

Rezoning Review Briefing Report – RR-2023-13

10, 14 and 20 Brooks Point Road, Appin

Element	Description
Date of request	23 November 2023 (Adequate on 19 December 2023)
Department ref. no	RR-2023-13
LGA	Wollondilly
LEP to be amended	Wollondilly Local Environmental Plan 2011
Address	10, 14 and 20 Brooks Point Road, Appin (the site)
Reason for review	<div><input checked="" type="checkbox"/> Council notified the proponent it will not support the proposed amendment</div> <div><input type="checkbox"/> Council failed to indicate support for the proposal within 90/115 days, or failed to submit the proposal after indicating its support</div>
Has council nominated PPA role	No
Brief overview of the timeframe/progress of the planning proposal	<ul style="list-style-type: none">In September 2021, a meeting was held between the Department's Metro West team and Beveridge Williams and Clouston, on behalf of Appin Farmers and Auslands (the proponent), regarding a scoping proposal it was intending to lodge for land at 10, 14 and 20 Brooks Point Road Appin. The Department had discussed the draft Cumberland Plain Conservation Plan (CPCP) with the proponent and encouraged that any planning proposal be consistent with the CPCP.In May 2022, a scoping proposal was lodged with Wollondilly Council.On 21 July 2022, a pre-lodgement meeting was held between Council and Beveridge Williams and Clouston regarding a proposal it was intending to lodge for land at 10, 14 and 20 Brooks Point Road, Appin.On 23 August 2022, Council provided written advice that states; "the proposal in its current form is considered to have a range of inconsistencies with the LSPS and lacks critical infrastructure to have a strategic merit. Further justification would be required to justify the proposal with the rezoning considered premature in relation to the Greater Macarthur 2040 plan".On 20 December 2022, a revised planning proposal (Rev B) was lodged via the Planning Portal.In February to March 2023, the planning proposal was referred to agencies and placed on preliminary notification.On 1 June 2023, the planning proposal was considered by the

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	<p>Wollondilly Local Planning Panel (LPP). The LPP advised Council not to progress the draft Planning Proposal for Gateway in its current form and requested a suite of additional information be provided. This included revisions to the supporting Flora and Fauna Assessment, Traffic and Transport Study and Bushfire Assessment Report and the preparation of a flood impact and risk assessment.</p> <ul style="list-style-type: none">• On 12 September 2023, the revised planning proposal (Rev C) was submitted to Council, addressing advice provided by Council and the LPP.• On 28 November 2023, Wollondilly Council resolved that it does not support the planning proposal for a Gateway determination.• On 23 November 2023, the applicant lodged the subject rezoning review request with the Department. The rezoning review package was reviewed by the Department and considered adequate on 19 December 2023.
Department contact:	<p>Sung Pak sung.pak@planning.nsw.gov.au (02) 8289 6755</p>

Planning Proposal

Table 1. Overview of planning proposal

Element	Description
Site Area	Approximately 39 ha
Site Description	<p>The site consists of five allotments including Lots 1 and 4, DP 249446 and Lot 1 DP 584515 and Lot 3 DP 249446, known as 10, 14 and 20 Brooks Point Road, Appin (Attachment B).</p> <p>It is bounded by Brooks Point Road to the south, Appin Road to the east, Ousedale Creek to the west and bushland and some low-density residential developments to the north (Figure 1).</p> <p>The site area is approximately 39 hectares and is within the walking distance from the Appin Local Centre.</p> <p>The site is currently zoned RU2 Rural Landscape.</p>
Proposal summary	<p>The planning proposal seeks to amend the development provisions that apply to the subject site under the Wollondilly Local Environmental Plan 2011, as follows:</p> <ul style="list-style-type: none"> • Amend the Land Zoning Map to rezone land from RU2 Rural Landscape to R2 Low Density Residential and C2 Environmental Conservation • Amend the Minimum Lot Size Map from 40ha to 450m² in the proposed R2 Low Density Residential zoned area and maintain the 40ha Minimum Lot Size for the proposed C2 Environmental Conservation zoned area • Amend the Height of Building Map to introduce a maximum building height of 9m in the proposed R2 Low Density Residential zone • Amend Additional Permitted Uses Map and Schedule 1 to include public open space and drainage reserve within the proposed R2 Low Density Residential zoned area. <p>The planning proposal seeks to rezone the land to facilitate residential developments close to the Appin Local Centre. The planning proposal and supporting documents can be found in Attachment A1-A10.</p>
Relevant State and Local Planning Policies, Instruments	<ul style="list-style-type: none"> • Greater Sydney Region Plan: A Metropolis of Three Cities (2018) • Western City District Plan • Greater Macarthur 2040 • Greater Macarthur Growth Area Structure Plan 2022 • Wollondilly Local Strategic Planning Statement 2040 • Wollondilly Community Strategic Plan 2017 • Cumberland Plain Conservation Plan



