

16 February 2024

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Our ref:           *D2024/9914*

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

Dear Sir/Madam,

**Preliminary Notification: Draft Planning Proposal – Appin (Part) Precinct No 2.**

I refer to Council's letter of 12 January 2024 regarding *preliminary notification* of a draft Planning Proposal ('The Appin (Part 2) Precinct for Urban Development' dated 23 November 2023) for land within the Greater Macarthur Growth Area (GMGA).

We understand that the Appin (Part 2) Precinct Proposal seeks to amend the Appin (Part 1) Area to include two additional sites (North Site and South Site). For the stated land this would amend:

- the land use from RU2 Rural Landscape to Urban Development Zone (UDZ) and C2 Environmental Conservation
- the Minimum Lot Size (MLS) by maintaining the 40 ha for the C2 Conservation zone with no MLS proposed for the Urban Development Zone
- the existing Transit Corridors Map to include the indicative East-West road and Transit Corridor. We note that this amendment is to include the parts of the Transit Corridor and Indicative East-West Road as applicable to the new Part 2 area.

The Proposal is accompanied by a series of maps and technical reports and includes changes to the Structure Plan for the area.

The development of the area would be facilitated as an amendment to the planning framework established for the Appin (Part 1) Precinct Planning Proposal including the Appin (Part) Precinct Plan under State Environmental Planning Policy (Precincts – Western Parkland City) 2021 (WPC SEPP). However, unlike Appin (Part 1), this amendment is following a Planning Proposal and Gateway process administered by Council rather than the Department of Planning, Housing and Infrastructure (DPHI). To this end, we have positioned our submission on the understanding that further public exhibition and consultation with us would occur if the Proposal proceeds past Gateway.

**Transit Corridor Map**

We note that the Transit Corridors map (Date of Application 15 December 2023) identifies the southern Transit Corridor crossing the Upper Canal Corridor, the OSO2 Corridor Option flanking the western edge of the Upper Canal, and the East-West Road link over the Upper Canal Corridor in the north. This E-W Road area is a particularly fragile section of

the Upper Canal that will need to be taken into account in the development design. WaterNSW should be consulted in the early stages of development design for this area.

Any development of 'affected land' (the Corridor and associated buffer) under s2.163 of State Environmental Planning Policy (Transport and Infrastructure) 2021 (the T&I SEPP) will need to be consistent with the Water NSW 2021 [Guideline for Development Adjacent to the Upper Canal and Warragamba Pipelines](#). We ask that crossings of the Canal Corridor be kept to an absolute minimum and that consultation with us occurs at the earliest stages of planning and design.

### **Additional Urban and Conservation Land**

The Proposal seeks to rezone 100.10 ha of land from RU2 Rural landscape to UD Urban Development Zone (82.46 ha) and C2 Environmental Conservation (17.64 ha) to facilitate approximately 1,312 dwellings, conservation land, local parks, a transport corridor and a local centre.

The Proposal involves two discrete areas of land: the North Site and the South Site. WaterNSW has limited interest in the North Site as it occurs about 1 km north-west of the Metropolitan Special Area and Sydney Drinking Water Catchment (SDWC) at its closest point. It also lies 1 km eastward of the Upper Canal Corridor and well beyond the 'affected land' provisions of the T&I SEPP.

The South Site is of interest to WaterNSW as it includes land that is designated Schedule 1 Special Area under the *Water NSW Act 2014* and associated Regulation 2020, with those land areas also lying within the SDWC. While Special Area controls are limited on private land, planning controls under Parts 6.2 and 6.5 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 (the B&C SEPP) will be relevant to those land portions lying within the SDWC. Importantly the South Site also borders Water NSW land in the south-west. This land is also designated Schedule 1 Special Area but public access is prohibited. Sydney Water's Macarthur Water Filtration Plant also lies immediately east of the site.

Under the Proposal, the entire South Site would be afforded an Urban Development (UD) zoning. Land uses are further refined under the proposed Structure Plan, with district open space being generally aligned with the Special Area and SDWC boundary of the land north of Wilton Road. We support this approach and note that together with Wilton Road, would help buffer the interface with the WaterNSW-owned Special Area located immediately south.

However, the planning controls and land uses proposed for land south of Wilton Road are far less detailed and remain very ambiguous. The south-western edge of the land south of Wilton Road fringes and includes a very small area of the SDWC and Special Area. The south-west corner also borders Special Area lands owned and managed by WaterNSW (Lot 6 DP 1085929) where public access is prohibited.

