

7.2 GREATER MACARTHUR - APPIN PART PRECINCT 2 - PLANNING PROPOSAL

Directorate: Shire Futures

Reason for LPP Referral	Seek advice from the Local Planning Panel as per the function of the LPP within s2.19 of the <i>Environmental Planning and Assessment Act 1979</i>
Address:	90 & 110 Macquariedale Road APPIN, 525 & 725 Wilton Road APPIN
Lot & DP:	Lot 1 DP 1000355, Lot 32 DP 736923, Lot 1 & 3 DP 804375
Current Zoning:	RU2 Rural Landscape
Proposal:	Planning Proposal to amend the Wollondilly Local Environmental Plan 2011 and State Environmental Planning Policy (Precincts - Western Parkland City) 2021 to enable residential development in the Greater Macarthur Growth Area.
Applicant:	Walker Corporation

EXECUTIVE SUMMARY

The purpose of this report is to seek advice from the Wollondilly Local Planning Panel (Panel) on a draft Planning Proposal (draft proposal) received for land 90 and 110 Macquariedale Road, Appin and 525 and 725 Wilton Road, Appin.

The site is currently zoned under the Wollondilly Local Environmental Plan 2011 (WLEP 2011) and forms part of the Greater Macarthur Growth Area under the State Environmental Planning Policy (Precincts - Western Parkland City) 2021 (Precincts SEPP).

The draft proposal seeks to rezone part of the site from RU2 Rural Landscape to Urban Development Zone (UDZ) and retain the existing Cumberland Plain Conservation land as C2 Environment Conservation. It also seeks a 40-hectare minimum lot size for the C2 zone and no minimum lot size for the UDZ zoned land.

The draft proposal has been subject to a preliminary consultation period over four weeks (28 days) from 15 January to 18 February 2024 in line with Council's Community Participation Plan and Planning Proposal Policy. A total of one hundred and twenty-one (121) submissions were received. This included seventy (70) proforma submissions and fifty-one (51) community submissions were received during this period, in addition Council also received thirteen (13) public agencies submissions. It is noted that seventy (70) proforma submissions have been managed in accordance with Councils policies and are counted as one submission. The issues identified in submissions are addressed in this report.

Council received thirteen (13) agency submissions, noting one (1) agency did not provide a response (Department of Regional NSW – Mining, Exploration & Geoscience). Transport for NSW (TfNSW) did not support the draft proposal progressing, eight (8) agencies raised concern or required additional information, two (2) agencies raised servicing timeframe issues, and two agencies had no concerns with the rezoning of the land.

While the draft proposal has strategic merit, there are several outstanding issues have been identified including there being no state planning agreement, no finalised precinct structure plan, and issues concerning the dwelling cap remaining unresolved.

All these issues have also been highlighted by the Department of Planning, Housing and Infrastructure (DPHI) submission on the draft proposal. The most significant being infrastructure provision and the dwelling cap. Currently, the Appin (Part 1) Precinct rezoning has utilised 12,900 of the 15,000 dwellings nominated for West Appin. This leaves 2,100 dwellings remaining for 576 hectares of urban development land. Should the draft proposal proceed, this would result in only 788 dwellings left under the cap for the remaining area.

The proponent has provided additional information to address some of the concerns with the draft proposal. Not all issues have been addressed but the proponent has worked with Council officers to resolve some of the larger issues.

Consideration of the draft proposal is requested by the Panel, in accordance with s2.19 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and s9.1 Ministerial Direction dated 27 September 2019 regarding Local Planning Panels and Planning Proposals. The Panel's advice will be included in a future report to Council.

It is recommended that the draft proposal not proceed due to the premature nature and placed on hold or withdrawn until the matters relating to state and local infrastructure, as well as dwelling caps, are resolved to the satisfaction of public agencies and Council.

RECOMMENDATION

That the Panel:

1. Note that the Draft Planning Proposal has strategic merit but does not demonstrate site specific merit.
2. Note the recommendation that the draft Planning Proposal should not be supported to proceed to Gateway determination for the following unresolved issues:
 - a) A finalised Precinct Structure Plan (PSP) which needs to respond to the Transport Management and Accessibility Plan (TMAP).
 - b) An exhibited Draft Development Control Plan (DCP)
 - c) An exhibited State Planning Agreement (SPA) or suitable approach to the delivery of such infrastructure.
 - d) A finalised Local Contributions Plan – currently undergoing review by IPART.
 - e) Detailed dwelling distribution across the remaining area of West Appin in Greater Macarthur.
 - f) The removal of the proposed local centre near Appin Village to align with the Greater Macarthur Structure Plan, to reduce the likely significant impact on the existing Appin Village.
 - g) Engagement with Environment and Heritage Group about the further work requested to address Aboriginal Cultural Heritage Assessment concerns.
 - h) An updated Acoustic Report to address noise associated with Appin Coal Seam Methane Power Station and the Appin Coal Seam Mine Infrastructure.
 - i) Phase 2 Detailed Site Investigation in response to the findings of the Preliminary Site Investigation Report for Contamination.
 - j) Flood Report (Hydraulic Flood Assessment) to ensure flood affected land is zoned appropriately.

- k) Revisit discussion with Department of Education on School site zoning preferences.
3. Provide advice on the Draft Planning Proposal to Council, in accordance with the Local Planning Panel Direction – Planning Proposals, that will be attached to a future report to Council.

REPORT

Background

On 28 November 2023, Walker Corporation (the proponent) lodged the draft proposal for 90 & 110 Macquariedale Road and 525 & 725 Wilton Road, Appin. The draft proposal seeks to rezone the site for residential dwellings and a local centre. It proposes to remove this land from the Wollondilly Local Environmental Plan 2011 (WLEP 2011) and rezone it within the State Environmental Planning Policy (Precincts - Western Parkland City) 2021 (Precincts SEPP).

On 11 October 2024, the proponent resubmitted the draft proposal with amendments to some of the documents to address issues raised by the Council.

A copy of the draft proposal is provided at **Attachment 1**. A list of supporting studies submitted is provided at **Attachment 4**.

Site Description

The draft proposal consists of two separate sites within the West Appin. The southern site is situated on either side of Wilton Road and the northern site is located on Macquariedale Road, Appin.

The sites comprise of four separate lots covering a total area of 100 hectares as identified in Table 1 and Table 2.

