

Speech: Fiona Bullivant, Wilton Action Group

There has been a real failure of government process to give proper consideration to detailed scientific advice from experts and its own departments the EPA and Office of Environment and Heritage about the need for very careful and ecologically sustainable development in Wilton given its sensitive environmental constraints. The scale of development proposed for Wilton is a new city the size of Port Macquarie.

Actions taken for koala preservation are mostly associated with individual planning proposals, and are not considered in a regional context. This piecemeal approach has potential unknown impacts such as funneling Koalas in a north south direction along Appin Road, to be faced with another Koala fence that runs east west along Picton Road. The impacts of this fencing on both the Koala population, and all other species, including quolls, goannas, echidnas, and wallabies is unknown. Often, once fencing is proposed, it is the only conservation measure put in place. It then becomes a developer or RMS free-for-all, on the other side of the fence. Fencing does not take into account other already preserved lands and other valuable habitat that may then be left isolated. It does not consider the flow on impacts of where the animals are then funnelled towards.

What is needed is planning in a regional context, with preservation of both north south and east west linkages, to be accessible by all species for the whole Greater Macarthur and Wilton Priority Growth areas, and the lands in between them. This preservation of linkages needs to happen now, before further rezoning and development applications are lodged. The land should be selected on a scientific basis to ensure population viability and allow the recovering population to expand and disperse.

This will not necessarily be in accordance with developers wishes.

Developers have speculatively bought enormous landholdings in these areas for potential future urban development. This is their risk to take, it does not mean that the NSW government is obligated to deliver them a profitable slice of the Australian pie by approving such development. If developments become un-viable with biodiversity protections in place, that is actually a good thing, as it will incentivise more sustainable development in the future.

What is also needed is public accountability of ministers decisions, particularly where they contradict departmental advice, as they have in the case of Wilton South East rezoning. We ask for Ministers to be required to publish a statement at the time of making the decision, justifying, in detail exactly why they decided to rezone, given the evidence of the departmental before them – as in the case of Wilton SE, the advice from OEH and independent experts was not to rezone.

Another matter that we struggle with as a community is access to information at all levels of government. The GIPAA process is expensive for volunteer organisations and full of delays. Often it results in refusal, which then has to be challenged, overturned, and then further delays. We have outstanding requests, one of which has now gone over the 12 month mark relating to a koala deed of agreement between the developer and the council. This deed only runs for 2 years, yet the community can't access it to check that progress is being made. An urgent overhaul of this process should be prioritised. Release of the information should be prompt and free.

///End speech

Below is an explanation of biodiversity reports, changes, and subsequent rezoning GIPAA docs attached

#5 is the site visit ordered by Brendan Nelson following the meeting with Walker and the Department (i believe it was the Minister too because i have a record of the minister in my timeline for the week prior to the Brendan's email.

#1 is the email from Brendan nelson requesting an onsite meeting following the meeting with Walker last week.

#22D shows the original intention - where the finger was not capable of development

Below is the detail about the biodiversity reports (noting one other issue i have since discovered being that David Bonjer of ELA authored and approved his own 2017 report, which is against ELApolicy).

The Carolyn McNally letter confirms "The Minister for Planning considered both these reports in making the decision to rezone Wilton South East." re the two biodiversity reports.

- In 2015, DPE commissioned Eco Logical Australia to prepare a biodiversity study for Wilton and the Greater Macarthur to inform land use planning. It stated the land known as the finger (provide map) was not capable of development and priority conservation land and a key movement corridor for Koalas.

- In the body of the 2017 report the 'finger area was identified as priority conservation.
- Yet in the conclusion p30 paragraph 4 stated otherwise. It read "*The conservation network includes all lands identified in the "priority conservation lands" except for an area in the southern extent of the Wilton PGA where there is no vegetation.*"

This biodiversity report was used to inform the exhibited Interim Land Use Implementation Plan.

Because of this 2017 biodiversity report conclusion, the derived native grass area and edges of critical endangered ecological community was then deemed suitable for development, without any biocertification process being undertaken.

What we do know from GIPA searches (information attached) is that Walker Corporation had visited the Minister for Planning in the March prior to the finalisation of this 2017 study. The GIPA documents stated in March that in relation to this area of land that:
the proponent argues the intensity and scale of development and associated clearing is required to support a primary school and enable access in/out of the eastern neighbourhood during emergency (e.g. accident, fire, flood). The proponent also wishes to distribute the cost of three new intersections with Picton Road and other supporting infrastructure over the broadest possible catchment."

