

Appendix **XX** Appin (Part) Precinct – **DRAFT (11.11.2022)**

Part 1 Preliminary

Note—

The *Standard Instrument (Local Environmental Plans) Order 2006* sets out matters to be included in standard local environmental plans. While this Precinct Plan is not a standard local environmental plan, a number of clauses from the *Standard Instrument (Local Environmental Plans) Order 2006* have been included in this Precinct Plan and the clause numbering from that Order has been retained. This means that the numbering in this Precinct Plan may contain some gaps. Additional provisions have been inserted and are numbered accordingly.

1.1 Name of Precinct Plan

This Precinct Plan is the *Appin (Part) Precinct Plan 2022*.

1.2 Aims of Precinct Plan

The aims of this Precinct Plan are as follows—

- (a) to rezone land to allow for development to occur in the manner envisaged by the Appin (Part) Precinct Structure Plan,
- (b) to deliver housing choice and affordability by accommodating a wide range of residential dwelling types that cater for housing diversity,
- (c) to guide the bulk and scale of future development within the Appin (Part) Precinct consistent with the Appin (Part) Precinct Structure Plan,
- (d) to protect and enhance conservation areas and areas of significant native vegetation and habitat, as well as to establish development controls that require the impact of development on native flora and fauna (including koalas) to be assessed,
- (e) to rezone land to allow for retail and commercial uses to meet the needs of future residents of the Appin (Part) Precinct.

1.3 Land to which Precinct Plan applies

This Precinct Plan applies to land within the Appin (Part) Precinct as shown on the Land Application Map.

1.4 Definitions

In this Precinct Plan—

Council means Wollondilly Shire Council.

Appin (Part) Precinct structure plan means the following, published by the Department on **DD MM 2022**—

- (a) the *Appin (Part) Precinct Structure Plan*.

1.5 Notes

Notes in this Precinct Plan are provided for guidance and do not form part of this Plan.

1.6 Consent authority

The consent authority for the purposes of this Precinct Plan is (subject to the Act) the Council.

1.8 Repeal of other local planning instruments applying to land

- (1) All local environmental plans and deemed environmental planning instruments applying only to the land to which this Precinct Plan applies are repealed.
- (2) All local environmental plans and deemed environmental planning instruments applying to the land to which this Precinct Plan applies and to other land cease to apply to the land to which this Precinct Plan applies.

Note—

Wollondilly Local Environmental Plan 2011 and Campbelltown Local Environmental Plan 2015 cease to apply to the land to which this Precinct Plan applies.

- (3) This section does not affect the operation of other provisions of this State environmental planning policy.

1.8A Savings provision relating to pending development applications

- (1) If a development application has been made before the commencement of this Precinct Plan in relation to land to which this Precinct Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Precinct Plan had not commenced.
- (2) The amendments to this Appendix made by *State Environmental Planning Policy (Biodiversity and Conservation) Amendment (Strategic Conservation Planning) 2022* do not apply to a development application made, and not finally determined, before the commencement of that Policy.

1.9 Application of SEPPs

- (1) This Precinct Plan is subject to the provisions of any State environmental planning policy that prevails over this Precinct Plan as provided by section 3.28 of the Act.

Note—

Section 3.28 of the Act generally provides that SEPPs prevail over LEPs and other instruments. However, an environmental planning instrument may (by an additional provision included in the instrument) displace or amend a SEPP or LEP to deal specifically with the relationship between the instrument and the SEPP or LEP.

- (2) *State Environmental Planning Policy No 1—Development Standards* does not apply to the land to which this Precinct Plan applies.
- (3) In the event of an inconsistency between this Precinct Plan and any other provision of this or any other environmental planning instrument, whether made before or after the commencement of this Precinct Plan, this Precinct Plan prevails to the extent of the inconsistency.

Note—

The other provisions of this State environmental planning policy also contain provisions applying development controls to the Wilton Growth Area Precinct.

1.9A Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Precinct Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) This section does not apply—
 - (a) to a covenant imposed by the Council or that the Council requires to be imposed, or
 - (b) to any biodiversity certification conferred under Part 8 of the *Biodiversity Conservation Act 2016*, or
 - (c) to any private land conservation agreement within the meaning of the *Biodiversity Conservation Act 2016*, or
 - (d) to any relevant instrument within the meaning of section 13.4 of the *Crown Land Management Act 2016*, or
 - (e) to the relevant provisions of a land management (native vegetation) code (and the necessary mandatory code compliant certificate) with respect to a set aside area under Part 5A of the *Local Land Services Act 2013*, or
 - (f) to any conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
 - (g) to any Trust agreement within the meaning of the *Nature Conservation Trust Act 2001* that is continued in force by the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*, or
 - (h) to any property vegetation plan within the meaning of the *Native Vegetation Act 2003* that is continued in force by the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*, or
 - (i) to any planning agreement within the meaning of Division 7.1 of the Act.
- (3) This section does not affect the rights or interests of any public authority under any registered instrument.
- (4) Under section 3.16 of the Act, the Governor, before the making of this section, approved of subsections (1)–(3).