Lot/DP	Address	Owner	Area (Ha)
Lot 1 DP 1000355	90 Macquariedale Road, APPIN, NSW, 2560	Private landowner	0.23 ha
Lot 32 DP 736923	110 Macquariedale Road, APPIN, NSW, 2560	Private landowner	61.85 ha
Total			62.08 ha

Table 1: Site details (Southern Sites)

Lot/DP	Address	Owner	Area (Ha)
Lot 1 DP 804375	525 Wilton Road APPIN, NSW, 2560	Private landowner	1.41 ha
Lot 3 DP 804375	725 Wilton Road APPIN, NSW, 2560	Private landowner	36.61 ha
Total			38.02 ha

Table 2: Site details (Northern Sites)

The subject sites are made up of large rural landholdings which are used predominately for rural residential and small-scale agricultural purposes. Each site is illustrated in Figure 1 and Figure 2.

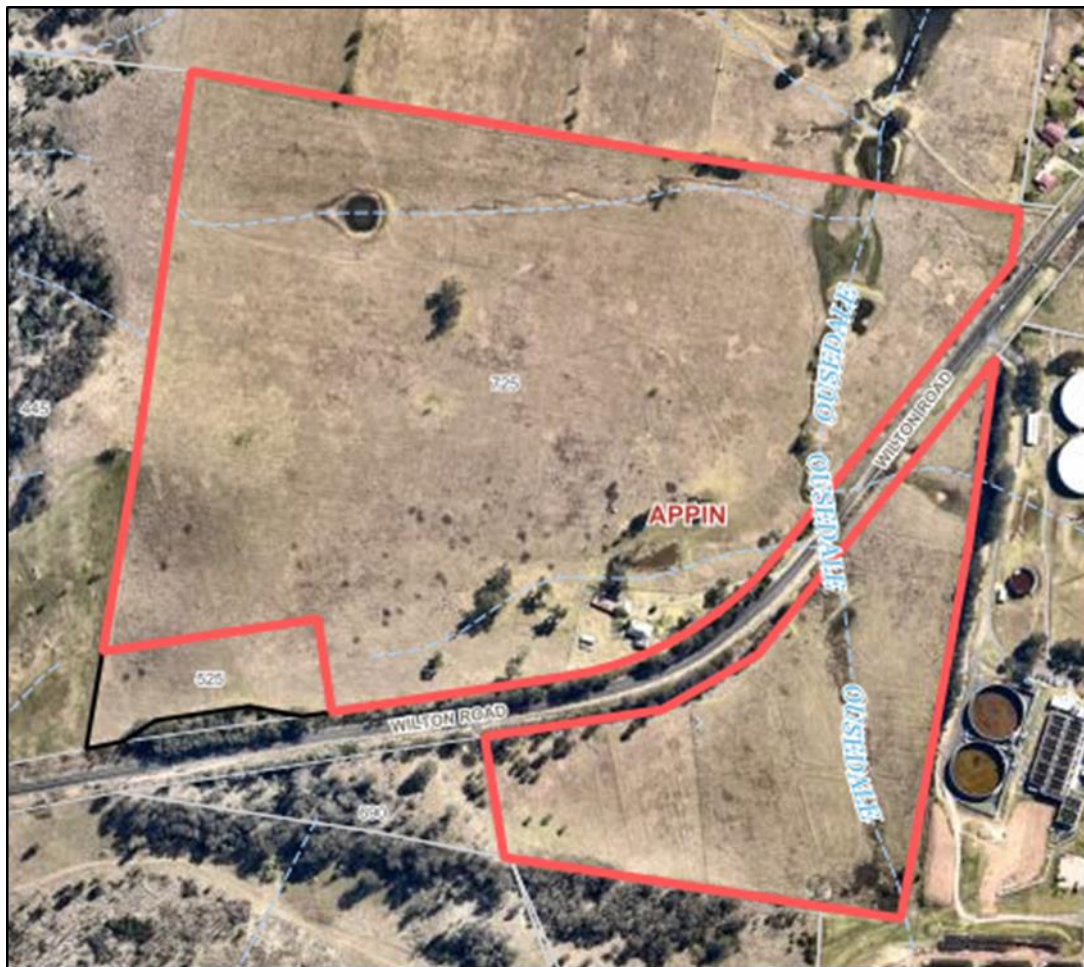


Figure 1: Location Map of the Southern Lots (Off Wilton Road)



Figure 2: Location Map of the Northern Lots (Off Macquariedale Road)

The southern site consists of a slow rolling hill of cleared land towards Wilton Road. The northern site is a relatively flat parcel of land which transitions to a vegetated area at the back of the site which falls away from the existing road. Both sites are located within the Greater Macarthur Growth Area and link to the existing rezoning Appin (Part 1) Precinct that has already been rezoned by DPHI.

Attribute	Description
Land Zone	RU2 Rural Landscape
Lot Size	40 Hectares
Height of Building	N/A
Natural Resources – Biodiversity	N/A
Natural Resources – Water	The sites are partially mapped as Natural resources – Water in Wollondilly LEP for the drainage lines as well as Ousdale Creek.
Heritage	<p>The southern site adjoins Windmill Hill Group—Brennan’s Farm, Larkin’s Farm and Winton’s Farm to the east (local item) and the state heritage item Appin Massacre to the west.</p> <p>The northern site has no known heritage items in the area of the proposal.</p>
Bushfire Prone Land	The sites are mapped as bushfire prone land.
Flood Prone Land	The sites are not mapped as flood prone land.

Mine Subsidence	The sites are located within the Appin Subsidence District.
Cumberland Plain conservation Plan	The sites are affected by the CPCP with both State and Federal approvals now in place.

Table 3: Current Site Attributes

Description of proposal

The draft proposal seeks to enable the development of the site for a local centre and residential land uses. It seeks to do this through an amendment to the State Environmental Planning Policy (Precincts - Western Parkland City) 2021 (Precincts SEPP).

The proponent seeks to rezone the sites from RU2 Rural Landscape to Urban Development (UDZ) and Environmental Conservation (C2). The draft proposal is expected to deliver 1,312 dwellings.

The draft proposal also seeks to impose a 40-hectare minimum lot size for the C2 zoned land and with no mapped minimum lot size for the UDZ zoned areas which is consistent with land zoned under the Precincts SEPP.

The current and proposed zoning is illustrated in Figure 3 and Figure 4.

The proximity of draft proposal to Appin (Part 1) Precinct is illustrated in Figure 5. The proposed precinct structure plan is illustrated in Figure 6.