Figure 1. Subject site (source: Planning Proposal, 11 September 2023 (Nearmap))

The planning proposal seeks to amend the Wollondilly LEP 2011 as shown in Table 2 below.

Table 2. Current and proposed controls

Control	Current	Proposed
Zone	RU2 Rural Landscape	R2 Low Density Residential, C2 Environmental Conservation
Maximum height of the building	Nil	9m (for proposed R2 zoned area)
Minimum lot size	40ha	450m ² (for proposed R2 zoned area)
Number of dwellings	1	Approximately 250 new dwellings

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The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

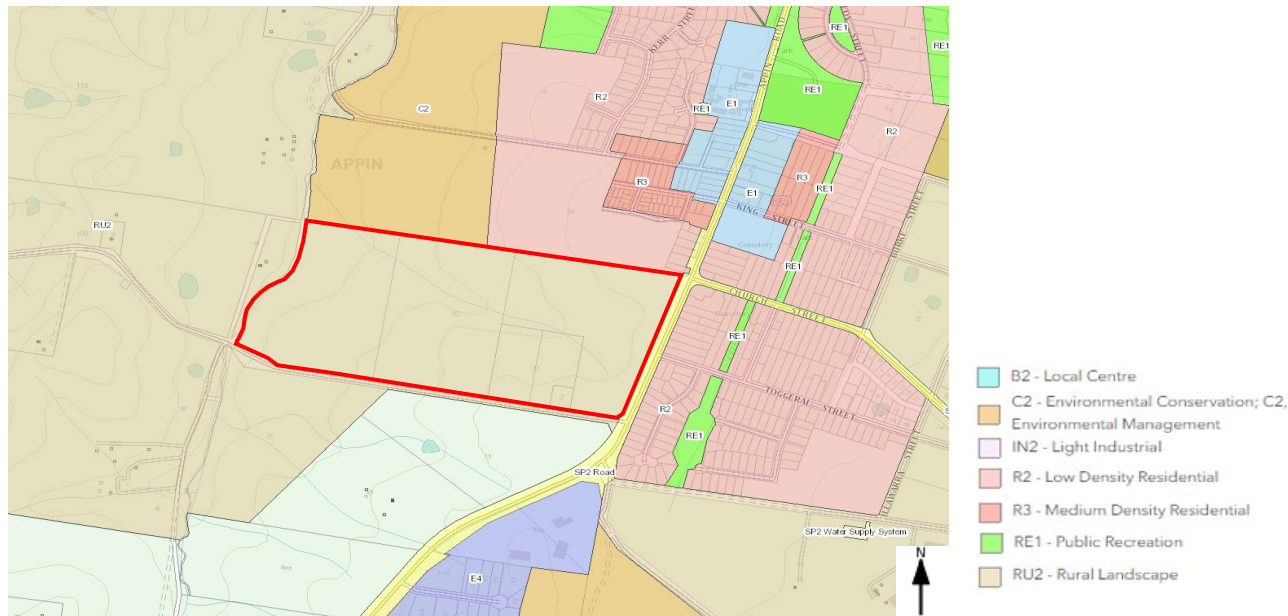


Figure 2. Current Land Zoning (source: NSW Planning Portal)