- The subject land was subsequently rezoned according to the developer's wishes on 13 April 2018, as a priority precinct under the Sydney Growth Centre SEPP, despite formal objections from OEH

- the growth centre sepp has failed in the protection of this koala habitat and endangered ecological community.

- These discovered facts appear to have had an influence on the Ministers rezoning decisions against the advice of OEH supported by independent expert advice not to rezone

Wilton Action Group QUESTIONS FOR PARLIAMENTARIANS

Q. Why was Eco Logical Australia commissioned to prepare a further report in 2017?

Q. How did Eco Logical Australia in 2017 come to the conclusion that Wilton priority growth area was exempt from priority conservation.

Q. Why did the minister rezone the land, when it was clear from the biodiversity reports and advice of OEH that the 'finger' land area was a priority conservation land area?

Q. Why did the minister delay SEPP 44 knowing the current SEPP 44 was missing the tree species for Wilton (but the draft updated this).

Q. Did the minister under his powers of Section 3.30 of the EP&A act conclude that the viability of the development for the developer was more important than the protection of the koala habitat? Why did he ignore OEH advice not to rezone?

We would appreciate the inquiry looking into this process.

dcp & time line & biodiversity reports

Below describes how the 2017 report was constructed, it appears to enable the government to support the development of the finger areas.

2017 report

1. Figure 5 is where the finger becomes "potential development"
2. In the Conclusion p30 paragraph 4. The conservation network includes all lands identified in the "priority conservation lands" except for an area in the southern extent of the Wilton PGA where there is no vegetation. This is the finger, & derived native grass.
3. Figure 6 shows the priority conservation land with the finger included

If you compare to the 2015 report Figure5 you will see the priority conservation land area overlayed on the finger. So this is how the 2017 maps look different, and how one sentence in the 2017 report, supported a change to the Interim Land Use Infrastructure Implementation Plan, which was then used to support the rezoning.

Biodiversity 2015 report located here - (2015 priority conservation lands)

<https://www.planning.nsw.gov.au/-/media/Files/DPE/Reports/greater-macarthur-investigation-area-biodiversity-assessment-report-2015-09.pdf>

Biodiversity 2017 report located here - (2017 - potential development)

(2017 priority conservation - but as stated above the document conclusion is to allow development in the area where there is not vegetation. I take that to mean derived native grass).

<https://www.planning.nsw.gov.au/-/media/Files/DPE/Other/Biodiversity-study-Wilton-and-Greater-Macarthur-Priority-Areas.pdf>

Greater Macarthur Land Release Investigation

PRELIMINARY STRATEGY & ACTION PLAN

19 - 709 - DPE - PAA



Vision for Greater Macarthur

Record #22D

Sydney needs more than 33,200 new homes annually to meet projected population growth to 2036.

The Department of Planning and Environment (DP&E) has led investigations into the potential for urban development in Greater Macarthur. The investigations have identified land that is suitable for urban development, the infrastructure required to support growth, and how Greater Macarthur would be connected to jobs and other services in other parts of metropolitan Sydney.

There are immediate opportunities to deliver up to 35,000 homes in Menangle Park and Mount Gilead and in a new town at Wilton, that will increase our capacity to provide new homes for Sydney's growing population.

Maximising these opportunities requires a coordinated approach to land use planning and infrastructure delivery. We will implement the vision for Greater Macarthur by:

- ▶ Identifying Menangle Park, Mount Gilead and Wilton as Priority Growth Areas by including them in the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (the Growth Centres SEPP);
- ▶ Investigating declaring Menangle Park, Mount Gilead and Wilton as Special Infrastructure Contribution Areas to coordinate the funding and delivery of infrastructure that is necessary to support growth; and
- ▶ Continuing to work closely with Wollondilly Shire Council, Campbelltown City Council, and across NSW Government agencies to facilitate outcomes that deliver new communities with homes, jobs, infrastructure and services while protecting the environment and natural resources.

Protection of Rural Character

Areas outside Menangle Park, Mount Gilead and Wilton have significant infrastructure costs and environmental constraints, but provide opportunities for longer term supply.

Up to 2036 these areas will remain rural in nature, with small scale development that can be supported by the existing infrastructure and transport network. The rural setting of Appin Village will be protected, with only small scale expansion taking place, in line with existing post-Gateway planning proposals.