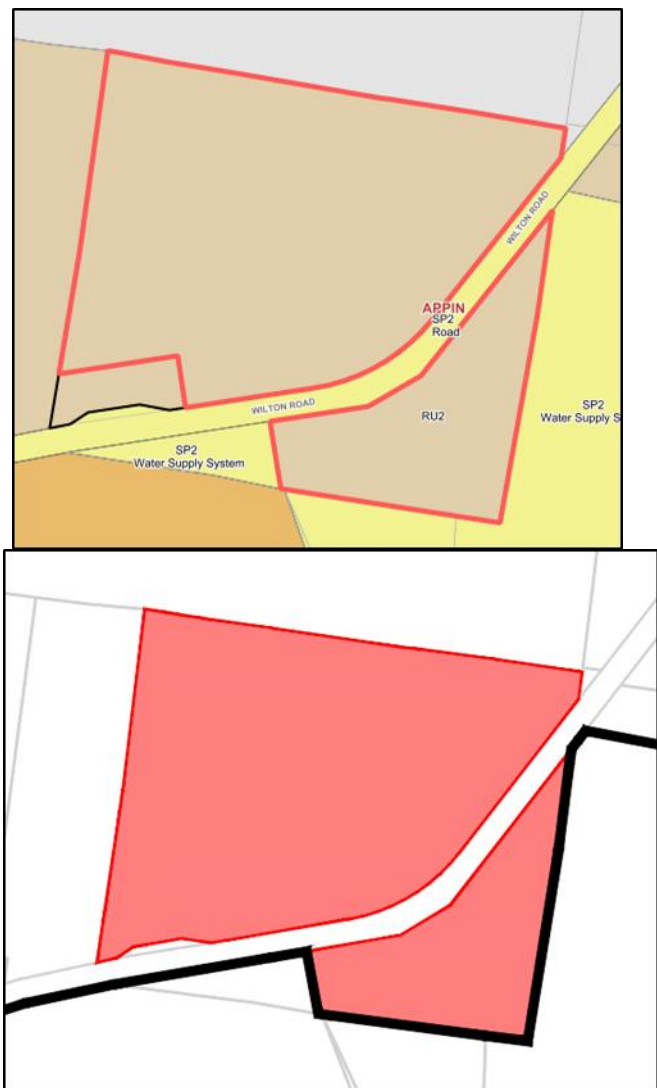


Figure 3: Current zone vs Proposed land use map of Southern Lots

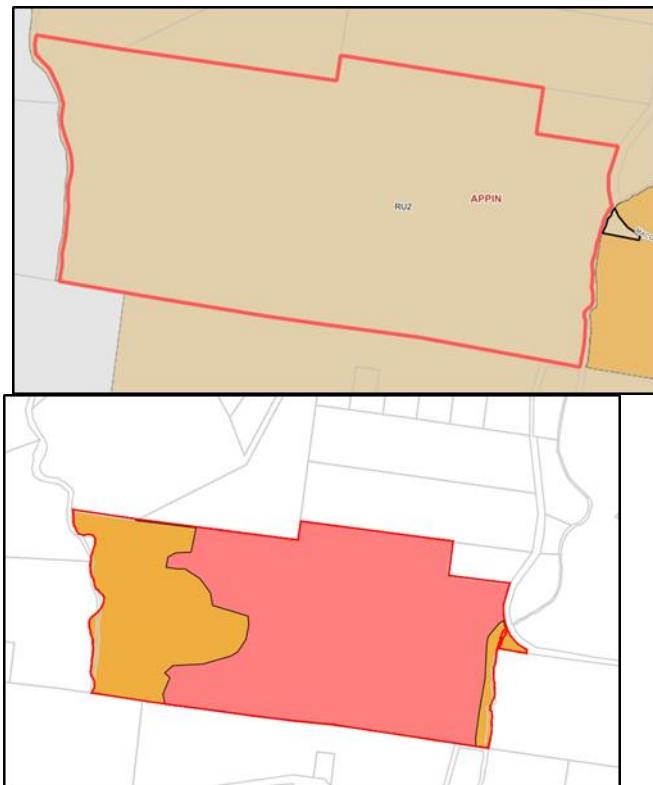


Figure 4: Current zone vs Proposed land use map of Northern Lots

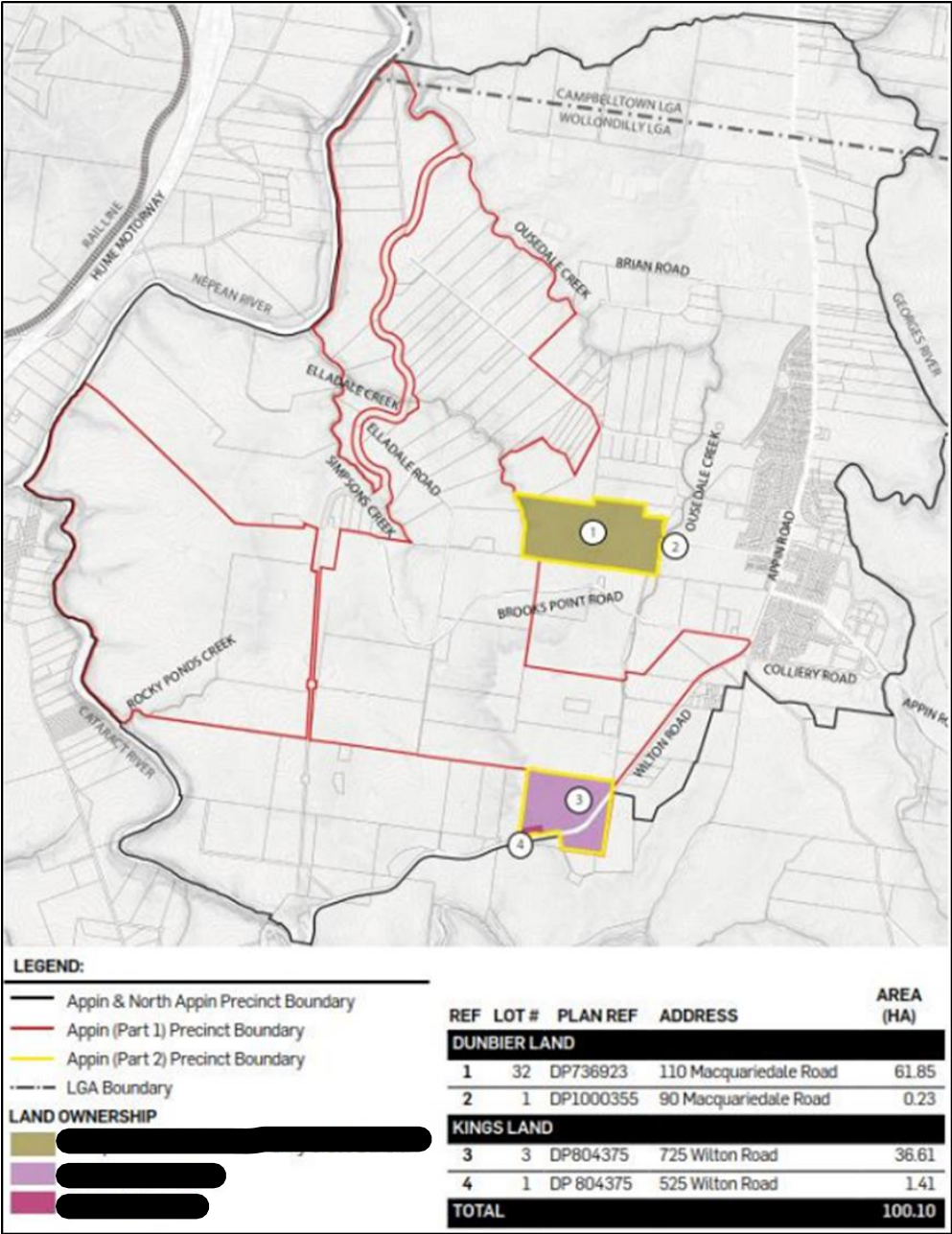


Figure 5: Site proximity and location in relation to Appin (Part 1) Precinct

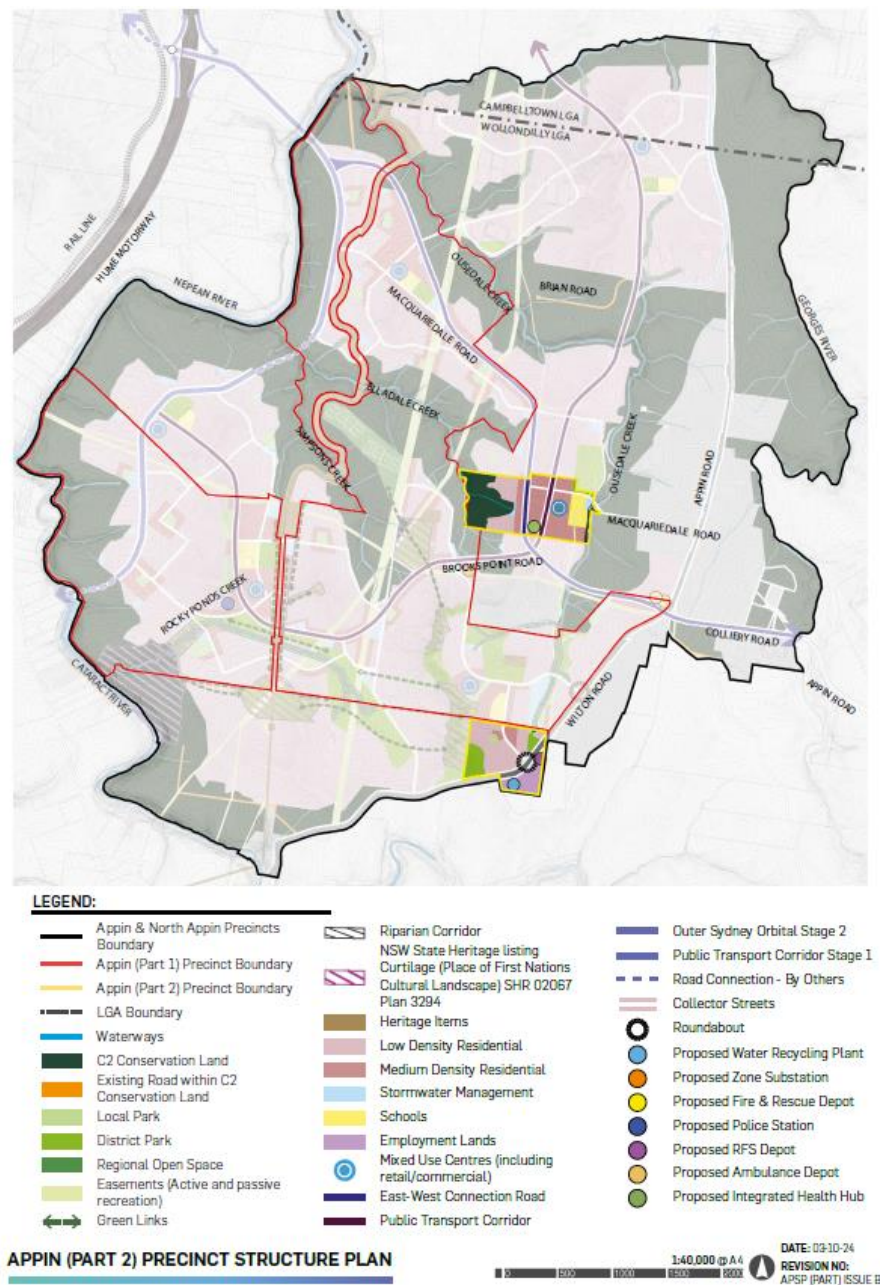


Figure 6: Proposed Precinct Structure Plan

PLANNING CONTEXT

Greater Sydney Regional Plan

The draft proposal is generally consistent with the following themes and supporting directions of the Greater Sydney Regional Plan; Liveability; Productivity and Sustainability.

While the draft proposal is generally consistent, the Infrastructure and Collaboration directions have not fully been addressed. The proposal seeks minor changes to the Transport corridor, however these changes at the time of referral response were not endorsed, since then the Transport Management and Accessibility Plan (TMAP) has been endorsed by Transport for NSW. It is noted however that there is still no State Planning Agreement to support the existing rezoning. The Housing Productivity Contribution is not sufficient to cover the cost of the significant State infrastructure needed to support the housing in Greater Macarthur and until there is greater certainty on how such infrastructure

will be delivered and how the planning framework will allow facilitate planning agreements and particularly works in kind, further housing should not proceed.

Western City District Plan

The draft proposal is generally consistent with the Western City District Plan Directions of Liveability, Productivity and Sustainability. Although the outstanding issue of infrastructure still applies as noted above to Infrastructure and Collaboration direction.