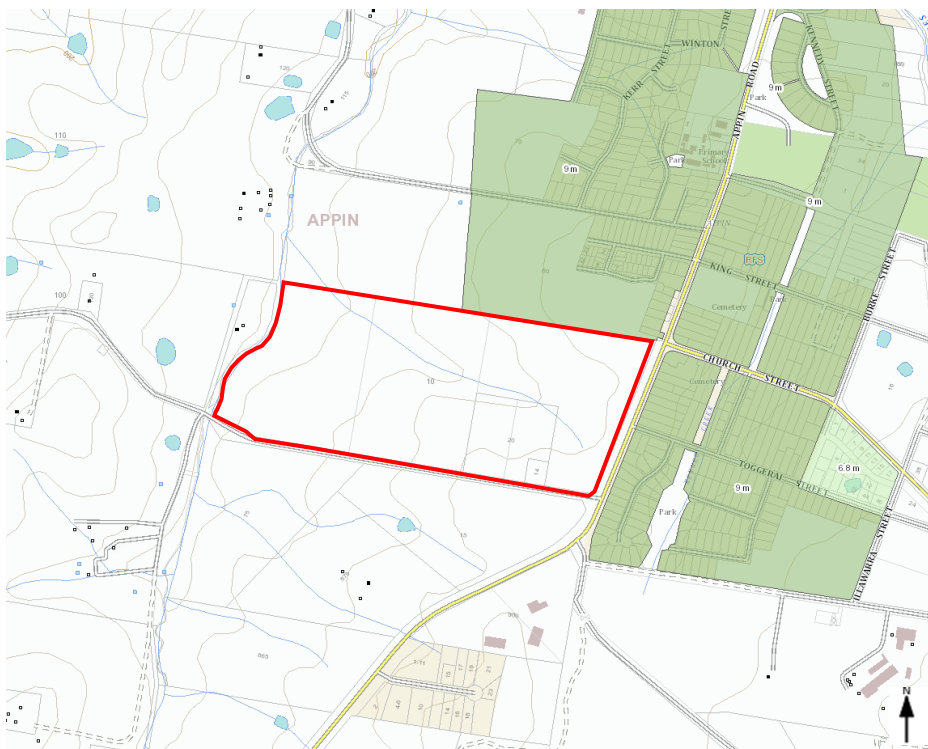


Figure 3. Current Height of Buildings (source: NSW Planning Portal)

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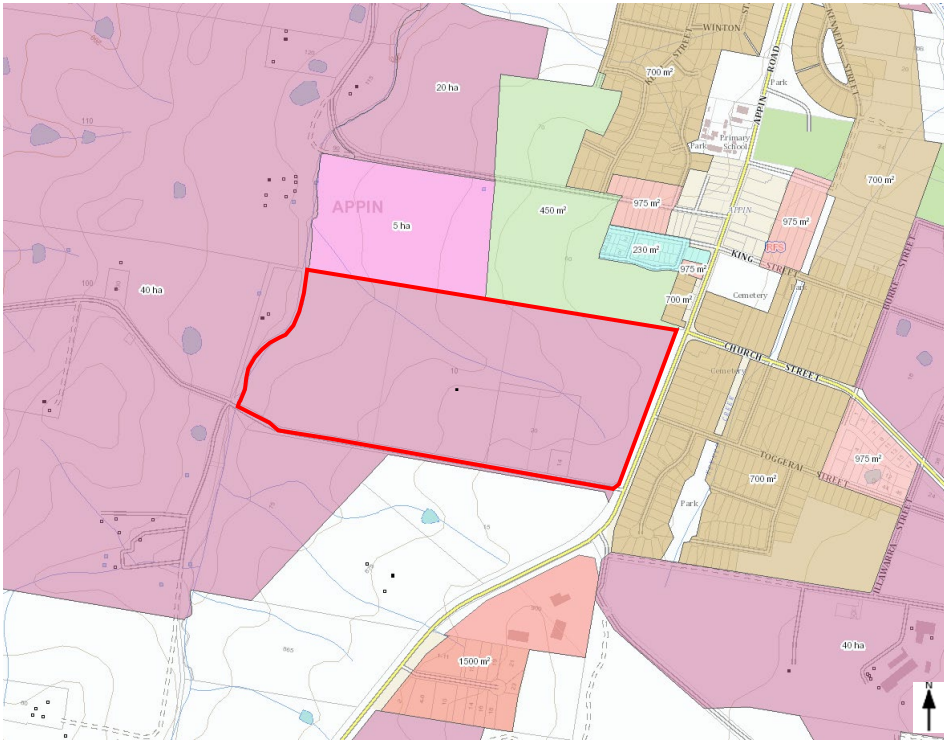


Figure 4. Current Minimum Lot Size (source: NSW Planning Portal)