Part 2 Permitted or prohibited development

2.1 Land use zones

The land use zones under this Precinct Plan are as follows—

Urban Development Zone

1 Urban Development

Special Purposes Zones

SP2 Infrastructure

Conservation Zones

C2 Environmental Conservation

2.2 Zoning of land to which Precinct Plan applies

For the purposes of this Precinct Plan, land is within the zones shown on the Land Zoning Map.

2.3 Zone objectives and Land Use Table

- (1) The Land Use Table at the end of this Part specifies for each zone—
 - (a) the objectives for development, and
 - (b) development that may be carried out without consent, and
 - (c) development that may be carried out only with consent, and
 - (d) development that is prohibited.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.
- (3) In the Land Use Table at the end of this Part—
 - (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and
 - (b) a reference to a type of building or other thing does not include (despite any definition in Chapter 3) a reference to a type of building or other thing referred to separately in the Table in relation to the same zone.
- (4) This section is subject to the other provisions of this Precinct Plan.

Notes—

- 1 Schedule 1 to this Precinct Plan sets out additional permitted uses for particular land.
- 2 Section 2.6 requires consent for subdivision of land.
- 3 Part 5 of this Precinct Plan contains other provisions which require consent for particular development.

2.5 Additional permitted uses for particular land

- (1) Development on particular land that is described or referred to in Schedule 1 to this Appendix may be carried out—
 - (a) with development consent, or
 - (b) if the Schedule so provides—without development consent,
- (1) in accordance with the conditions (if any) specified in that Schedule in relation to that development.
- (2) This section has effect despite anything to the contrary in the Land Use Table at the end of this Part or other provision of this Precinct Plan.

2.6 Subdivision—consent requirements

- (1) Land to which this Precinct Plan applies may be subdivided, but only with development consent.

Notes—

- 1 If a subdivision is specified as **exempt development** in an applicable environmental planning instrument, such as this Precinct Plan or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the Act enables it to be carried out without development consent.
- 2 Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* provides that the strata subdivision of a building in certain circumstances is **complying development**.

- (2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary

dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land.

Note—

The definition of *secondary dwelling* in the Dictionary requires the dwelling to be on the same lot of land as the principal dwelling.

2.7 Demolition

The demolition of a building or work may be carried out only with development consent.

Note—

The demolition of certain buildings and works is identified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* as exempt development.

Land Use Table

Note—

Parts 6 and 7 of this Precinct Plan set out local provisions which include additional permissible land uses and heads of consideration for assessment.

Zone 1 Urban Development

1 Objectives of zone

- To manage the transition of land from non-urban uses to urban uses.
- To encourage the development of well-planned and well-serviced new urban communities in accordance with the Appin part structure plans.
- To ensure a range of uses, and uses located in a way, that are consistent with the strategic planning for the Appin part Precinct.
- To safeguard land used for non-urban purposes from development that could prejudice the use of the land for future urban purposes.
- To ensure that land adjacent to environmental conservation areas is developed in a way that enhances biodiversity outcomes for the Precinct.

2 Permitted without consent

Home occupations

3 Permitted with consent

Any development not specified in item 2 or 4

4 Prohibited

Air transport facilities; Animal boarding or training establishments; Boat building and repair facilities; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Electricity generating works; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Heavy industries; Home occupations (sex services); Mooring pens; Moorings; Open cut mining; Port facilities; Resource recovery facilities; Rural industries

Zone SP2 Infrastructure

1 Objectives of zone

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.

2 Permitted without consent

Nil

3 Permitted with consent

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose

4 Prohibited

Any development not specified in item 2 or 3

Zone C2 Environmental Conservation

1 Objectives of zone

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

2 Permitted without consent

Nil

3 Permitted with consent

Oyster aquaculture; Environmental Facility; Environmental Protection works; Flood mitigation works

4 Prohibited

Any other development not specified in item 2 or 3

Part 4 Principal development standards

4.1 Minimum subdivision lot size

- (1) The objectives of this section are as follows—
 - (a) to ensure that the minimum size for lots is sufficient for the provision of usable areas for building and open space,
 - (b) to encourage the efficient use of land for residential purposes.
- (2) This section applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Precinct Plan.
- (3) The size of any lot resulting from any such subdivision of land to which this section applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.
- (4) This section does not apply in relation to the subdivision of individual lots in a strata plan.