Greater Macarthur 2040: An interim Plan for the Greater Macarthur Growth Area (2018)

The draft proposal is not located within the Metropolitan Rural Area by virtue of being in a nominated urban area as part of Greater Macarthur.

The draft proposal is mostly consistent with the Greater Macarthur 2040 Interim Plan, with one exception. The proposal does not fully align with the Greater Macarthur Structure Plan as it includes a local centre in a location not included in the State prepared Structure Plan. The proposed centre is in close proximity to the existing Appin Village centre. Additional local centres in Appin beyond those in the Structure Plan are unlikely to be supported particularly in proximity to the existing local centre. It is recommended the proposal be amended to align with the structure plan, should it proceed.

The Cumberland Plain Conservation Plan

The Cumberland Plain Conservation Plan (CPCP) mapping and extent of the proposed rezoning appears consistent for both of the sites. The northern site seeks to have a portion of the site zoned C2 Environmental Conservation and seeks to align with the zoning endorsed by the CPCP team as part of Appin (Part 1) Precinct.

The CPCP now has both State and Federal approval, it was signed by the Commonwealth on the 26 March 2024. This approval removes the need for landholders to seek their own biodiversity approvals under the Biodiversity Conservation Act 2016 for development on land categorised as certified - urban capable, provided they comply with the relevant planning controls under the CPCP. Compliance with mitigation measures is applied at development application stage.