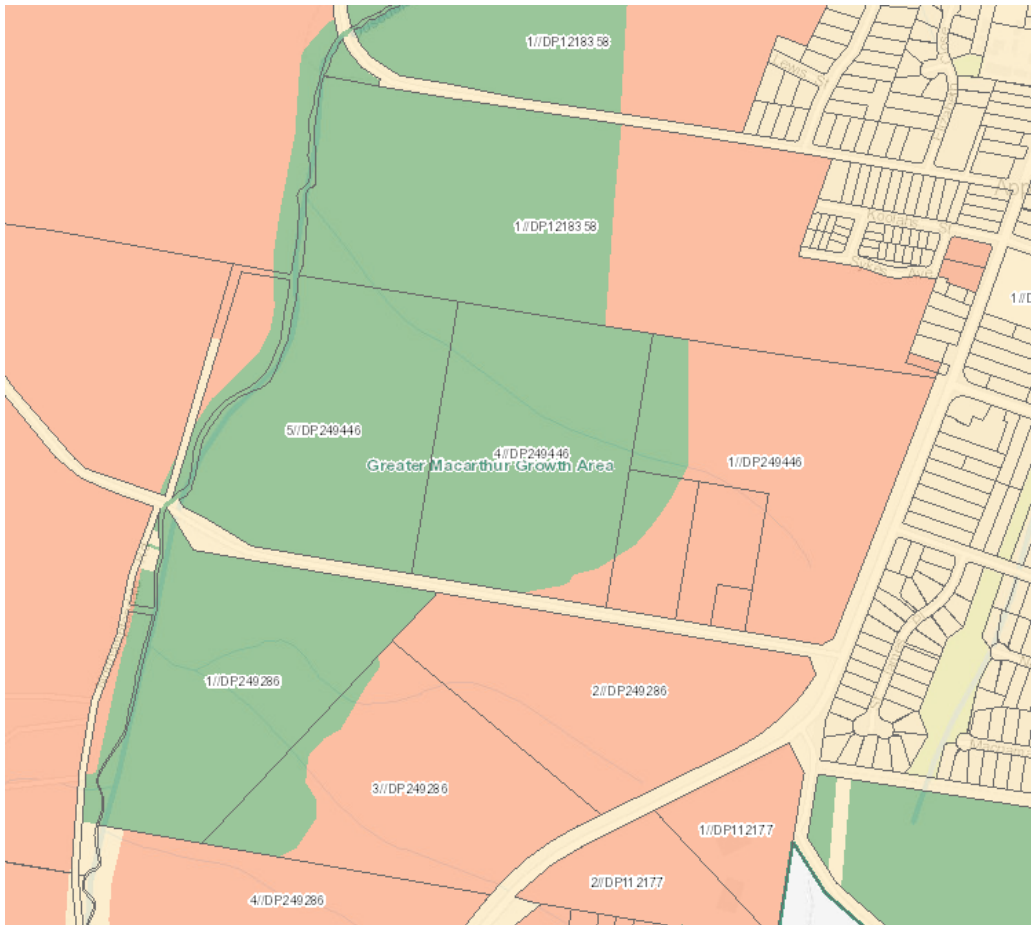


Figure 5. Cumberland Plan Conservation Plan

Key Issues

Issue: Strategic Merit

Council view

Council considered the draft planning proposal at its Ordinary Council Meeting on 28 November 2023 and resolved not to support the planning proposal for a Gateway determination. Council noted that whilst there is a need for more housing in Greater Sydney, such housing needs to be supported by appropriate infrastructure and infrastructure sequencing plans. At the time of meeting, no such infrastructure (or funded plans for the delivery of the required infrastructure) is in place in the Appin growth area. Given this, this planning proposal is considered premature (**Attachment D3**).

Council resolved not to progress the draft planning proposal for a Gateway determination on the basis that:

- It is inconsistent with the Council's position in the Wollondilly Local Strategic Planning Statement (Wollondilly 2040) that without the early identification, planning for and commitment to infrastructure in Appin, any planning proposals would be inappropriate.
- It does not provide an indicative infrastructure plan nor does it look at the cumulative development occurring in Appin, specifically sewer, water, road upgrades to both local

- and state network, to support the proposal in the broader context of planned growth following the State rezoning of 12,000 lots in Appin.
- c) It adds to concerns about evacuation risks and timeframes associated with growth in Appin without a clear plan for how the current and future community of Appin can evacuate or shelter in place in the event of a bushfire.
 - d) It proposes to rezone land in the absence of a finalised state and local Contribution Plans to effectively levy the growth area for local infrastructure.
 - e) It is not informed by a finalised traffic and transport model (TMAP), to inform and support necessary road and transport infrastructure to support development across Greater Macarthur.

