO2.

Transit corridor to be included on the Transport Corridor Map

The location of the transit corridor is indicatively shown in the Greater Macarthur Structure Plan. This proposed new road will link Appin to Macarthur in the north. This road is shown on the Transport Corridor Map and supported by a SEPP provision requiring Transport for New South Wales concurrence as discussed above. Further refinements to the corridor may be made as planning for the regional road network continues.

Zoning map changes due to the removal of SP2 zoned corridors

As SP2 corridors are no longer shown on the land zoning maps, an Urban Development Zone or C2 zoning will replace the former proposed SP2 zoning based on the CPCP. Where land is shown as certified in the Cumberland Plain Conservation Plan, land formerly shown as SP2 will be zoned Urban Development Zone. Where land is shown as non-certified, excluded or avoided it will be zoned C2 Environmental Conservation.

4.1.3 Cumberland Plain Conservation Plan

The Cumberland Plain Conservation Plan (the CPCP) was approved under the NSW *Biodiversity Conservation Act 2016* (BC Act) in August 2022. This approval removes the requirement for landholders on land identified under the CPCP as “certified – urban capable land” to seek their own biodiversity approvals under the BC Act for development as long as that development complies with CPCP planning controls. Further information on these controls can be found in the Strategic Conservation Chapter of the State Environmental Planning Policy (Biodiversity and Conservation) 2021.

The NSW government has also submitted the CPCP to the Commonwealth Government for consideration under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). As of the completion of this assessment report for the Appin (part) Precinct, the CPCP has not received relevant approval under the EPBC Act. As such, while landholders can submit development applications, seek subdivision, start master planning or impact State listed threatened species authorised under the CPCP, impacts to matters of national environmental significance (MNES) are currently not permitted. If MNES are likely to be present on certified - urban capable land, landholders must seek their own individual approvals from the Commonwealth under the EPBC Act, until such a time as the CPCP is determined.

The Cumberland Plain Conservation Plan identified three land categories to guide where future development can occur:

- Certified - urban capable
- Non-certified: avoided
- Non-certified: excluded

The planning proposal is consistent with the Cumberland Plain Conservation Plan. The Department notes that the Cumberland Plain Conservation Plan has demonstrated consistency with the Office of the Chief Scientist and Engineer advice in relation to the protection of koalas.

Office of the Chief Scientist and Engineer has published a report titled *Advice on the protection of the Campbelltown Koala population* (dated April 2020).

https://www.chiefscientist.nsw.gov.au/__data/assets/pdf_file/0005/318830/Koalas-Advice-Final.pdf

The Department requested further advice to clarify certain matters. This advice was provided in a report titled *Response to questions about advice provided in the Koala Independent Expert Panel Report 'Advice on the protection of the Campbelltown Koala population* (dated February 2021

https://www.chiefscientist.nsw.gov.au/__data/assets/pdf_file/0005/485924/OCSE-Response-to-questions_Campbelltown-Koalas-Feb-2021.pdf). The Department subsequently sought further

advice regarding the Cumberland Plain Conservation Plan. That second advice was provided in a report titled *Advice regarding the protection of koala populations associated with the Cumberland Plain Conservation Plan* (dated May 2021

https://www.chiefscientist.nsw.gov.au/__data/assets/pdf_file/0006/485925/Report-2_CPCP-and-principles-for-koalas_May-2021.pdf).

This report is not assessing the Cumberland Plain Conservation Plan. Various publications are available which outline how the Cumberland Plain Conservation Plan is consistent with the Office of the Chief Scientist and Engineer advice. For example:

- The koala corridor methodology is described in the following link, [planning.nsw.gov.au/-/media/Files/DPE/Reports/Policy-and-legislation/strategic-conservation-plan/Cumberland-Plain-Conservation-Plan-functional-koala-corridors-report-2021.pdf?la=en](https://www.planning.nsw.gov.au/-/media/Files/DPE/Reports/Policy-and-legislation/strategic-conservation-plan/Cumberland-Plain-Conservation-Plan-functional-koala-corridors-report-2021.pdf?la=en) but essentially follows a process to ensure that the protected functional koala corridor is an average minimum width of 390m.
- And more generally, the following fact sheet on “protecting koalas” which was published August 22 on release of the plan, <https://www.planning.nsw.gov.au/-/media/Files/DPE/Factsheets-and-faqs/Policy-and-legislation/Strategic-conservation-planning/fact-sheet-CPCP-protecting-koalas-202208.pdf>

Additional comments have been provided in 4.1.4 below.