In terms of other existing vegetation, key principles are being explored for the future development control plan, similar to those in the Wilton DCP, which seek to retain existing mature paddock vegetation where possible.

Wollondilly 2040 - Local Strategic Planning Statement (2020)

The draft proposal is consistent with Wollondilly's LSPS themes of Liveability, Productivity and Sustainability however the Infrastructure and Collaboration theme is inconsistent. The Greater Macarthur area has no State Planning Agreement, either exhibited or finalised. Without this SPA key infrastructure funding and requirements remain unclear, and it is recommended that the SPA is exhibited, at a minimum prior to the draft proposal proceeding to Gateway. At this stage further proposals should not proceed without the public availability and/or exhibition of these documents.

Further, the position of Council on planning proposals in Appin is that without early identification, planning for and commitment to infrastructure in Appin, any planning proposal would be inappropriate.

State Environmental Planning Policies

The draft proposal is consistent with all applicable State Environmental Planning Policies.

The draft proposal aligns and gives effect to the Precincts SEPP, in the Greater Macarthur Growth Area as shown in the Greater Macarthur Structure Plan with the exception of the new local centre being proposed which would have to be removed.

Section 9.1 Ministerial Directions

Ministerial Directions that are inconsistent in with the draft proposal are:

- 1.14 Implementation of Greater Macarthur 2040
- 4.1 Flooding
- 9.1 Rural Zones (minor inconsistency)
- 9.2 Rural Lands (minor inconsistency)

The draft proposal seeks to rezone land located within the Greater Macarthur Growth Area Structure Plan 2022. However, the proposed rezoning does not align with the structure plan and seeks to create a new local centre not identified in the Structure Plan. This will need to be rectified in the planning proposal should it proceed. This amendment is needed to align with Ministerial Direction 1.14 Implementation of Greater Macarthur 2040.

Areas of the site have the potential for flooding with creek lines and water ways present onsite. An updated Water Cycle Management Strategy has been submitted as part of the draft proposal. This study has identified there is a future need for a Hydraulic Flood Assessment which should be undertaken as part of a Gateway condition if it proceeds to ensure that land that is flood affected is not zoned for urban development in accordance with Ministerial Direction 4.1 Flooding.

Minor inconsistencies also exist with Ministerial Directions 9.1 Rural Zones and 9.2 Rural Lands. The planning proposal intends to rezone the RU2 Rural Landscape zoned land, however inconsistencies are justified through alignment with Ministerial Direction 1.14 and by ensuring development within the Greater Macarthur growth area consistent with the planning for Greater Macarthur.

The draft proposal is generally consistent with the remaining Section 9.1(2) Ministerial Directions.

CONSULTATION

As part of our commitment to early engagement with the community and other stakeholders, preliminary notification has been undertaken in accordance with Council's adopted Community Participation Plan and Planning Proposal Policy. The draft proposal was exhibited for 28 days from 15 January to 18 February 2024. While 121 community submissions were received, 70 of these are proforma submissions. Therefore only 52 unique submissions have been identified. Council's policies require that these proforma submissions be treated as one submission. Thirteen submissions were received from public agencies.

The consultation documents were published on Council's engagement platform, Your Say Wollondilly, along with supporting information.

In particular, community and stakeholder engagement were encouraged through:

- Public notification in local newspaper District Reporter
- Notification to relevant public authorities in writing
- Notification letters were sent to all affected landowners and occupants in Appin

- Hard copies of the draft proposal were available for inspection at Wollondilly Library, Council's administration building and on the Dilly Wander. A copy of the proposal was also available for short-term loan from the library
- Promotion through Facebook posts on Council's Facebook page
- Wollondilly hosted a community drop in 2024 to discuss Greater Macarthur in Appin with the community.

Community Consultation

All community submissions were unsupportive of the draft proposal.

The key concerns raised in the proforma submission were:

- Bushfire evacuation times
- Timing of Infrastructure delivery to support housing
- Potential environmental and heritage impact on Appin
- Addressing the health care needs of the area
- Rezoning being premature
- Impact to landowners with no consultation
- The location of the M9 orbital.

The additional key issues conveyed in individual submissions were:

- Poor condition of existing roads in the area and access to the sites
- Increased risk of bushfire for the new areas and evacuation
- Flooding impact
- Lack of drinking water capacity
- Lack of sewer capacity
- Unknown or lack of certainty for future transport corridors and its impact on other landowners
- Lack of public transport services
- The lack of a minimum lot size
- Lack of formal arrangement for infrastructure and funding sources, both at State and local level.
- Possible impact on Aboriginal Heritage sites
- Insufficient community consultation
- Essential government services needed for the area such as fire, police and ambulance.
- Impact on vegetation and the Cumberland Plain
- Loss of rural lands

The concerns expressed in the submissions are generally consistent with the issues that have been raised in other Planning Proposals for Appin. Some of these issues are

significant and are required to be addressed should the proposal proceed. These issues are discussed in further detail below.

The above summary has provided an overview of the key issues from all community submissions.

A detailed summary of community submissions and Council's response is located at **Attachment 3**.

Consultation with Public Agencies

Public agency consultation at the preliminary assessment stage is undertaken on a case-by-case basis and is not mandated in Council's Planning Proposal Policy. Public agency submissions form an important part of the assessment as they are the owners and practitioners of technical servicing information. The relevant agencies must be satisfied that a draft proposal does not have an adverse impact on the capacity for them to service the site and surrounding area, to proceed.

Council's Resolution (153/2022) of 28 June 2022 notes that in the event that public agencies are unable to meet their obligations to provide a response on draft Planning Proposals, that the proposal be assessed as if it is not supported by the agency.

Fourteen referrals were sent, and 13 responses were received with one agency not providing a response. The Department of Regional NSW – Mining, exploration and Geoscience did not provide a response. Given that some mining leases for Appin are still active, it is recommended should the proposal proceed to Gateway, that a similar clause be included as adopted with Appin Part 1 to ensure mining leases are managed through the rezoning process.

Of the 13 public agency submissions received, TfNSW did not support the proposal progressing, seven agencies raised concern or required additional information, two agencies raised servicing timeframe issues, and two agencies had no concerns with the rezoning of the land.

The agencies below provided feedback:

1. Department of Planning, Housing and Infrastructure (DPHI)
 - (1) Metro West
 - (2) Biodiversity & Climate Change Planning Resilience and Urban Sustainability
2. State Emergency Service (SES)
3. Sydney Water
4. Water NSW
5. Rural Fire Service (RFS)
6. Environment Protection Authority (EPA)
7. Transport for NSW (TfNSW)
8. Department of Climate Change, Energy, the Environment and water – Environment and Heritage Group
9. Subsidence Advisory NSW
10. Endeavour Energy

11. Population Health
12. Local Aboriginal Group
13. Department of Education

The full summary of public agency submissions can be found at **Attachment 3**.