4.6 Exceptions to development standards

- (1) The objectives of this section are as follows—
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this section, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this section does not apply to a development standard that is expressly excluded from the operation of this section.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless—
 - (a) the consent authority is satisfied that—
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subsection (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Planning Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Planning Secretary must consider—

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.
- (6) Development consent must not be granted under this section for a subdivision of land in Zone C2 Environmental Conservation if—
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (7) After determining a development application made pursuant to this section, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subsection (3).
- (8) This section does not allow development consent to be granted for development that would contravene any of the following—
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated,
 - (c) section 5.4,
 - (d) section 6.2 or 7.1.

Part 5 Miscellaneous provisions

5.1A Appin (Part) Precinct Structure Plan

- (1) Development consent must not be granted to the carrying out of development on land within the Appin (Part) Precinct unless:
- (a) the Appin Part Precinct Structure Plan has been adopted by the Planning Secretary and published on the Department's website.

5.1B Consideration of development applications

- (1) Development consent must not be granted to the carrying out of development on land within Zone 1 Urban Development unless the consent authority—
- (b) has notified the Planning Secretary about the proposed development, and
 - (c) has considered any submission made by the Planning Secretary to the consent authority about the proposed development, and
 - (d) is satisfied that the development is generally in accordance with the Appin (Part) Precinct Structure Plan.
- (2) If the Planning Secretary fails to make a submission to the consent authority within 14 days of being notified of the proposed development, the consent authority may determine the development application without complying with subsection (1)(b).

5.1 Relevant acquisition authority

- (1) The objective of this section is to identify, for the purposes of section 3.15 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991* (***the owner-initiated acquisition provisions***).

Note—

If the landholder will suffer hardship if there is any delay in the land being acquired by the relevant authority, section 23 of the *Land Acquisition (Just Terms Compensation) Act 1991* requires the authority to acquire the land.

- (2) The authority of the State that will be the relevant authority to acquire land, if the land is required to be acquired under the owner-initiated acquisition provisions, is the authority of the State specified below in relation to the land shown on the Land Reservation Acquisition Map (or, if an authority of the State is not specified in relation to land required to be so acquired, the authority designated or determined under those provisions).

Type of land shown on Map or on Map for underlying zone for land	Authority of the State
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Zone SP2 Infrastructure and marked “Local drainage”	Council
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Zone SP2 Infrastructure and marked “Local road”	Council
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Zone SP2 Infrastructure and marked “Classified Road”	Transport for NSW
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- (3) Development on land acquired by an authority of the State under the owner-initiated acquisition provisions may, before it is used for the purpose for which it is reserved, be carried out, with development consent, for any purpose.

Note—

If land, other than land specified in the table to subsection (2), is required to be acquired under the owner-initiated acquisition provisions, the Minister for Planning is required to take action to enable the designation of the acquiring authority under this Part. Pending the designation of the acquiring authority for that land, the acquiring authority is to be the authority determined by order of the Minister for Planning (see section 21 of the *Land Acquisition (Just Terms Compensation) Act 1991*).

5.2 Classification and reclassification of public land

- (1) The objective of this section is to enable the Council to classify or reclassify public land as “operational land” or “community land” in accordance with Part 2 of Chapter 6 of the *Local Government Act 1993*.

Note—

Under the *Local Government Act 1993*, **public land** is generally land vested in or under the control of a council (other than roads and certain Crown land). The classification or reclassification of public land may also be made by a resolution of the Council under section 31, 32 or 33 of the *Local Government Act 1993*. Section 30 of that Act enables this Precinct Plan to discharge trusts on which public reserves are held if the land is reclassified under this Precinct Plan as operational land.

- (2) The public land described in Part 1 or Part 2 of Schedule 4 to this Precinct Plan is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*.