Council also emphasised that the key justification to their reasoning was that Wollondilly 2040 (LSPS) states that without the early identification, planning for and commitment to infrastructure in Appin, any planning proposal would be inappropriate. The draft proposal does not provide an indicative infrastructure plan nor does it look at the cumulative development occurring in Appin to address Council's position.

Council also noted there is significant precinct-wide work still to be completed such as transport modelling to inform the Greater Macarthur road network. There is no contributions plan, the applicant did not enter into discussion regarding a planning agreement, nor is there a State endorsed approach to the delivery of infrastructure across the Greater Macarthur Growth Area.

Proponent's view

The proponent states that the draft planning proposal is generally consistent with the Greater Sydney Region Plan, Western City District Plan, Greater Macarthur 2040, Cumberland Plain Conservation Plan, State Environmental Planning Policies and Section 9.1 Ministerial Directions.

The draft planning proposal is generally consistent with Wollondilly 2040 (LSPS) Planning Priorities, except, Planning Priority 3 – Establishing a framework for sustained and managed growth. The proponent highlighted that whilst the draft Planning Proposal is inconsistent with this priority, the site is located within a release area identified in the Precincts SEPP and, 'is consistent with the area identified for urban development purposes' which was referenced in the Local Planning Panel Meeting Report (**Attachment D4**).

The proponent also states they're willing to negotiate a VPA with Council to manage developer contributions or through the reformed Housing and Productivity Contribution whichever is more appropriate, noting that adjoining state-led Walker Development rezoning is operational as of December 2023 which provides a greater road and servicing network (**Attachment A1**).

Issue: Traffic and Road Network

Council view

Council expresses a high level of demand on Appin Road at its current state and stresses the demand will further increase with Appin Precinct Plan. Council states, currently Appin Road is the only road in and out of town with no plans in place to upgrade its full length to support development, and there has been no funding or design work committed (**Attachment D1**).

Council requires a finalised transport structure plan for Appin that lists the key infrastructure priorities including roads that can inform a delivery phasing plan for Appin and the Greater Macarthur growth area.

A TMAP for the Appin Precinct led by Transport for NSW (TfNSW) is yet to be finalised, which will have implications for the subject Planning Proposal and any road arrangements along Appin Road and Brooks Point Road that need to be incorporated into the design of roads and access.

Proponent's View

The final Traffic Impact Assessment (TIA) that was submitted to Council considered the cumulative and future assessment of the proposed development and states 'that no additional external improvements are required to facilitate the cumulative impact of both developments, including neighbouring subdivision development at 55 Macquariedale Road (Walker Corporation), beyond the road layout design as proposed. The traffic impacts of the development are therefore considered acceptable with the TIA concluding that 'the planning proposal is supportable on traffic planning grounds' (**Attachment A5**).

The LPP required the TIA to consider the broader context of planned growth within Appin by utilising data from TfNSW's TMAP for the Greater Macarthur Growth Area. It is noted the updated TIA included the required data from TfNSW concludes that 'the planning proposal is supportable on traffic planning grounds'.

Issue: Sewer and Water Infrastructure

Council view

Council states that Sydney Water advised Council there are currently no connections available to the subject site for either reticulated potable water or wastewater. Council requires confirmation from Sydney Water that there is a practical staging and delivery plan for the key enabling infrastructure to support new housing development.

Proponent's view

The proponent submitted a supporting Infrastructure and Servicing Report (ISR) (**Attachment A7**) and Infrastructure Delivery Schedule (IDS) (**Attachment A8**) to Council with the draft Planning Proposal to consider sewer, water and road upgrades to both local and State networks. The ISR concludes that the development is constrained by a number of services that must be upgraded or extended. The IDS provided a list of how key infrastructure may be delivered through the adjoining development and developer-funded infrastructure upgrades.