KEY PUBLIC AGENCY COMMENTS

Department of Planning, Housing and Infrastructure

DPHI have identified that the proposal does not align with the structure plan in that there is a new proposed local centre. This local centre is out of alignment with the rest of the planning for centres in the growth area and its proximity to the existing local centre of Appin township is a further concern. The proponent has submitted a Centres Assessment as part of the additional information for the proposal. Council still remains concerned with the additional local centre as it does not align with the current adopted Structure Plan, nor does it align with our understanding of expected growth.

Council do not support this additional local centre as it will impact the viability of the existing Appin township. The study has referenced dwelling numbers for the Appin Growth area that exceed the dwelling Cap, these estimates are the justification for the need for an additional centre. Under the current dwelling cap set by the State for Appin, another centre is not needed.

DPHI noted that a dwelling cap of 15,000 is identified for West Appin and they are concerned the draft proposal will take an additional 1,312 dwellings on top of the already rezoned 12,900 dwellings allocated to Walker as part of the Appin Part Precinct 1. It has been stated that the draft proposal will impact on the ability of the rest of the West Appin area to develop in accordance with the Greater Macarthur Structure Plan. Further information is required to demonstrate how the dwellings will be distributed across the rest of the growth area.

DPHI also confirmed that TfNSW may require the Northern and Southern site to have its own Transport Management Plan, however since this referral a TMAP for Appin Precinct 1 and 2 has been endorsed by TfNSW which has resolved any such issues.

DPHI requires further information on the proposed State Planning Agreement (SPA) and whether Walker is intending to enter a separate agreement or one consolidated agreement for all Appin (Part 1) Precinct and this Planning Proposal.

It further noted that the proponent must indicate if the DCP for Appin (Part 1) Precinct will be utilised for Appin Part 2 and the same must be addressed for the Precinct Structure Plan (PSP). The proponent has indicated that the intent is to apply the main Appin DCP to this site as well which is currently in draft form with DPHI.

DPHI also questioned Council on its preference for zoning, noting that the UDZ or the standard instruments zones could apply. For the consistency across the growth area, Council see the UDZ zone as the preferred option. This is due to these sites adjoining Appin (Part 1) Precinct which has a zoning of UDZ from the state led planning proposal.

DPHI also noted that should the proposal proceed to Gateway, the Gateway determination would likely include conditions requiring:

- A Draft DCP for the whole of West Appin
- A finalised PSP that aligns with the State Structure Plan, and

- State Planning Agreement (SPA)

The requirement would be to publicly exhibit these together with the draft proposal. While the DCP may be adopted post finalisation, the Gateway will likely require the proposal not be finalised until SPA and PSP for the sites are fully resolved.

DPHI required the following agencies to respond prior to the draft proposal proceeding to Gateway:

- Sydney Water
- Rural Fire Service
- Transport for NSW
- School Infrastructure NSW
- Environment and Heritage Group

Council has received a response from each of these agencies, however Sydney Water and TfNSW still have raised concerns with the proposal in their submissions to Council.

If the draft proposal proceeds to Gateway, the Department has noted that only 12 months will be provided, and the proponent and Council need to be satisfied the required works can occur within this timeframe as extensions will not be granted.

The DPHI advice is provided at **Attachment 4**.

The proponent has responded to this referral indicating that they believe 15,000 a dwelling yield is an approximation not a cap. They believe that the housing crisis will be a driver for the more relaxed approach to the dwelling cap in West Appin. This additional information has not addressed the concerns set out by DPHI sufficiently.

NSW State Emergency Service (SES)

SES raised concerns with flooding on portions of the site. This is consistent with Councils assessment of the proposal and the Ministerial Directions. It is recommended that further work from the proponent be required regarding flooding if the proposal was to proceed to Gateway.

The proponent understands that SES would like further detail, however they have advised that there is Water Cycle Management Study provided with sufficient detail to address flooding and will not be undertaking a hydraulic flood assessment.

Sydney Water

Water Servicing: The current network cannot service the proposed development. Additional infrastructure upgrades are required and are expected to be delivered between 2026-2031. The current potable water for the area cannot service the proposal.

Based on the response from Sydney Water, the proposal is not recommended to proceed as drinking water is not available for the proposal.

Wastewater Servicing: Sydney Water has provided an updated letter for the sewer connection in the Appin area. It is understood by Sydney Water that Conexa (a private service provider) will service the Walker lands with the location of this wastewater facility to be located on the southern portion of the draft proposal site.

Water NSW

Water NSW raised a number of issues some of these issues around, sewer, portable water and heritage impact have been addressed by other agencies.

In addition to this, Water NSW raised concerns with the asset protection zones and the impact on the catchment land. The proposal seeks to have all asset protection zones located within the development site itself and the impact on the catchment land is noted as minimal. The proponent has proposed a public park in the land that forms part of the catchment area. This area will need to still demonstrate neutral or beneficial impact to the catchment as part of any future DA.

Any development applications that result in water leaving the site will require additional approvals and will need to demonstrate neutral or beneficial impact to the catchment.

It was also noted the proximity to the upper canal corridor (State listed heritage item), the proposal does not seek any physical works at this stage only a rezoning via a legislative amendment to the Precincts SEPP. Any future physical works that impact on the land would be addressed via the development application process through conditions of consent and referrals to Water NSW for concurrence.

The proponent has indicated that they will comply with Neutral or Beneficial Effect (NorBE) as part of any Development Application.

NSW Rural Fire Service (RFS)

The RFS has not objected to the Planning Proposal. The RFS notes that the standard requirements of 100B of the Rural Fires Act 1997 are required to be complied with along with Planning for Bushfire Protection 2019 as part of any future Development Application.

The proponent has indicated they will comply with the requirements of the Bushfire Protection 2019 and 100B of the Act with any Development Application.

Environmental Protection Authority (EPA)

The EPA reviewed the submitted reports and has identified that further work is required in relation to the proposal. If the Proposal was to proceed to a gateway an additional report called a Detailed Site Investigation (DSI) would be required as part of the gateway condition and if triggered by the DSI a Remediation Action Plan would be required.

In addition, the acoustic report has insufficient details in relation to the fans associated with Appin Coal seam Methane power station and the vent shafts associated from the Appin Coal seam mine infrastructure.

The proponent has indicated they will undertake further work at the Development Application stage which would include an additional Acoustic Report and a DSI. This may be appropriate, however discussion with DPHI would need to take place to resolve the timing.