- (3) The public land described in Part 3 of Schedule 4 to this Precinct Plan is classified, or reclassified, as community land for the purposes of the *Local Government Act 1993*.
- (4) The public land described in Part 1 of Schedule 4 to this Precinct Plan—
 - (a) does not cease to be a public reserve to the extent (if any) that it is a public reserve, and
 - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants that affected the land before its classification, or reclassification, as operational land.
- (5) The public land described in Part 2 of Schedule 4 to this Precinct Plan, to the extent (if any) that it is a public reserve, ceases to be a public reserve when the description of the land is inserted into that Part and is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except—
 - (a) those (if any) specified for the land in Column 3 of Part 2 of Schedule 4 to this Precinct Plan, and
 - (b) any reservations that except land out of the Crown grant relating to the land, and
 - (c) reservations of minerals (within the meaning of the *Crown Land Management Act 2016*).

Note—

In accordance with section 30(2) of the *Local Government Act 1993*, the approval of the Governor to subsection (5) applying to the public land concerned is required before the description of the land is inserted in Part 2 of Schedule 4 to this Precinct Plan.

5.4 Controls relating to miscellaneous permissible uses

- (1) **Bed and breakfast accommodation** If development for the purposes of bed and breakfast accommodation is permitted under this Precinct Plan, the accommodation that is provided to guests must consist of no more than 3 bedrooms.

Note—
Any such development that provides for a certain number of guests or rooms may involve a change in the class of building under the *Building Code of Australia*.
- (2) **Home businesses** If development for the purposes of a home business is permitted under this Precinct Plan, the carrying on of the business must not involve the use of more than 50 square metres of floor area.
- (3) **Home industries** If development for the purposes of a home industry is permitted under this Precinct Plan, the carrying on of the home industry must not involve the use of more than 50 square metres of floor area.
- (4) **Industrial retail outlets** If development for the purposes of an industrial retail outlet is permitted under this Precinct Plan, the retail floor area must not exceed—
 - (a) 43% of the gross floor area of the industry or rural industry located on the same land as the retail outlet, or
 - (b) 400 square metres,
 whichever is the lesser.
- (5) **Farm stay accommodation** If development for the purposes of farm stay accommodation is permitted under this Precinct Plan, the accommodation that is provided to guests must consist of no more than 5 bedrooms.

- (6) **Kiosks** If development for the purposes of a kiosk is permitted under this Precinct Plan, the gross floor area must not exceed 20 square metres.
- (7) **Neighbourhood shops** If development for the purposes of a neighbourhood shop is permitted under this Precinct Plan, the retail floor area must not exceed 400 square metres.
- (8) **Roadside stalls** If development for the purposes of a roadside stall is permitted under this Precinct Plan, the gross floor area must not exceed 75 square metres.
- (9) **Secondary dwellings** If development for the purposes of a secondary dwelling is permitted under this Precinct Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater—
 - (a) 60 square metres,
 - (b) 25% of the total floor area of the principal dwelling.

5.6 Architectural roof features

- (1) The objectives of this section are as follows—
 - (a) to ensure that architectural roof features are decorative elements only, and
 - (b) to ensure that the majority of the roof features are contained within the prescribed building height.
- (3) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by section 4.3 may be carried out, but only with development consent.
- (4) Development consent must not be granted to any such development unless the consent authority is satisfied that—
 - (a) the architectural roof feature—
 - (i) comprises a decorative element on the uppermost portion of a building, and
 - (ii) is not an advertising structure, and
 - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
 - (iv) will cause minimal overshadowing, and
 - (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

5.8 Conversion of fire alarms

- (1) This section applies to a fire alarm system that can be monitored by Fire and Rescue NSW or by a private service provider.
- (2) The following development may be carried out, but only with development consent—
 - (a) converting a fire alarm system from connection with the alarm monitoring system of Fire and Rescue NSW to connection with the alarm monitoring system of a private service provider,
 - (b) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with the alarm monitoring system of another private service provider,

- (c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.
- (3) Development to which subsection (2) applies is complying development if it consists only of—
 - (a) internal alterations to a building, or
 - (b) internal alterations to a building together with the mounting of an antenna, and any support structure, on an external wall or roof of a building so as to occupy a space of not more than 450 mm × 100mm × 100mm.
- (4) A complying development certificate for any such complying development is subject to a condition that any building work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday and between 7.00 am and 5.00 pm on Saturday, and must not be carried out on a Sunday or a public holiday.
- (5) In this section—

private service provider means a person or body that has entered into an agreement that is in force with Fire and Rescue NSW to monitor fire alarm systems.

5.10 Heritage conservation

Note—

Heritage items (if any) are listed and described in Schedule 5 to this Precinct Plan. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.

