

21 March 2023

Chief Executive Officer  
Wollondilly Shire Council  
Attention: Growth Team  
PO Box 21  
PICTON NSW 2571

Contact: *Stuart Little*  
Telephone: *0436 948 347*  
Our ref: *D2023/20820*

Dear Sir/ Madam,

**RE: PRELIMINARY NOTIFICATION: DRAFT PLANNING PROPOSAL – BROOKS POINT ROAD, APPIN (Ref: 14059)**

I refer to Council's letters of 21 and 22 February 2023 regarding initial notification of a Draft Planning Proposal for Brooks Point Road Appin seeking initial feedback on the Proposal before it is assessed and reported to the Local Planning Panel and Council. We note that the Proposal seeks to amend the *Wollondilly Local Environmental Plan 2011* (LEP) to rezone the land for residential purposes and amend other planning controls for the site.

We are concerned regarding the number and extent of rezonings being proposed in the Appin area and the cumulative population pressures this will place on the Metropolitan Special Area that lies nearby to the site in the south. The Metropolitan Special Area is a Schedule 1 Special Area under the *Water NSW Act 2014* and Regulation 2020 where public access is prohibited. We also want to ensure that the Proposal does not increase downstream stormwater and erosion risks to that part of Ousedale Creek that flows beneath the Upper Canal in north-west Appin.

The Proposal may be premature given the extent of other rezonings occurring in the Appin area and as the sequencing and servicing for the site appears dependent on the Walker development immediately north which was rezoned in 2020. That site is currently undeveloped, and it appears that the water and sewer servicing arrangement has yet to be finalised. There are also shortcomings in the current Proposal as described below.

Our main concern is that we do not believe the proposed C2 zoning and associated 40 ha minimum lot size (MLS) can sustain the range in uses proposed for the C2 zone and that additional zonings and MLS arrangements are likely to be needed, particularly in relation to sewerage and stormwater management. Without such changes, there may be difficulties in delivering effective stormwater and sewerage management later in the planning and development process which, in turn, may lead to increased flows and water quality risks to Ousedale Creek.

Our detailed comments are provided in Attachment 1. If you have any questions regarding the issues raised in this letter, please contact Stuart Little at [stuart.little@waternsw.com.au](mailto:stuart.little@waternsw.com.au).

We request to be kept updated regarding the progress of the Proposal and be offered another opportunity to comment if it proceeds to public exhibition.

Yours sincerely

A black rectangular box used to redact the signature of Alison Kniha.

**ALISON KNIHA**  
**Catchment Protection Planning Manager**

## **ATTACHMENT 1 – DETAIL**

### **Overview of the Proposal**

The Proposal seeks to amend the Wollondilly Local Environmental Plan 2009 (LEP) to:

- rezone the land from RU2 Rural Landscape to R2 Low Density Residential and C2 Environmental Conservation
- amend the minimum lot size (MLS) map from 40 ha to between 250 m<sup>2</sup> and 450 m<sup>2</sup> for the proposed R2 zone and 40 ha for the C2 Environment Conservation zone
- amend the additional uses map to include additional permitted uses associated with a reticulated sewer and stormwater system
- amend the 'Height of Buildings' map to include a maximum building height of 2 metres to facilitate two storey residential development.

### **Special Areas**

The site lies approximately 280 m north of WaterNSW land on Cataract Road and approximately 420 m from the Metropolitan Special Area at its closest point. The Metropolitan Special Area is a Schedule 1 Special Area where public access is prohibited. Special Areas are managed to protect water quality and to maintain ecological integrity, and in accordance with the [Special Areas Strategic Plan of Management](#) (SASPoM). The land also lies north of the Sydney Drinking Water Catchment (SDWC) and flows away from the SDWC.

### **Upper Canal Corridor**

The site lies approximately 2 km east of the Upper Canal Corridor and is well outside of the 'affected land' mapping and the controls of section 2.163 of State Environmental Planning Policy (Transport and Infrastructure) 2021 (T&I SEPP). However, the subject land sits in the upper catchment of Ousedale Creek which passes beneath the Upper Canal Corridor in north-west Appin. The Canal occurs in a pipeline at this point, traversing over Ousedale Creek by means of an aqueduct. Stormwater management is important to minimise the velocity and volumes of runoff occurring downstream where the Upper Canal passes above Ousedale Creek.