Transport for NSW (TfNSW)

Council has received a copy of the endorsed TMAP from TfNSW. This endorsement has progressed the delivery of a road network to the satisfaction of Transport for NSW however funding has still not been resolved, and Council has identified a number of concerns that are as yet unresolved.

It is noted that the proposal seeks to enter into a SPA for the funding and delivery of the regional infrastructure, which includes roads and transit corridors. This SPA is yet to be exhibited.

“Therefore, TfNSW recommended that the Appin (Part) 2 Precinct Proposal not be considered by the Council until the TMPA and SVPA are publicly exhibited and receive final approval from the Relevant Planning Authority.”

Council notes the concerns identified by TfNSW and supports the recommendation not to proceed to Gateway for any further development until the SPA has been exhibited, and the final has been endorsed or signed by the relevant agency. This information will serve to inform the Precinct Structure Plan, and it is critical that these are established before further rezoning can occur. This sentiment is supported in part by DPHI, which also requires a draft DCP, SPA and a PSP that at a minimum must be completed as conditions of Gateway.

Department of Climate Change, Energy, the Environment and water – Environment and Heritage Group

A full Aboriginal Cultural Assessment was submitted as part of this Planning Proposal. However, this has not addressed the concerns of Environment and Heritage Group, if the proposal was to progress to a Gateway determination additional aboriginal due diligence is required in accordance with the Planning Direction 3.2.

The proponent has advised that they believe the current reports are of an appropriate level for the current stage of development. Council recommends that these reports form part of a gateway determination if the proposal proceeds.

Council does not have specialists in this area and would refer this matter to DPHI for direction and resolution.

NSW Subsidence Advisory

No objection from the NSW Subsidence Advisory.

The proponent will seek approval under section 22 of the Coal Mine Subsidence Compensation Act 2017 with any Development Application.

Endeavour Energy

No concerns for the proposed rezoning, but it was noted that the existing network will require upgrades to meet the future demands of the area.

The proponent has confirmed they will continue to engage with Endeavour Energy about servicing the sites.

Population Health

Population Health noted the proposed inclusion of areas for community-based health services and the planned active transport and public transport routes for the proposal. It also noted there is public open space within walking distances of all proposed dwellings based on the information provided. Population Health are generally supportive of the proposal. They suggest that higher density areas are located closer to open space and mixed-use centres to increase dwellings within the 400 metres of key infrastructure.

The proponent did not review the comments by Population Health as this was a late submission.

Biodiversity & Climate Change Planning Resilience and Urban Sustainability

This team is responsible for the Cumberland Plain Conservation Plan and provides comments on alignment with the planning framework approved by the State and Federal Government, they had no concerns or additional comments.

Local Aboriginal Group

Raised concerns with the general process and the land that forms part of the state listed aboriginal site in the area. However, it has been clarified that the draft proposal does not form part of any curtilage of this listing.

Department of Education (DoE)

DoE has no significant concerns with the proposal. They have noted they are still working with DPHI and the proponent on sufficient land and location of schools. Currently there is a school site proposed within the local centre that forms part of this planning proposal. While this site has not been finalised and does not form part of any SPA, DoE require specific sizing and locations for school sites.

The proposed zoning of the school site is recommended to be SP2 Infrastructure as this will allow for easier school delivery.

It is recommended that the school site zone be updated as part of the gateway process in addition, the size of this site needs to clearly comply with DoE minimum size requirements.

KEY ISSUES

The following key issues have been raised though Council's assessment of the proposal, this includes matters raised by internal Council officers, the community submissions and public agency comments. They represent matters that Council officers are concerned with and would need to be resolved before the planning proposal can be supported.

- 1.1 Dwelling Cap and Distribution
- 1.2 Structure Plan
- 1.3 Transport Corridors
- 1.4 Flood Prone Land
- 1.5 Site Contamination
- 1.6 Acoustic Issues
- 1.7 Drinking Water and Sewer
- 1.8 Minimum Lot Size
- 1.9 Outstanding Matters
- 1.10 Local Contributions Plan
- 1.11 Mining Leases

A detailed assessment is provided below.

1.1 Dwelling Cap and Distribution

The advice from DPHI has confirmed concerns that have previously been raised in relation to the Greater Macarthur 2040 interim plan and the 15,000 dwellings allocated for the West Appin area.

The proponent has provided additional justification (**Attachment 5**) for the dwelling cap. This includes that the dwelling cap is not a fixed number, and the additional 1,312 additional dwellings are seen to address the housing supply crisis. The additional information does not address the distribution of the remaining dwellings across West Appin.

The Planning Proposal has been amended to recommend the dwelling cap currently imposed under Clause 4.3A of the Appin Part Precinct Plan be deleted as State and Local Planning Agreements will manage yield consistency. The Appin Part Precinct 1 is not subject to this planning proposal and such an amendment to this clause is not part of the draft proposal.

The justification submitted has assumed that the West Appin area will simply exceed 15,000 dwellings. This raised significant concerns for Council and State Agencies, as we are planning and funding infrastructure based on the dwelling cap. The dwelling cap is critical for all parties to ensure that the infrastructure planning is commensurate to expected dwellings. Further there is extensive land that is identified to transition to urban under the Greater Macarthur Precinct Structure Plan.

Council recommended that if the proposal does proceed to gateway no further dwellings should be allocated and the draft proposal must be treated as an extension of the Appin (Part 1) Precinct rezoning. This would limit the dwelling numbers allocated to the proponent across both planning proposals to the already allocated 12,900 dwellings approved as part of Appin Part Precinct 1.

The remaining urban capable land in Greater Macarthur is estimated to be 576 hectares and once land is deducted for the purpose of parks, open space and roads, the average lot size for the remaining land in West Appin is 1,646 square metres. This would not deliver what is anticipated within the Greater Macarthur Growth Area and not be compatible with the predicted future character.

Minimum lot sizes will be needed for any future planning proposal to ensure development does not exceed the 15,000 dwelling caps.

Further work or a firm position is needed on the dwelling cap. This cap has been tied to the infrastructure planning such as roads, sewer, drinking water and open space and the funding associated with this. If the proposal proceeds to a gateway, the issue about the remaining dwelling cap is required to be addressed as part of any Gateway conditions.

1.2 Structure Plan

The proposal includes a new local centre and as a result they have made amendments to the transit corridors adjoining the new centre. These changes are not supported as they will impact the viability of the existing Appin village local centre by creating another centre that has not been identified as being needed under current population projections. The proponent has provided a centres study as part of their additional information to justify the need for this. One of the key aspects of the need for this centre is an increase in the proposed dwelling caps which has not been supported to date.