- (1) **Objectives** The objectives of this section are as follows—
 - (a) to conserve the environmental heritage of the Appin Part Precinct,
 - (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
 - (c) to conserve archaeological sites,
 - (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.
- (2) **Requirement for consent** Development consent is required for any of the following—
 - (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—
 - (i) a heritage item,
 - (ii) an Aboriginal object,
 - (iii) a building, work, relic or tree within a heritage conservation area,
 - (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 to this Precinct Plan in relation to the item,
 - (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
 - (d) disturbing or excavating an Aboriginal place of heritage significance,
 - (e) erecting a building on land—

- (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
- (f) subdividing land—
- (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (i) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.
- (4) **When consent is not required** However, development consent under this section is not required if—
- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development—
 - (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and
 - (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or
 - (b) the development is in a cemetery or burial ground and the proposed development—
 - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
 - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or
 - (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
 - (d) the development is exempt development.
- (5) **Effect of proposed development on heritage significance** The consent authority must, before granting consent under this section in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subsection applies regardless of whether a heritage management document is prepared under subsection (5) or a heritage conservation management plan is submitted under subsection (6).
- (6) **Heritage assessment** The consent authority may, before granting consent to any development—
- (a) on land on which a heritage item is located, or
 - (b) on land that is within a heritage conservation area, or
 - (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),
- require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.
- (7) **Heritage conservation management plans** The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this section.

- (8) **Archaeological sites** The consent authority must, before granting consent under this section to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies)—
- (a) notify the Heritage Council of its intention to grant consent, and
 - (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.
- (9) **Aboriginal places of heritage significance** The consent authority must, before granting consent under this section to the carrying out of development in an Aboriginal place of heritage significance—
- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and
 - (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.
- (10) **Demolition of nominated State heritage items** The consent authority must, before granting consent under this section for the demolition of a nominated State heritage item—
- (a) notify the Heritage Council about the application, and
 - (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.
- (11) **Conservation incentives** The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Precinct Plan, if the consent authority is satisfied that—
- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
 - (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
 - (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and
 - (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and
 - (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

5.11 Bush fire hazard reduction

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without development consent.

Note—

The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

5.12 Infrastructure development and use of existing buildings of the Crown

- (1) This Precinct Plan does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development, under *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Precinct Plan does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

Part 6 Urban release areas

6.1 Definitions

In this Part—

designated State public infrastructure means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds—

- (a) State and regional roads,
- (b) bus interchanges and bus lanes,
- (c) land required for regional open space,
- (d) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

urban release area means an area of land to which this Precinct Plan applies that is shown hatched and marked “Urban Release Area” on the Urban Release Area Map.

6.2 Arrangements for designated State public infrastructure

- (1) The objective of this section is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land in an urban release area to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.
- (2) Development consent must not be granted for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became, or became part of, an urban release area, unless the Planning Secretary has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.
- (3) Subsection (2) does not apply to—
 - (a) any lot identified in the certificate as a residue lot, or
 - (b) any lot to be created by a subdivision of land that was the subject of a previous development consent granted in accordance with this section, or
 - (c) any lot that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utility undertakings, educational facilities or any other public purpose, or
 - (d) a subdivision for the purpose only of rectifying an encroachment on any existing lot.

- (4) This section does not apply to a development application to carry out development on land in an urban release area if all or any part of the land to which the application applies is in a special contributions area (as defined by section 7.1 of the Act).

6.3 Relationship between Part and remainder of Precinct Plan

A provision of this Part prevails over any other provision of this Precinct Plan to the extent of any inconsistency.

Part 7 Additional local provisions

7.1 Public utility infrastructure

- (1) Development consent must not be granted for development on land to which this Precinct Plan applies unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.
- (2) This section does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure referred to in this section.
- (3) In this section, *public utility infrastructure* includes infrastructure for any of the following—
 - (a) the supply of water,
 - (b) the supply of electricity,
 - (c) the disposal and management of sewage.

7.2 Earthworks

- (1) The objectives of this section are as follows—
 - (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,
 - (b) to allow earthworks of a minor nature without requiring separate development consent.
- (2) Development consent is required for earthworks unless—
 - (a) the earthworks are exempt development under this Precinct Plan or another applicable environmental planning instrument, or
 - (b) the earthworks are ancillary to other development for which development consent has been given.
- (3) Before granting development consent for earthworks, the consent authority must consider the following matters—
 - (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,
 - (b) the effect of the development on the likely future use or redevelopment of the land,
 - (c) the quality of the fill or the soil to be excavated, or both,
 - (d) the effect of the development on the existing and likely amenity of adjoining properties,

- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing Aboriginal objects,
- (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area,
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Note—

The *National Parks and Wildlife Act 1974*, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.