Beyond 2036 there are opportunities to provide another 33,000 homes and strategic employment opportunities, supported by the construction of the Outer Sydney Orbital, upgraded Hume Highway interchange and the Maldon-Dombarton freight rail line.

Consideration of Environmental Values and Constraints

The investigations have considered the environmental, agricultural and resources value of land in Greater Macarthur, including constraints such as flooding and air quality.

Pathway steps are proposed to ensure any subsequent rezoning process address these values, such as by protecting important habitat and waterways.

Further detail of the values and constraints identified in Greater Macarthur is available in the Land Use and Infrastructure Analysis report.

Policy Context


















A Plan for Growing Sydney sets out the NSW Government's Strategy for meeting housing supply needs. As part of meeting this challenge, the NSW Government will:

- ▶ Continue to focus investment in North West and South West Priority Growth Areas and priority urban renewal precincts; and
- ▶ Look beyond these priority areas to other locations that could contribute to meeting the housing supply challenge, now and beyond 2036.

Action 2.4.2 of *A Plan for Growing Sydney* commits the NSW Government to developing a framework for the identification of new growth areas, with an initial focus on opportunities in the Greater Macarthur Investigation Area (Greater Macarthur).

Vision for Greater Macarthur

Preliminary Vision Structure

-  Greater Macarthur Land Release Investigation Area
-  Priority Precinct Boundary
-  Existing Rail & Station
-  Investigate Rail Electrification
-  Proposed New Interchange
-  Existing Roads
-  Planned Major Roads
-  Proposed Bus Priority Corridor
-  Preserve Maldon to Dombarton Freight Rail
-  Waterways
-  Proposed Major Centre
-  Proposed Town Centre
-  Proposed Village Centre
-  Existing Village Centre
-  Developable Land
-  Employment Land
-  Service Industry / Large Format Retail

