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Your ref: 14614

Mr Max Strassmeir

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**Subject: Appin (Part) Precinct No. 2**

Dear Mr Strassmeir

Thank you for the opportunity to comment on the planning proposal for the Appin (Part) Precinct No.2 under *Wollondilly LEP 2011*.

The site, known as Appin (Part) Precinct No.2, comprises:

- 90 Macquariedale Road, Appin;
- 110 Macquariedale Road, Appin;
- 525 Wilton Road, Appin; and
- 725 Wilton Road, Appin.

The following comments consider the documentation provided with the planning proposal:

**Aboriginal cultural heritage considerations under the *National Parks and Wildlife Act 1974***

The Draft Planning Proposal document references a Due Diligence Assessment and a Cultural Values Assessment. Neither document was provided and therefore was not reviewed for this advice.

***Due diligence is not an adequate level of assessment to inform the planning proposal.***

Heritage NSW does not have a role in assessing or endorsing due diligence assessments. Heritage NSW advises that an assessment under the *2010 Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* is not considered an archaeological assessment or substitute for an Aboriginal cultural heritage assessment report (ACHAR).

The due diligence process does not adequately assess the impacts of this planning proposal on Aboriginal cultural heritage as required by Local Planning Direction 3.2. This is because without Aboriginal community consultation and detailed archaeological assessment, the extent of the impacts on Aboriginal objects and heritage values through the planning proposal and future development is not known.

**The planning proposal recommendations for a full Aboriginal cultural heritage assessment to be prepared are supported.** The ACHAR needs to be prepared in accordance with Heritage NSW guidelines and to include:

- Formal Aboriginal community consultation
- An archaeological assessment.

The results of the ACHAR need to inform the proposed zoning, particularly in relation to protection of Aboriginal cultural heritage values. The requirement for a full assessment to be prepared at the planning proposal stage is consistent with GMGA Principle 1 and the Greater Macarthur Investigation Area, Archaeological Research Design and Management Strategy (Section 5.2.2).

Further information about preparing an ACHAR is available on our website: <https://www.heritage.nsw.gov.au/applications/aboriginal-objects-and-places/>.

### **State and local heritage considerations under the Heritage Act 1977**

#### **As delegate of the Heritage Council**

No heritage listings have been identified within the Appin (Part 2) Precinct ('the Precinct'); however, a number of State and locally significant heritage listings are located immediately adjacent to, or nearby the Precinct:

- *The Appin Massacre Cultural Landscape* (State Heritage Register [SHR] No. 02067) is directly adjacent to sections of the western and northern perimeter of the Precinct (southern portion).
- *Windmill Hill Group, including ruins* (SHR No. 01931) is located approximately 530m to the east of the Precinct (southern portion).
- *Windmill Hill Group - Brennan's Farm, Larkin's Farm, Winton's Farm* (Wollondilly Local Environmental Plan (LEP) 2011 Item No. 117) is located approximately 60m to the east of the Precinct (southern portion).
- *Northamptondale Group – House, Trees, Slab Farm, Outbuildings, Stables* (Wollondilly LEP 2011 Item No. 113) is located approximately 270m to the northwest of the Precinct (southern portion).
- *Elladale* (Wollondilly LEP 2011 Item No. 111) is located approximately 300m to the west of the Precinct (northern portion).

The submitted documentation attests to the Precinct containing and bordering some of the oldest and largest European land grants in the Appin region. The earliest phase of European occupation of the Precinct likely dates to around 1811 and was ongoing from this time. The Precinct was central to some of the hostilities between European landowners and local Aboriginal groups that lead to the Appin massacre. The Precinct has remained a rural area used for pastoral and agricultural purposes throughout the 20<sup>th</sup> century.

Existing farmhouse sites on the Crowe property (northern portion of the Precinct) and Pearce property (southern portion of the Precinct) were inspected for historical remains. The assessment found overall that there is nil potential for archaeology associated with the early exploration phase of the Precinct (1790s-1810); moderate potential for intact archaeological evidence associated with the early settlement and 19<sup>th</sup> century use of the Precinct (1811 to late 19<sup>th</sup> century); and low potential for archaeology associated with the 20<sup>th</sup> century use of the Precinct (early 20<sup>th</sup> century to modern day). There is **high potential** for an archaeological profile associated with the Appin Massacre landscape at 725 Wilton Road (southern portion of the Precinct). In summary, there may be relics within the Precinct of local and possibly State significance.

It is concluded that a Statement of Heritage Impact (SoHI) including test excavation may be required to further understand the potential impacts on any potential archaeological relics at Crowe and Pearce farms. It is recommended that a SoHI is prepared prior to any construction works being undertaken, as part of the planning and design phases.

**Heritage NSW supports the report's recommendations regarding environmental heritage requirements.**

#### Need for a Historical Archaeological Assessment (HAA)

However, noting the assessed archaeological potential and significance, particularly in relation to the Appin Massacre landscape, we consider that a SoHI should be prepared early to inform the planning proposal. The SoHI should include a historical archaeological assessment (HAA) and test excavation conducted under an archaeological research design (ARD). This detailed assessment will inform the planning proposal and ensure appropriate heritage protection measures are implemented, thereby preventing delays during the later planning phases. It should not be left until the development application stage.

The HAA and ARD should be prepared by a suitably qualified archaeologist in accordance with the Heritage NSW guidelines Archaeological Assessments (1996) and Assessing Significance for Historical Archaeological Sites and Relics (2009).

Any archaeological investigations should be carried out in accordance with the *Heritage Act 1977*, including requirement for either a s140 Excavation Permit, or a s139(4) Exception.

Please note that recent changes to Heritage NSW guidelines mean that certain activities and work can be done under a s139(4) excavation permit exception and do not need approval under the *Heritage Act 1977*.

More information is available on the Heritage NSW website [here](#).

Depending on the outcomes of the historical archaeological investigation, further consultation with Heritage NSW may be required.

As identified above, there are several State and locally significant heritage listing items within the vicinity of the Precinct. Further heritage documentation is required regarding the potential impact to the identified heritage values and view corridors to the neighbouring items arising from both the proposed subdivision and future development of the site. Consideration should also be given to heritage mitigation measure which could be implements at the planning proposal phase.

Appropriate documentation would include:

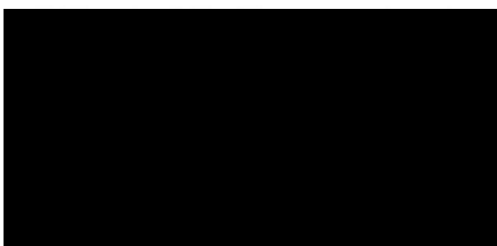
- Statement of Heritage Impact.
- Visual Impact Analysis.

### **General Comments**

Prior to finalisation of the proposal, Council should be satisfied that all necessary heritage assessments have been undertaken and that any impacts have been sufficiently addressed. Council's assessment should include, but not be limited to, a search of the State Heritage Inventory (<https://www.heritage.nsw.gov.au/search-for-heritage/search-for-nsw-heritage/>) and the Aboriginal Heritage Information Management System (<https://www.heritage.nsw.gov.au/protecting-our-heritage/record-aboriginal-sites/>).

If you have any questions, please contact Louise Doherty at [louise.doherty@environment.nsw.gov.au](mailto:louise.doherty@environment.nsw.gov.au) or on 02 9995 5313.

Yours sincerely



Tim Smith OAM

Director Assessments

**Heritage NSW**

**As Delegate of the Heritage Council of NSW**

**As Delegate under the National Parks & Wildlife Act 1974**

22 February 2024