7.3 Location of sex services premises

- (1) The objective of this section is to minimise land use conflicts and adverse amenity impacts by providing a reasonable level of separation between sex services premises, specified land uses and places regularly frequented by children.
- (2) In deciding whether to grant development consent to development for the purposes of sex services premises, the consent authority must consider whether the premises will be located on land that adjoins, is directly opposite or is separated only by a local road from land used for the purposes of a centre-based child care facility, a community facility, a school or a place of public worship.

7.4 Restricted premises

- (1) Development consent must not be granted to development for the purposes of restricted premises if the premises will be located on land that abuts or is separated only by a road from land used for the purposes of a community facility, school or place of public worship.
- (2) In deciding whether to grant consent to development for the purposes of restricted premises, the consent authority must consider—
 - (a) the impact of the proposed development on places of high pedestrian activity, and
 - (b) the impact of the proposed development on land frequented by children for care, recreational or cultural purposes, and
 - (c) whether the appearance of the restricted premises is sufficiently discreet.

7.5 Concurrence of Planning Secretary—Koala corridor

- (1) This clause applies to development on land identified as “Koala Corridor” on the Clause Application Map.
- (2) Development consent to development to which this clause applies must not be granted unless the consent authority has obtained the concurrence of the Planning Secretary.
- (3) In deciding whether to grant concurrence, the Planning Secretary must consider the impact of the development on—
 - (a) the protection of the Wollondilly Koala population, and
 - (b) the maintenance and delivery of the Koala Corridor.
- (4) In this clause—

Koala Corridor means:

- (a) the habitat corridor referred to as “Corridor E” in the document titled “Advice on the Protection of the Campbelltown Koala Population” published by the Office of the Chief Scientist and Engineer in April 2020; or
- (b) the Nepean River Primary Corridor in the document titled “Advice regarding the protection of koala populations associated with the Cumberland Plain Conservation Plan” published by the Office of the Chief Scientist and Engineer in May 2021.

8.4 Provision of Affordable housing

- (1) The objective of this clause is to require satisfactory arrangements to be made for the provision of affordable housing.
- (2) Subject to clause (3), development consent must not be granted for the purpose of an attached dwelling, multi dwelling housing or a residential flat building, unless the consent authority is satisfied that –
 - (a) at least 5% of the gross floor area of the building used for the purposes of residential accommodation will be used for the purposes of affordable housing, and
 - (b) each dwelling used for the purposes of affordable housing will have a gross floor area of at least 50 square metres, or
 - (c) Other arrangements have been made with an affordable housing provider for the provision of affordable housing
- (3) Provision of affordable housing only applies in the following circumstances:
 - (a) the erection of a new building with a gross floor area of more than 200 square metres, or
 - (b) alterations to an existing building that will result in the creation of more than 200 square metres of gross floor area intended to be used for residential purposes, or
 - (c) alterations to an existing building and the consequent creation, whether for the same or a different purpose, of more than 100 square metres of gross floor area.

Schedule 1 Additional permitted uses

(Section 2.5)

1 Use if certain land at **xx, Appin in Zone C2 Environmental Conservation**

- (1) This clause applies to the land identified as “1”, “2”, “3”, “4”, “5”, “6”, “7” and “8” on the additional Permitted uses map
- (2) Development for the following purposes are permissible with development consent:
 - (a) Building identification signs
 - (b) Business identification signs
 - (c) Eco-tourist facilities
 - (d) Information and education facilities
 - (e) Roads
 - (f) Kiosks
 - (g) Recreation areas
 - (h) Water Supply systems

Schedule 4 Classification and reclassification of public land

(Section 5.2)

Part 1 Land classified, or reclassified, as operational land—no interests changed

Column 1	Column 2
Locality	Description

Nil

Part 2 Land classified, or reclassified, as operational land—interests changed

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged

Nil

Part 3 Land classified, or reclassified, as community land

Column 1	Column 2
Locality	Description

Nil

Schedule 5 Environmental heritage

(Section 5.10)

Part 1 Heritage items

Precinct	Item name	Address	Property description	Significance	Item no
Appin	Elladale	80 Elladale Road	Lot 101, DP 790844	Local	I11
Appin	Northamptondale Group—house, trees, slab, farm, outbuildings and stables	60–80 Northamptondale Road	Lots 201 and 203, DP 819476	Local	I13
Appin	Appin Massacre cultural landscape (under consideration)	various	Various	State	tbc