At this stage, we are unable to support changes to the planning controls (including zoning) for the area of land south of Wilton Road and particularly the area that lies immediately adjacent to the WaterNSW Special Area. This is due to the land's proximity to the Metropolitan Special Area and SDWC, and the contradictory and inconsistent information being presented in the Planning Proposal regarding land south of Wilton Road.

The Proposal indicates that the land south of Wilton Road will be rezoned to UD and will have no MLS. The Structure Plan and other Figures indicate the land south of Wilton Road is 'excluded land' but it is ambiguous what this means in the context of the Structure Plan. Is it then excluded from planning controls? Elsewhere, other figures and descriptions portray the land south of Wilton Road as 'environmental conservation' (pages 120, 139); greater clarity is required. It is unclear how and whether this inconsistent information has influenced relevant development and conservation calculations.

The land uses, design and management of this land has important bearings for water and catchment management given that the site lies immediately adjacent to the SDWC and WaterNSW-owned Special Area land in the south-west. Supporting reports also suggest that package wastewater treatment systems (PWTSS) might be used as short-term measures for urban development. We do not support a situation arising that places unsewered intensive residential development in close proximity to the SDWC. We also do not support situations arising where development of the area increases our compliance or land management responsibilities for the Metropolitan Special Area, or otherwise risks adverse effects to water quality in the SDWC.

If the Proposal progresses and intends to rezone land south of Wilton Road, it will need to clarify the land uses intended for this area within the Structure Plan and take better account of site context, constraints and servicing. We would also request that the Structure Plan allocate district or regional open space adjoining the WaterNSW land as occurs north of Wilton Road. Alternatively, if urban development is intended to the boundary of WaterNSW land, then there would need to be APZs that incorporated perimeter roads in the area closest to the WaterNSW-owned Special Area land, with APZs being provided wholly on the site of the development. For that land directly bordering the Special Area, security fencing would need to be emplaced by the developer. Additional requirements may also apply, but these can be canvassed once the land uses and intentions for the area are clarified.

Our detailed comments are provided in Attachment 1. Should you have any questions in relation to the matters raised in this submission, please contact Stuart Little ([stuart.little@waternsw.com.au](mailto:stuart.little@waternsw.com.au)).

Please direct any further correspondence on this matter to [environmental.assessments@waternsw.com.au](mailto:environmental.assessments@waternsw.com.au).

Yours sincerely



**CAMILLA EDMUNDS**

**Manager Environment, Sustainability and Catchment Protection**

## **ATTACHMENT 1 - DETAIL**

### **The Site**

The Planning Proposal covers 100.10 ha of land and comprises two distinct land areas: the North Site (Lot 32 DP 736923 and Lot 1 DP 1000355; 62.08 ha) and the South Site (Lots 3 and 4 DP 804375; 38.02 ha).

The North Site is approximately 1 km away from the Upper Canal Corridor and 600 metres away from the 'affected land' mapping called up by the provisions of section s 2.163 of the Transport and Infrastructure SEPP. It also drains towards Elladale Creek, which passes beneath the Upper Canal north-west of the site where the canal waters are enclosed in a pipeline and pass as an aqueduct over Elladale Creek. Stormwater will need to be managed on-site to avoid the risk of increased volumes and flows occurring down Elladale Creek. A Water Cycle Management Strategy report accompanies the Planning Proposal that addresses water quality and water quantity management and includes consideration of the North Site (discussed later). WaterNSW has no further concerns in relation to the North Site.

Our remaining comments concern the South Site.

### **Sydney Drinking Water Catchment and Special Areas**

We include a map of the South Site and its relationship to the SDWC and Special Area designation (see Map 1 at the end of this submission). Land within the SDWC attracts the planning controls such as the provisions of Parts 6.2 and 6.5 of the B&C SEPP, which includes the requirement for new development to have a neutral or beneficial effect (NorBE) on water quality. Special Areas are so declared to protect water quality and maintain ecological integrity. Public access to Schedule 1 Special Areas is prohibited when these areas are on land owned or managed by WaterNSW, or falling under National Park Estate. However, Special Area controls on private land (such as occurs in the Appin (Part 2) South Site area) are limited and mainly relate to animal management (see Water NSW Regulation 2020).

The South Site includes Lot 1 and Lot 3 DP804375. Lot 1 is confined to land north of Wilton Road. Lot 3 involves land both north and south of Wilton Road. The remainder of this submission distinguishes the South site in terms of the land north of Wilton Road and land south of Wilton Road.