In examining the Proposal, we have observed the following issues:

### **Site Description and Area**

- The street addresses used to describe the site are inconsistent. Council's correspondence and the information as presented on the 'Your Say' web-page states that Proposal concerns No's. 10, 14, 20, 30, 50 and 70 Brooks Point Road, Appin. The Planning Proposal says it applies to No's 10 and 20 Brooks Point Road Appin only.
- It is unclear if the Planning Proposal is including or excluding Lot 2 DP 249446. The site description (page 7) is based on five lots (Lots 1, 3, 4 and 5 DP 249466 and Lot 1 DP 584515) but the Proposal then goes on to include Lot 2 in master-planning, residential zoning and relevant Figures (Figures 2 – 11).

The final Proposal needs to clarify and be consistent in respect to the street addresses and Lots and DPs to which it applies.

### **Compatibility of the C2 Environment Conservation Zone with Proposed Uses**

- We are particularly concerned that the C2 zone and associated 40 ha MLS may not be able to accommodate the range of uses proposed, particularly for stormwater, sewerage reticulation (pumping station) and recreation. Additional zoning (e.g. SP2, RE1) and MLS arrangements may be needed for these proposed uses.
- It is unclear who is going to own and manage the residual C2 zone. The C2 zone is often associated with land in private ownership. Under the current arrangement, the MLS would force all the required uses into a single residual allotment, potentially forcing a single

landholder to be burdened with providing the recreation, sewerage and stormwater infrastructure servicing the adjoining residential area. The 40 ha MLS would restrict the land from being subdivided to accommodate different uses and ownerships in the C2 area. It would also inhibit stormwater and sewerage infrastructure passing to Council if this is envisaged. The intended tenure, ownership and management of the C2 zone needs to be clarified as the zoning and 40 ha MLS appear to be unsuitable for a number of uses proposed if the land is to be held by someone other than Council. If Council is to be the intended owner of the residual C2 land, this should be stated and evidence provided that Council is supportive of this.

- A number of uses proposed (e.g. sewerage and stormwater) may not be compatible with the zoning objectives of the C2 zone.

### **Additional Uses**

- The full suite of 'additional uses' proposed to be added to the C2 Environmental Conservation zone is unclear and needs to be clearly identified. The LEP currently lists Environmental facilities, Environmental protection works, Information and education facilities, Oyster aquaculture, Roads, and Water supply systems as being 'permitted with consent'. The Proposal suggests that Building and Business identification signs, Eco-tourist facilities, Kiosks, and Recreation areas would also be 'considered acceptable' and that 'Sewage reticulation systems (pumping station) and a drainage detention basin structure' would be included as permissible uses (page 15).
- There is no accompanying additional permissible uses map in the Planning Proposal.

### **Stormwater and Sewerage**

- The Planning Proposal needs to reconcile and explain how stormwater and sewerage will be managed within the C2 lands. The Proposal also needs to consider whether the 'drainage reserve' area would be better allocated SP2 zoning and managed by Council. To minimise the risk of increased stormwater volumes and water quality issues affecting Ousedale Creek, the Proposal may need to dedicate different zonings (e.g. SP2 Infrastructure) for the stormwater and sewerage-related uses currently proposed on the C2 lands. The compatibility of the MLS arrangements should be similarly examined.
- It appears that the proposed sewerage pump station would be located in the 'drainage reserve' and would adjoin the proposed drainage basin and raingarden for stormwater management purposes (compare Figure 4 of Appendix L2 (Infrastructure Report) with Figure 5 Masterplan of the Planning Proposal and with Figure 8 of Appendix L1 Water Cycle Management Plan (WCMP)). The proximity of the pumping station to the proposed stormwater basin and raingarden warrants further consideration. Does the proximity of the two feature risk mobilisation of sewerage if there are overflows from the pumping station? Greater separation distances may be needed in which case a greater land area of 'drainage reserve' (or SP2 zoned land) may be required.
- A gully traverses the site from the south-east to north-west before flowing into Ousedale Creek north of the subject site. The proposed drainage reserve (within the C2 zone) incorporates part of the gully area. The proposed drainage reserve on the Masterplan (Figure 5) includes that area of the gully adjoining the R2 zoned land and land immediately north and south of the gully. Figure 6 of the WCMP (Appendix L1) shows the proposed basin and raingarden in the north of the gully. While a broader drainage reserve area is proposed within the C2 zone, the southern area of the proposed residential land does not appear to have basins or raingardens allocated. Additional stormwater management measures may be needed to service the proposed residential land south of the gully.