The Biodiversity Assessment notes that biodiversity impacts on certified urban capable land requires no further assessment as it was assessed under the Cumberland Plain Conservation Plan certification process.

While the revised proposal will now not rezone land for SP2 (and a transport corridor overlay is proposed instead), it is understood that future transport corridors will be partially located on avoided lands. The Outer Sydney Orbital Stage 2 crosses certified and avoided land. A crossing of the Nepean River will be required for the Outer Sydney Orbital Stage 2. The Cumberland Plain Conservation Plan has provisions and guidelines to guide the process in these circumstances. Any impact to the Cumberland Plain Conservation Plan will need to be assessed, and mitigation provided as required.

The site includes land which is not certified and is ‘excluded’ from the CPCP. As this land does not benefit from the Cumberland Plain Conservation Plan strategic biodiversity certification, approvals from the state and the federal government will be required at the development application stage.

While the planning proposal identified a potential modification to the Cumberland Plain Conservation Plan (and associated alternative zoning), the Department is not considering this proposed modification as part of this rezoning finalisation assessment. Any modification of the Cumberland Plain Conservation Plan is subject to an independent process outside of the planning

proposal process. If the proposed modification to the Cumberland Plain Conservation Plan (as suggested from page 204 of the planning proposal) is granted approval, the Department (PLUS) anticipates that further public consultation to give effect to the associated zoning changes will not be necessary.

4.1.4 Consistency with the advice of the Office of the Chief Scientist and Engineer

As noted above, while the planning proposal is consistent with the Cumberland Plain Conservation Plan and therefore consistent with the advice and recommendations of the Office of the Chief Scientist and Engineer, further commentary is provided below.

Koala corridors

As mentioned earlier in this report. The site will provide new C2 land to deliver parts of the following koala corridors that cross the site:

- Nepean River Corridor
- Corridor E along Ousedale Creek

It should be noted that these corridors cross multiple landholdings which are not part of this proposal. Koala corridors are mapped on the 'Koala Corridors Map' and have a restricted list of permissible uses which implement the Office of the Chief Scientist and Engineer advice through the planning system. Development consent for any development in a koala corridor will be subject to the development assessment process which includes obtaining the Planning Secretary's concurrence and addressing the matters published in the Guide to the Greater Macarthur Growth Area November 2022 (page 18):

Relevant considerations a Development Application will need to address include:

- *if native vegetation is proposed to be cleared,*
- *the size of the development and the consequential loss of land in the koala corridor available for revegetation,*
- *accessibility from the adjoining land for construction and maintenance,*
- *any mitigation measures such as revegetation, and*
- *consistency with the NSW Chief Scientist's advice and recommendations.*