Sydney Water's view

The proponent sought Sydney Water's advice in preparation of the Infrastructure and Servicing Report (**Attachment A7**) for the draft Planning Proposal on water and sewer works and their comments include:

- The proposed development is within the Appin Water Supply Zone system and the current trunk system suggests having the capacity to service the proposed 288 lot residential subdivision.
- To service the development, the developer will need to construct a water lead-in main connecting to the existing DN300 at the corner of Toggerai Street and Burke Street and provide frontage to each lot within the proposed development.
- Further augmentation may be required subject to the topography and other constraints within the development. This will be revised during S73 application stage.
- The proposed drinking infrastructure for this development shall be sized and configured accordingly to the relevant Water Services Association Australia (WSAA) code requirements and be provided to Sydney Water for review.

- The proponent must provide a water service connection and property service (also known as a “property service (main to meter)”) at their cost for all lots off the water main construction required and their Water Servicing Coordinator (WSC) must manage the work.
- An assessment for wastewater servicing of Appin South for Walker Corporation was completed in 2021 which includes the Brooks Point Road development. As the flow from this development cannot gravitate, a pumping station needs to be constructed to pump flow to a DN225 sewer main that will be constructed a part of Stage 1 Appin South. Flow from the development to be transferred to the existing SP1175 via gravity.
- Servicing of this proposed residential development is dependent upon the construction of a pumping station and rising main being delivered by Walker Corporation and take over by Sydney Water as an asset. A pumping station and rising main is required to be constructed before this development can be served.
- Serving of this proposed residential development is dependent upon the completion of sewer mains leading to SP1175. The applicant therefore needs to contact Walker Corporation and coordinate with them to meet its servicing timeline for this development.

Issue: Biodiversity

Council view:

The proposed C2 Environmental Conservation zoned areas have been identified as containing a range of high biodiversity values including core koala habitat, areas of critically endangered ecological communities (CEEC), threatened species habitat and riparian corridors.

Council requires the planning proposal to remain consistent with the Cumberland Plain Conservation Plan (CPCP) controls which includes ensuring there are no additional permitted uses such as local parks, drainage facilities or sewer treatment infrastructure located within the avoided land or within conservation areas under the CPCP.

Council notes that a Vegetation Management Plan and Koala Management Plan is required if the Planning Proposal progresses further.

Proponent's view

The Flora and Fauna Assessment conducted for the study area (**Attachment A3**) identified a range of ecological values including one critically endangered ecological community known as Shale Sandstone Transition Forest listed under the Biodiversity Conservation Act 2016. The proposal seeks to retain 100% of the good, 86.5% of the moderate & 69% of the low condition Shale Sandstone Transition Woodland within the study area. Targeted surveys did not identify any threatened flora, endangered population's, listed under the BC or the EPBC Acts within the study area.

The study area also identified as containing suitable foraging habitat for twelve species of fauna and significant assessments were undertaken for Threatened species such as: the Gang-gang Cockatoo, Glossy Black-Cockatoo, Powerful Owl, Little Lorikeet, Large-eared Pied Bat, Eastern False Pipistrelle, Eastern Bent-wing Bat, Grey-headed Flying-fox, Eastern Freetail-bat, Yellow-bellied Sheath-tail Bat, Greater Broad-nosed Bat & the Squirrel Glider. These assessments concluded that the proposal was unlikely to have a significant impact on these species. This was based on the following criteria:

- The security of larger threatened flora populations within the locality of the study area.
- Relatively small size of foraging and roosting habitat to be removed as part of the proposal.
- Larger areas of better-quality vegetation were noted at the time of the survey to the north &

north-east and within reserves and retained elsewhere within the study area.

- These species are all highly mobile and would utilise vegetation within the locality and not the study area exclusively.

The Flora and Fauna Assessment states the proposal is generally consistent with the objectives of the CPCP in that development has been sited to avoid impacts on areas identified for protection as either “Native vegetation” or “Protected Koala Habitat and Restoration” under the CPCP.

Environment and Heritage Group’s view

The comments provided by the Environment and Heritage Group (EHG) (**Attachment E8**) notes that:

‘Pre-lodgement advice was provided by EHG for the subject proposal on 15 July 2022. The proposal and supporting studies have been amended to address feedback received from Council and government agencies. EHG does not however, that several comments raised during the pre-lodgement stage have not been adequately addressed and further refinement of the proposal may be required to adequately address biodiversity and flood impacts arising from the future development of the site....