The land *north* of Wilton Road includes land that is declared Schedule 1 Special Area. This land also lies within the declared SDWC. The Special Area land in Lots 1 and 3 north of Wilton Road will be classified as 'district open space' under the Structure Plan. The Planning Proposal further identifies that the open space land will be used as a district park for active recreation such as sporting fields (pages 134 and 136). We support the classification of open space over this area of land as proposed in the Structure Plan. The type of open space use may need to consider other values such as ecology and cultural heritage given the site's proximity to the Appin Massacre Cultural Landscape. The open space area may also need to be managed as an Asset Protection Zone (APZ). To minimise water quality risks to the SDWC, we need to confirm that the boundary aligns fully with the Special Area and SDWC boundary.

The land *south* of Wilton Road borders the SDWC and Special Area land, with a very small portion of these lands overlapping with the Planning Proposal site in the south-west. The

south-west corner borders the WaterNSW Special Area land where public access is prohibited.

All land north and south of Wilton Road will need to be managed in such a way as to not increase any management obligations on the neighbouring WaterNSW-owned land which is also designated Special Area.

- All Asset Protection Zone areas will need to be kept on the site of the development.
- If urban development is proposed on the land south of Wilton Road:
  - the adjoining Water-NSW owned-land will need to be separated by an APZ incorporating a perimeter road and located on the site of the development.
  - Suitable security fencing will need to be emplaced by the developer to maintain the security of the WaterNSW -owned Special Area land.

### **Zoning and Land Uses**

The entire South Site will be zoned UD. Our main concern regarding land use zoning is with respect to land south of Wilton Road.

The intended land use for land south of Wilton Road is very ambiguous and varies from UD to C2 zoning. The zoning map on page 21 identifies that all land south of Wilton Road will be afforded the UD Zone. However, the proposed Structure Plan (page 22, 23) identifies the area will be 'excluded land'. This classification of 'excluded land' persists through various other Figures (e.g. Figures 18, 40 and 49). Does 'excluded land' in the context of the Structure Plan mean that the land is being excluded from planning and land use controls? Further to the above, Figure 41 (page 120) identifies that all land south of Wilton Road will be C2 Conservation land. This is further emphasised Figure 57 (page 139) which classifies the land as 'Environmental Conservation' and supporting statements (clause 2.21, page 34) that the zoning of the South Site will be subject to Urban Development and Environmental Conservation zoning. It is therefore very unclear what is being proposed for land south of Wilton Road and what zoning and land uses have been included in the tallies and statistics for this area. The intended land uses for this area needs to be clarified in order for WaterNSW to fully understand and respond to this aspect of the Proposal.

The proposed land uses and urban designs of this land have important bearings for water and catchment management given that the site lies immediately adjacent to the SDWC and WaterNSW-owned Special Area land in the south-west. We do not want a situation that risks residential development being placed on an unsewered area in close proximity to the SDWC (see further comments on servicing below). We also do not support situations arising where development of the area increases our compliance or land management responsibilities for the Metropolitan Special Area, or otherwise risks adverse effects to water quality in the SDWC.

### **Minimum Lot Sizes**

A Minimum Lot Size of 40 ha currently applies to the Appin (Part 2) Precinct. From the proposed lot size map, it appears that all MLSs will be removed from the South Site. Given the ambiguity in land uses proposed for the land area south of Wilton Road (see above), at this stage we do not support a 'no MLS' for the land south of Wilton Road. The current MLS arrangement should be retained until land uses for this area are clarified.

## **Servicing – Water and Sewer**

The supporting Infrastructure Delivery and Phasing Plans are high level. While Figure 3 of the Phasing Plan shows a proposed sewer gravity main connecting the land south of Wilton Road, the Plan (page 10) also indicates the possibility of Package Wastewater Treatment Systems (PWTs) as interim measures until full sewer servicing can be completed. Figure 2 of the Phasing Plan does not include the area south of Wilton Road in water servicing. The area south of Wilton Road is also depicted as being 'grey' in all relevant servicing maps (page 118 of the Planning Proposal) suggesting that the land is 'excluded land'.

In light of the above, the proposed servicing arrangement for water and sewer remains unclear. WaterNSW does not encourage the use short-term PWTs on or near the boundary to the SDWC due to water quality risks.

WaterNSW remains concerned regarding how water and sewer will be serviced and staged. At face value, inclusion of the land south of Wilton Road seems premature. We request that the next iteration of the Planning Proposal include more detail regarding how sewer and water servicing will be planned and delivered for the South Site, particularly the land south of Wilton Road.