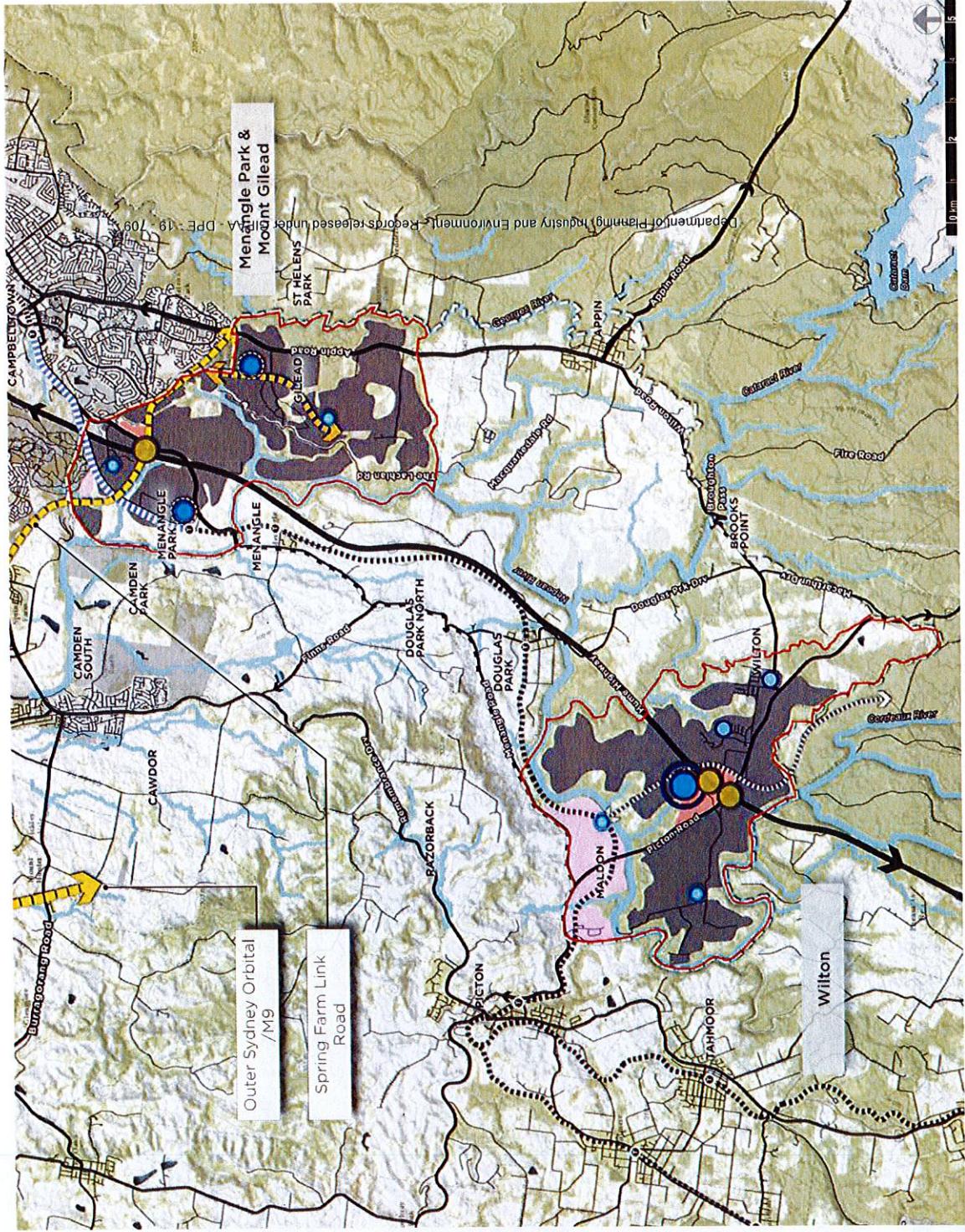


Figure 1 Greater Macarthur Vision to 2036

Priority Precinct

Record #22D

Menangle Park and Mount Gilead

The northern part of Greater Macarthur adjoins the Campbelltown-Macarthur Regional City, and is a logical extension to Sydney's metropolitan urban area.

Land in the precinct is relatively unencumbered by constraints to development and it has less requirements for substantial transport and utilities infrastructure upgrades than other parts of Greater Macarthur, given its proximity to the existing metropolitan urban area.

The precinct has relatively direct access to jobs, health care and education opportunities in Campbelltown-Macarthur, and other opportunities in Western Sydney.

The extent and density of urban development is subject to further detailed transport assessment.

Actions to deliver growth in this area include:

- Upgrade the Hume Highway between Picton Road and Raby Road;

- Rezoning land for 4,900 homes through the Mt Gilead and Menangle Park planning proposals by the end of 2015, with the first new houses possible within two years;
- Upgrades to Appin Road to provide direct connections to Campbelltown-Macarthur;
- Construction of Spring Farm Link Road and new access ramps to the Hume Highway, to help ease congestion on Narellan Road;

Draft Vision Structure

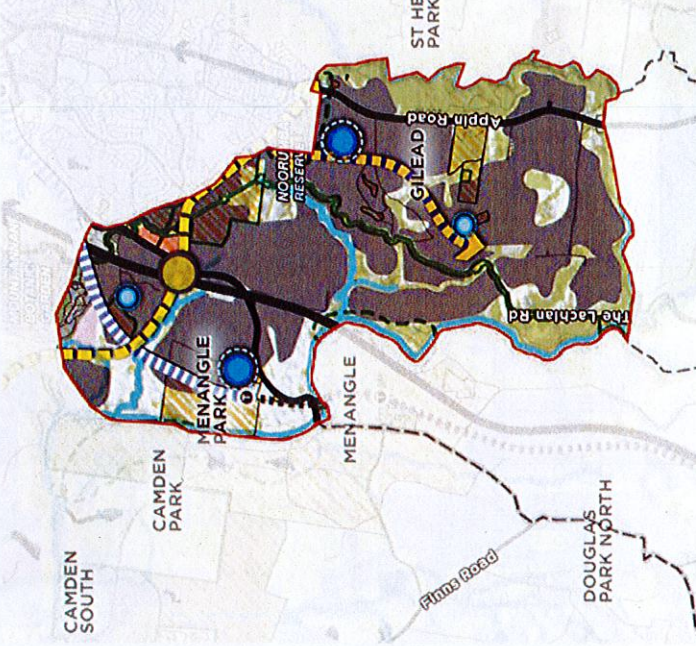


Figure 2 Menangle Park & Mount Gilead Structure

Potential Development Yields and Land Use				
Type	SUITABLE	ENCUMBERED	TOTAL	
Residential	849 ha	363 ha	1,212 ha	
Employment	15 ha	9 ha	24 ha	
Other			1,060 ha	
Constrained			1,305 ha	
Total Precinct			3,601 ha	
Approximate dwelling yield	12,700 dwellings	5,400 dwellings	18,100 dwellings	
The precinct will contain four centres:				
Department of Planning, Industry and Environment - Records released under GIPA				
Centres				
► Mt Gilead - a local centre with approximately 10,000-20,000m² of employment GFA.				
► Menangle Park - a local centre with approximately 20,000-30,000m² of employment GFA.				
► Glenlee - a village centre with approximately 5,000m² of employment GFA.				
► Gilead - a village centre with approximately 5,000-10,000m² of employment GFA.				
The future land uses in the precinct will predominantly be residential of different densities with commercial uses located within centres. The extent and density of urban development is subject to further detailed transport assessment.				
Land Uses				