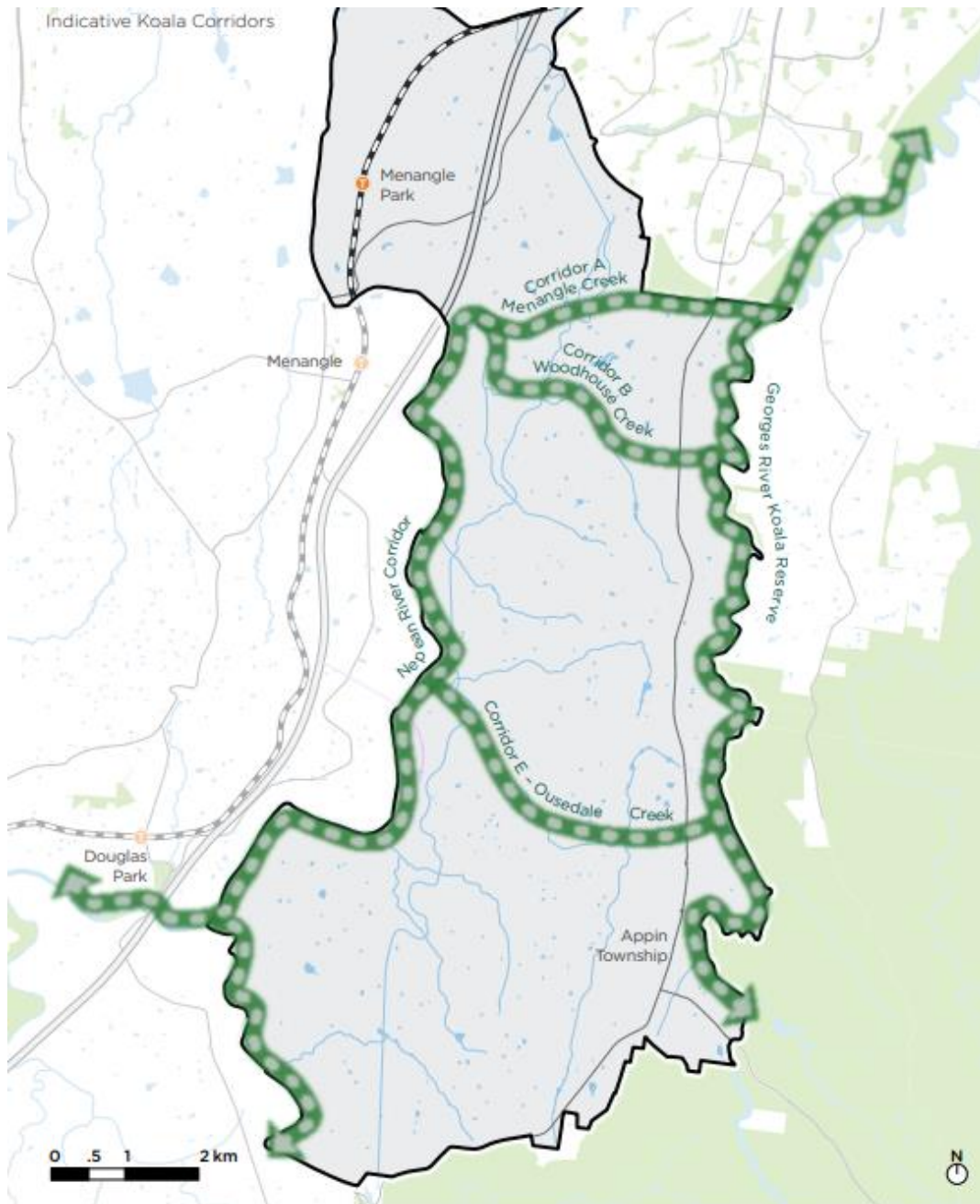


Figure 3 – Greater Macarthur Growth Area indicative Koala Corridors (DPE 2021, page 4)

Corridor F

The Department notes that the Office of the Chief Scientist and Engineer report recommends:

- *The habitat in Corridor F should be protected including with exclusion fencing to minimise risks from threats, and with monitoring of risks to avoid a population sink.*
- *While Corridor F contains a considerable area of koala habitat that enhances the functionality of the Nepean River Corridor to support koala populations, it does not provide a link towards the east. Therefore, the Panel agrees with the draft CPCP preferred approach for the koalas in this area to be protected from threats using exclusion fencing and buffers.*

This advice was implemented through the Cumberland Plain Conservation Plan's Sub Plan B.

Corridor F (along Elladale and Simpson Creeks) does not provide any east-west link between the Nepean and Georges River Corridors but does enhance the Nepean River Corridor. Therefore, while it is called 'Corridor F' and has been included on the koala corridors map, it is not applicable to the koala corridor transect methodology. The koala corridor concurrence clause applies to any proposed development on this land.

Connectivity and infrastructure

The proposed transport corridors will need to cross mapped Koala corridors in certain locations.

The Department is continuing to work with Transport for New South Wales to ensure any detailed design of roads ensures koala can still move through the mapped corridors. Further engagement with Water New South Wales will ensure any fencing will enable koalas to be able to continue through the landscape under Water New South Wales assets (that is, where the canal is an elevated pipe across creeks).

The Department notes that work has commenced to ensure a suitable crossing structure (e.g. culvert) at Appin Road to facilitate east-west movement along Corridor E (Ousedale Creek) to connect to the Nepean River Corridor in the west and the Georges River corridor to the east. A review of environmental factors report for an Appin Road crossing was exhibited by Transport for New South Wales from 25 January to 24 February 2023. Further information on this proposal is available to view at the following link <https://www.transport.nsw.gov.au/projects/current-projects/appin-road-improvements>.