1.3 Transport Corridors

The location and finalisation of the transport corridors requires resolution. It is noted some residents have concerns that the proposed location of corridors impacts their properties however there is no information on the widths of these roads and the scale of the structure plan does not provide sufficient information for Council to confirm if these residents are to be impacted.

TfNSW and the proponent will need to provide further detail to create greater certainty for residents. Landowners should be provided with clear information on the potential impact.

1.4 Flood Prone Land

It is noted that areas of the site have the potential for flooding and no flood study has been prepared as part of the draft proposal. Further work has been done by the proponent with an updated Water Cycle Management Strategy, this report still highlights the need for a Hydraulic Flood Assessment with is recommended to be a condition of Gateway with necessary changes to remove UDZ from any flood affected land.

1.5 Site Contamination

Contamination concerns have been identified based on the preliminary site investigation. Prior to this proposal proceeding to a Gateway or as part of a condition of gateway, it is recommended that a detail site investigation occur to ensure the sites are suitable for dwellings.

1.6 Acoustic Issues

The site is in close proximity to the Appin Mine power station and the proposed mitigation methods for impacts on dwellings have not been supported. The acoustic report requires further work to ensure these mitigation methods will ensure dwellings in close proximity are not significantly impacted. Specifically, the acoustic report needs to look at the fans associated with Appin Coal seam Methane power station and the vent shafts associated with Appin Coal seam mine infrastructure. It is recommended that these works are a condition of the Gateway.

1.7 Drinking Water and Sewer

Sydney Water cannot service the site for drinking water at this stage. If the proposal was to proceed the upgrade works that are required would need be undertaken by the proponent to provide services to the site. The negotiation of a SPA for these works may be a requirement of a gateway condition. Ideally, this would be resolved before further rezoning occurs. It is important to understand what is being planned for Appin Part Precinct 1 as this could help service any subsequent planning proposals. This may include but not be limited to how funding will be and delivery of the key road network, the school sites, ambulance, fire and rescue and police site. Currently the information on state funding and any proposed SPA is not available to the public with no current SPA.

The proponent has also provided further information and their agreement with Conexa on the sewerage delivery. The Appin Part 1 and Part 2 areas will be serviced by Conexa not Sydney Water. More detailed information is recommended to be provided as part of a gateway condition to ensure timeframes can be provided for this demand.

1.8 Minimum Lot Size

Ideally, the draft proposal would be supported by an appropriate minimum lot size to ensure that the dwelling cap is not exceeded. Density bands may not be appropriate given the amount of surplus land that remains certified for development in the Growth Area. Should the proposal proceed to Gateway this matter will need resolution.

1.9 Outstanding Matters

As referenced with correspondence from DPHI to the proponent on the 23 November 2023, there are a number of matters that still need to progress for the Appin Growth Area. This includes:

- The updated Precinct Structure Plan (PSP) and
- Development Control Plan (DCP)

- Finalised Local Contributions Plan
- State Voluntary Planning Agreement.

It is noted that the TMAP will inform the structure plan and DCP. The letter also provided Council and Department's initial comments and highlighted the SEPP requirements for the PSP and the DCP. In addition, the SPA needs to be finalised along with a Local Contributions Plan for the Appin Growth Area.

1.10 Local Contributions Plan

The local contributions plan for the Appin Growth area has been submitted to IPART and Council is waiting for final approval from IPART.

The draft proposal should not proceed to Gateway until a local contributions plan for the area is in place and has been adopted by Council. Further any arrangements for local assets would need to comply with Council policies such as the Dedication of Land.

1.11 Mining Leases

The current Appin area is impacted by Mining leases, with not correspondence from the Department of Regional NSW a similar approach to Appin Part 1 with the extinguishing of these leases prior to any development application is recommended. This has been controlled through the SEPP with a clause imposed on the affected land.

Options for Moving Forward

The draft Planning Proposal has been prepared by the proponent in accordance with the State Government's Local Environmental Plan Making Guideline. Advice of the Local Planning Panel is sought regarding this planning proposal.

The options to be considered are:

1. Resolve to support the draft planning proposal in the form as described in the 'Description of Proposal' section of this report.
2. Resolve to support the draft planning proposal in another form.
3. Resolve not to support the draft planning proposal.

Option 3 is the recommendation of this report. This is due to the reasons discussed in the Issues section above. The recommendation of the Panel will be reported to a Council meeting for consideration as part of their decision making regarding the draft proposal.

FINANCIAL IMPLICATIONS

Funding for this assessment of the Planning Proposal has been covered by the operational budget, with income from Councils adopted planning proposal fees and chargers.

Conclusion

The draft Planning Proposal seeks to rezone the two subject sites from RU2 Rural Landscape to UDZ Urban Development zone and C2 Environmental Conservation, remove the minimum lot size for the UDZ area and amend the minimum lot size of the C2 to 40 hectares.

The proposal does have strategic merit in that it gives effect to the State led plans for Greater Macarthur. This is with the exception of plans for an additional local centre. The timeframe and expected delivery of the site is considered to be out of sequence and premature because there are still a number of significant issues to work through with DPHI

and Transport for NSW. In addition, the proposal is inconsistent with Ministerial Directions 1.14 and 4.1. 5.1, to address this, further work is required.

Site specific issues such as the flood prone land and the mapping of riparian corridors are recommended to be reflected within the zone boundaries in addition to the creation of a structure plan for the sites.

There are a number of outstanding matters that would need further work or clarification should the proposal proceed. These have been outlined in the report and also represented by DPHI in correspondence to the proponent towards the end of 2023 and most recently in the DPHI advice to Council as part of the planning proposal. (Refer to Attachment 4)

Of particular significance is the dwelling cap. Should the proposal proceed it is recommended that the existing dwelling cap of 12,900 should be applied to both Appin Part 1 and Appin Part 2.

This work includes resolving the:

- Dwelling Cap and distribution of the remaining 2,100 dwelling across the rest of the growth area
- Precinct Structure Plan
- State Planning Agreement or other mechanism to deliver infrastructure
- Local Contributions Plan
- Draft DCP (exhibited)

It is recommended that the Planning Proposal not proceed to Gateway with the issues that have been outlined within this report.

ATTACHMENTS

1. Draft Appin (Part 2) Precinct Planning Proposal [7.2.1 - 192 pages]
2. Assessment Strategic Alignment Appin Part 2 [7.2.2 - 11 pages]
3. What We Heard Submissions Summary Appin Part 2 [7.2.3 - 17 pages]
4. Studies provided as part of the Planning Proposal A [7.2.4 - 1 page]
5. Department of Planning, Housing and Infrastructure – Letter from DPHI to Walker Corpo [7.2.5 - 5 pages]
6. Proponent Response to RFI P P-2023-2614 [7.2.6 - 5 pages]
7. Appin (Part 2) Precinct Structure Plan V 1 [7.2.7 - 1 page]