## **Stormwater Management**

A Water Cycle Management Strategy report accompanies the Planning Proposal.

In terms of water quality, the stormwater modelling is based on an approach that aims to deliver a Neutral or Beneficial Effect (NorBE) on water quality even though the site is outside the SDWC. We generally support this approach. However, we note that a typical 10 ha low density residential catchment has been modelled to inform the anticipated size of the water sensitive urban design (WSUD) devices. Currently, the land uses, density and form of the residential uses on the land south of Wilton Road remain unclear.

It is unclear how the north-western area of the South Site, that drains towards the SDWC, has been accommodated in the water quality and flow modelling. If it has been excluded, this should be made clearer. The proposed 'open space' over the Special Area land occurring over Lots 1 and 2 north of Wilton Road may have been counted in the water quality modelling for flows occurring away from the SDWC.

We note that the land south of Wilton Road generally drains north-eastward towards Ousedale Creek and away from the SDWC. Detention basins are proposed on the South Site but the north of the Wilton Road and towards the east of the site. The detention basins are located away from the Special Areas and the SDWC. We support this approach. Any development in the South Site (both north and south of Wilton Road) will need to ensure that runoff is directed away from the SDWC.

## **Ministerial Direction 3.3 Sydney Drinking Water Catchment**

Section 9.1 Ministerial Direction 3.3 Sydney Drinking Water Catchment applies to Planning Proposals that affect land in the SDWC. It is therefore relevant to the South Site and those areas of Lots 1 and 3 that overlap with the SDWC.

We note that the Planning Proposal includes a response to Direction 3.3, noting that the Proposal is not wholly consistent with the Direction.

We agree with the open space zoning proposed in the Structure Plan for the South Site north of Wilton Road which will help protect that land located in the SDWC. The exact



boundary will need to be confirmed. Our main concern is regarding the resolution of what land use is proposed south of Wilton Road as described.

### **Water Journey Trail**

We note that the Planning Proposal includes an active recreation trail known as the 'water journey' to offer opportunities for education and interaction with water, and to implement visual and green connections. This generally follows Ousedale Creek. We support this 'in principle' but ask that we are consulted in the design of trail, particularly at its southern end. Figure 57 positions the trail heading south-east beyond the GMGA and into Sydney Water's Macarthur WFP and the adjoining Schedule 1 Special Area land owned by Water NSW where public access is prohibited. It is important that the trail be contained to publicly accessible areas and avoid WaterNSW Special Area lands.

- Figure 57 should be adjusted so that the arrow of the 'Water Journey' trail not be directed to include WaterNSW Special Area land.
- We are happy to further discuss opportunities for water education on areas outside the Special Areas.

### **Heritage**

The Appin (Part 2) Precinct is close to the Windmill Hill Group of local heritage items (Item #117) to the immediate east, consisting of Brennan's Farm, Larkin's Farm and Winton's Farm.