Considerations for the future Precinct Structure Plan and DCP

The Department will ensure any Asset Protection Zones are outside of koala corridors. The Asset Protection Zones must be located in the Urban Development Zone to be consistent with the advice of the Office of the Chief Scientist and Engineer. See **Figure 3** below.

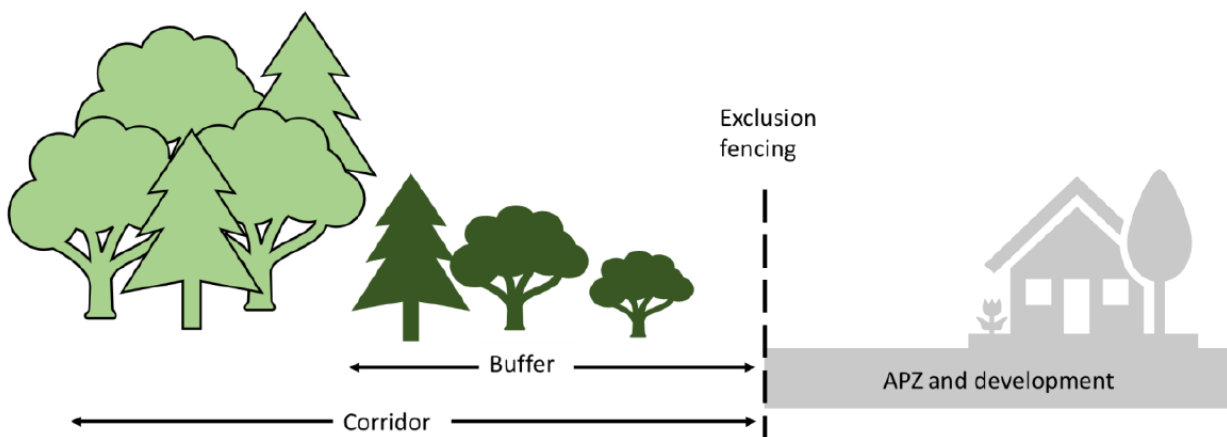


Figure 4 – Koala Corridor model cross section (OCSE, 2021 page 17)

Asset Protection Zones are part of the proposed Urban Development Zone and will not be located within the koala corridors.

4.1.5 – Response to EHG comments made during s3.25 consultation.

As noted in Section 3.2 above, EHG provided comments following consultation under s3.25 of the Act. The key comments are tabled below with how PLUS has addressed these. The comments have been adequately addressed.

Comment	How comments have been addressed
<p>EHG noted that parts of the 'OSO2 Corridor Option', 'Transit Corridor' and 'Indicative East-West Road' are not part of the Cumberland Plain Conservation Plan (CPCP) Certified-Urban Capable land. As such, they will require environmental assessment under the <i>Biodiversity Conservation Act 2016</i> for any biodiversity impacts.</p>	<p>While not a matter for this rezoning, TfNSW is aware that further biodiversity assessments will be required for transport corridors to be constructed in land zoned C2 Environmental Conservation.</p> <p>As noted above, roads are not permissible in the C2 zone. The draft LEP makes provision for roads to be a permissible use only where they are mapped on the Transport Corridors Map.</p>
<p>Proposed zone boundaries should be reviewed to ensure that all the CPCP Avoided and Strategic Conservation Area (SCA) is zoned C2-Environmental Conservation.</p>	<p>PLUS has consulted the relevant teams in the Department and confirmed the CPCP data set has been used to inform the new zone maps for the site.</p>
<p>Koala Corridors should match the C2 zoned land and CPCP protected Koala Habitat.</p>	<p>Since exhibition, PLUS has further consulted the Resilience and Urban Sustainability Team (who manage the CPCP) and confirmed the intended location of the koala exclusion fencing for the growth area. This includes all the land proposed to be zoned C2.</p> <p>The Koala Corridors Maps have been updated accordingly.</p>
<p>Additional Permitted Uses should not be allowed on land identified under the CPCP as Avoided, protected Koala Habitat or Potential Restoration for Protected Koala Habitat.</p>	<p>As all land proposed to be zoned C2 is now mapped on the Koala Corridors Map, there is no additional C2 land within the site which has additional permitted uses proposed.</p>