Importantly, EHG notes that since the pre-lodgement stage, The Cumberland Plain Conservation Plan (CPCP) has come into effect over the site. The proposal has not demonstrated consistency with the CPCP and its associated suite of planning controls. EHG considers the draft masterplan must be amended to avoid impacts to areas identified under the plan as Avoided Land, Strategic Conservation Area and Protected Koala Habitat and Restoration areas. Further details on how the proposal will address the protection and enhancement of native vegetation in these areas is also required.’

Issue: Precinct Structure Plan and DCP

Council view

Council expressed concerns on numerous occasions that the proposal is considered premature due to the Appin Precinct Structure Plan, Development Control Plan and state and local planning agreements are yet to be finalised. Council would like to ensure that adequate measures are in place to guide development, that the development is consistent with Appin Precinct Plan and presents as good quality development as part of the Appin Growth Area DCP.

Council states any site-specific controls for Brooks Point Road should form part of the broader DCP for Appin. This should include an indicative layout plan clearly showing walking and cycling infrastructure (both within the site and linking it to the town centre) and open space.

Council states that the planning proposal site should be included as part of Precinct Structure Plan and the site would then feed into the broader Appin DCP so the work for the broader Appin should not occur in isolation to this site if Appin Precinct Plan is to be progressed further.

Proponent’s view

The proponent believes their planning proposal has strategic and site-specific merits.

Issue: Emergency Risk and Evacuation

Council view

Council notes parts of the site is identified as bushfire prone. Council expresses their growing concerns over the threats of bushfire to the community with the demand on the evacuation routes as the local population increases.

Council is seeking assurance from NSW Rural Fire Service (RFS) that they are satisfied with appropriate infrastructure will be in place at every stage of the development and that such infrastructure allows for reasonable evacuation times and sufficient access to firefighting water resources.

Proponent's view

An Emergency Evacuation Strategy (EES) was prepared that considered evacuation risks and timeframes for the proposed development in the context of the greater Appin region. The EES concludes 'that based on the available travel paths, distances, number of egress points and travel times calculated, it is expected that an acceptable overall evacuation time can be achieved for the proposed rezoning and future subdivision.' (**Attachment A6**).

A Strategic Bushfire Study identifies 'Neighbourhood Safer Places' within the existing Appin Township and that development standards prescribed by Planning for Bushfire Protection 2019 for proposed dwellings will enable residents to shelter in place. The study confirms the subject site is identified as bushfire prone land and containing Category 1 and 2 Vegetation and Vegetation Buffer (**Attachment A4**).

The study concludes that:

- the subject site and proposed Master Plan have the capacity to comply with the relevant specifications and requirements of Planning for Bush Fire Protection 2019.
- the proposed Master Plan, in combination with the bushfire protection measures discussed in the study will not result in areas that are difficult to evacuate, create control difficulties during a bushfire or adversely affect other bush fire protection strategies or place existing development at increased risk.

Issue: Cumulative Growth in Appin

Council view

Council states that the proponent will need to make development contributions to the generation of demand on roads, social infrastructure and open space. Council believes the planning for the broader area needs to be tied to the requirement for a Precinct Structure Plan which also needs to be guided by one DCP (**Attachment D1**).

Council states there needs to be an infrastructure framework in place at both a local and State level that satisfactorily addresses the needs of the incoming community while enhancing the safety of existing residents. Council also states the pathway to fund necessary State infrastructure such as roads, schools and utilities is critical, and the progression of the proposal is only appropriate once the broader infrastructure needs and delivery mechanisms are prepared and consulted on.

Proponent's view

The proponent states in the letter of rezoning review request to the Department (**Attachment A1**), that in the absence of a Section 7.11 Contribution Plan for Appin, development contributions could be levied under Section 7.12 Local Infrastructure provided by developer

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delivery agreements and the provision of a draft VPA. The matter relating to a draft VPA was not raised by Council until the final Council meeting.

The proponent is happy to negotiate a VPA with Council to manage developer contributions, or if it is deemed more appropriate to manage the matter through the reformed Housing and Productivity Contributions Scheme, they are equally amenable to be guided by the Department.

Attachments

- Attachment A1 – A10 Rezoning Review Package (form and planning proposal)
- Attachment B Site location and context
- Attachment C Existing maps and proposed LEP maps
- Attachment D1 – D5 Council comments including Council and LPP meeting agendas & minutes
- Attachment E1 – E10 Agency comments

(Signature)

22/02/2024 (Date)

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