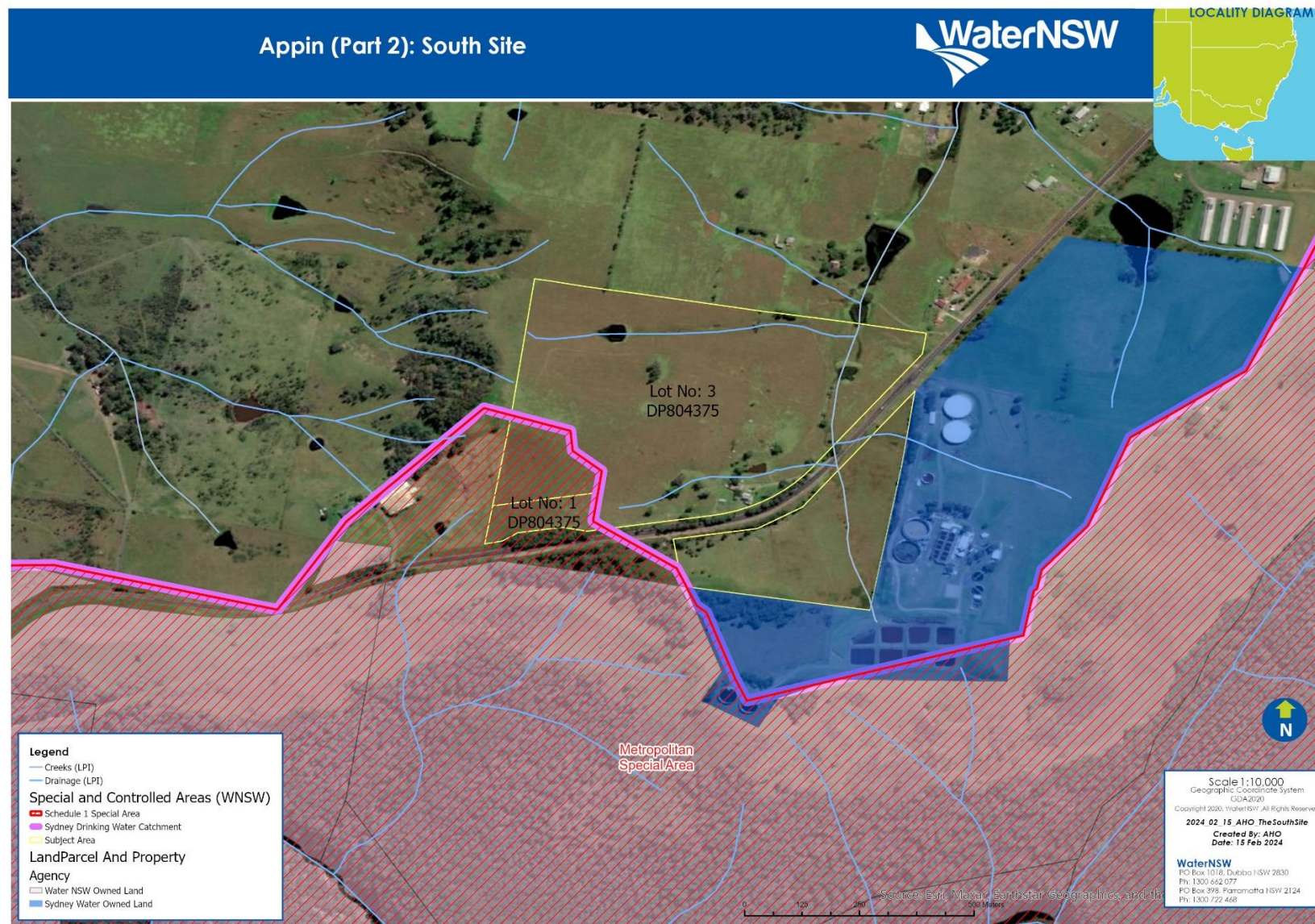
WaterNSW owns several of properties associated with the Windmill Hill Group listing including Lot 1 DP 826121, Part Lot 6 DP 1085929, and Part Lots 8 and 9 1127449. While Lot 6 adjoins the site in the south-west corner, the lot is large and irregular in shape. The curtilage of the Windmill Hill Group listing occurs further eastward of and away from the Planning Proposal site. However, development of the Southern Site will adversely affect the view from the Windmill Hill properties as these look westward over a currently rural landscape.

### **Other:**

- We note and support statements made in the Proposal that seek to protect water catchment land in the South Site (page 122). The Proposal includes reference to Chapter 6 Water Catchments of State Environmental Planning Policy (Biodiversity and Conservation) 2021 (the B&C SEPP) noting that the Upper Nepean catchment within the SDWC partly extends into the South Site.
- The Executive Summary may benefit by distinguishing that identifying the Lot and DPs that the Appin (Part 2) precinct applies and by noting that the Proposal involves two discrete areas (i.e. the North Site and the South Site), separated by a distance of several kilometres.
- What is the actual site area and how much area is being rezoned for urban development as opposed to consideration? Clause 1.11 (P. 14) indicates that 99.4 ha of land (comprising the Site) will be rezoned (p. 14). Elsewhere, the document indicates that 100.10 ha of land will be zoned for urban development (clause 1.44, p. 18). The metrics on page 22 then indicate that the site area and total proposed zones is 100.10 ha of which only 82.46 ha is proposed for UD zoning and 17.64 ha proposed for C2 Environmental Conservation zoning. The total size of the site and total area of land to be rezoned should be kept consistent.

- Will development be facilitated by a separate new Structure Plan for Appin (Part 2) or amendments to the existing Structure Plan for Appin (Part 1)? The current Proposal is unclear regarding how the Structure Plan will be given effect (see clause 1.17 page 14 vs. clause 1.22 page 15).
  - The location plan and Structure Plan for the Appin (Part 2) precinct are repeated on pages 22 and 23. It is unclear whether other plans relevant to the proposed Development Control Plan are meant to be included on page 23 in place of the Location Plan and Structure Plan.
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**Map 1.** Location of Sydney Drinking Water Catchment and Special Areas with respect to the South Site