4.1.6 - Local Strategic Planning Statement

The proposal does not strictly align with the Wollondilly 2040 Local Strategic Planning Statement. The need for critical infrastructure is the reason that Council sees Appin as a long-term prospect and continues to advocate for Wilton as the priority growth area. However, the Department notes that requirement 3(b) and 5 of Council's Local Housing Strategy approval requires council to update this document to reflect the outcomes of the Appin Technical Assurance Panel program and strategic planning directions for Greater Macarthur Growth Area precincts of Appin and North Appin. The Technical Assurance Panel program was completed in July 2022. The Department also published updates to the Greater Macarthur 2040 Plan in December 2021 and November 2022.

The final Technical Assurance Panel advice notes that housing demand would exceed the current planned supply in the Western City District, including the Wilton and South West Growth Areas. This update and the findings on the Technical Assurance Panel outline the strategic planning direction of Greater Macarthur Growth Area. Statements referring to Greater Macarthur being delivered after 2041 are now superseded as endorsed State-led strategies or plans prevail.

5 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

Table 8 Consultation following the Department’s assessment

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	6 SEPP maps across 22 map tiles (and associated amendments where relevant to the Campbelltown and Wollondilly LEP maps) have been prepared by the Department’s ePlanning team and meet the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Planning Secretary	The Planning Secretary was consulted on 9 June 2023 (Attachment D) regarding the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Parliamentary Counsel Opinion	On 21 June 2023, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at Attachment PC .	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Deputy Secretary Biodiversity Conservation and Science	On 21 April 2023, the Deputy Secretary Biodiversity Conservation and Science was consulted under clause 3.25 of the <i>Environmental Planning and Assessment Act 1979</i> on the proposed LEP. Further information was provided on 4 May 2023. The Deputy Secretary Biodiversity Conservation and Science responded on 16 May 2023. PLUS’ response to the comments provided is provided in section 4.15	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Office of Chief Scientist and Engineer	On May 1, 2023, the Office of the Chief Scientist and Engineer (OCSE) was further consulted. The OCSE replied on 26 May 2023 advising that while no new advice would be provided, briefings to discuss earlier advice could be arranged.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Water NSW	<p>On 30 May 2023, Water NSW was consulted on the draft instrument and mapping.</p> <p>Water NSW requested to revise the requirements of the Precinct Structure Plan (clause 6.1(2)) to show land proposed to be allocated for drainage reserves and stormwater management. An additional requirement has been included to address Water NSW's concerns.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Transport for NSW	<p>On 30 May 2023, TfNSW was consulted on the draft instrument and mapping. The Department notes (as previously discussed in this report) that future refinements to the Transport Corridors Map may be necessary as planning for the regional road network progresses.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Wollondilly Shire Council	<p>On 30 May 2023, Council was consulted on the draft instrument and mapping. Some final minor amendments were made in response to Council's comments.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Proponent (Walker Corporation)	<p>On 30 May 2023, the Proponent was consulted on the draft instrument and mapping. Some final minor amendments were made in response to Council's comments.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- The draft LEP has strategic merit being consistent with Western City District plan, the Greater Macarthur Growth Area 2040 Interim Plan (2018), and the updated Structure Plan and Guide (2022)
- It is consistent with the Gateway Determination
- Issues raised during consultation have been adequately addressed.

Naomi Moss

Manager Place and Infrastructure, Metro West
Planning and Land Use Strategy



Adrian Hohenzollern

Director, Western, Metro West
Planning and Land Use Strategy

Assessment officer

Lance Collison

Senior Planning Officer, Metro West
Planning and Land Use Strategy

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Attachments

Attachment	Document
Report	Plan finalisation report
A	Planning proposal
B	Gateway determination
C	Gateway determination report
D	Section 3.36(1) consultation with the Planning Secretary as Planning Proposal Authority
E	Summary of council, agency and utility submissions
PC	Parliamentary Counsel's Opinion
Maps	Draft SEPP maps
LEP	Draft LEP
Letters	Letters to the Secretary (as Planning Proposal Authority), Wollondilly Shire and Campbelltown City Council, and the proponent, advising of the decision
MCS	Map cover sheet