Notes:

- Residential and Employment: Approximate Net Developable Areas (includes local roads). Employment: areas calculated include Service Industry/Large Format Retail located in the northern portion of Gilead.
- Other (non residential / non employment): Estimate for regional / local infrastructure (SPT - Special Activities and SP2 - Infrastructure), public open space (REI), water management infrastructure, centres, riparian corridors, stream order 1 and 2, heritage curtilages, retained rural lands and/or additional conservation areas.

Priority Precinct

Rezoning Pathway

Future rezoning process will test and refine suitable locations for urban development and appropriate densities. Encumbered land (identified as orange in Figure 3) will need to provide evidence that the necessary pathway steps have been undertaken prior to rezoning. This ensures that constraints are managed appropriately and that the land is suitable for urban development. The necessary pathway steps are outlined in the **Rezoning Pathways** section of this report.

Key Rezoning Issues

- In addition to the general rezoning assessment requirements outlined in the **Delivery Pathway** section, the following key issues are specifically required to be considered in future rezoning processes:
- ▲ **Heritage conservation** – the precinct contains a number of heritage items and known Aboriginal sites, some of which are located in or adjacent proposed centres. Further investigation will be required to ensure these items are retained and integrated with future development.
 - ▲ **Flooding** – the extent of flooding across the precinct, particularly around Menangle Park, will need to be considered with rezoning proposals.
 - ▲ **Mining** – The southern portion of the precinct has been, and still is being, used for coal mining. For urban development to occur in these areas, proposals will need to demonstrate that they comply with the relevant rezoning pathways steps.
 - ▲ **Coal seam gas operations** – there are a number of coal seam gas extraction sites within the precinct. Development within close proximity to extraction operations will be required to satisfy relevant rezoning pathways steps.
 - ▲ **Upper Canal** – the Upper Canal, which provides water to Sydney from the four Upper Nepean dams, crosses the eastern portion of the precinct. Future development in this area will need to ensure this system is not adversely impacted upon.
 - ▲ A detailed **transport network assessment** is required to confirm the extent and density of urban development.

Infrastructure Requirements

Transport	<ul style="list-style-type: none"> ▲ Construction of Spring Farm Link Road ▲ Upgrade of Appin Road ▲ Upgrade of Menangle Road ▲ Upgrade the Hume Highway, between Picton Road and Baby Road ▲ Construction of Bus Priority Corridor and corridor protection for future extension. ▲ Investigate the feasibility of the electrification of the Southern Highlands Rail Line to Menangle Park
Electrical	<ul style="list-style-type: none"> ▲ Upgrades to Macarthur Bulk Supply Point (BSP) ▲ Establishment of zone substations at Gilead and Menangle Park
Water	<ul style="list-style-type: none"> ▲ Connection of existing potable water mains within Menangle Park to the Rosemeadow Water Supply Zone (WSZ) ▲ A new 5ML water storage tank
Sewer	<ul style="list-style-type: none"> ▲ Major works to develop the trunk, branch and reticulation networks ▲ Lead-ins from the Glenfield Water Recycling Plant ▲ Three new pump stations
Education	<ul style="list-style-type: none"> ▲ 6 primary schools ▲ 2 High school ▲ Expansion of Mary Brooksbank School ▲ Investigate the potential for a special purpose school (i.e. agricultural)
Emergency Services	<ul style="list-style-type: none"> ▲ Ambulance standby points ▲ Police shootfront in town centres
Health	<ul style="list-style-type: none"> ▲ Primary health care clinic
Open Space	<ul style="list-style-type: none"> ▲ District parks

- ▲ Provision of a north-south bus priority corridor to promote public transport links to Campbelltown-Macarthur;
- ▲ Further investigate the extension of the Sydney Trains electrified rail network to Menangle Park to integrate this area with the suburban rail network; and
- ▲ Working to release land to provide up to 13,200 homes, in addition to the homes at Mt Gilead and Menangle Park planning proposals.

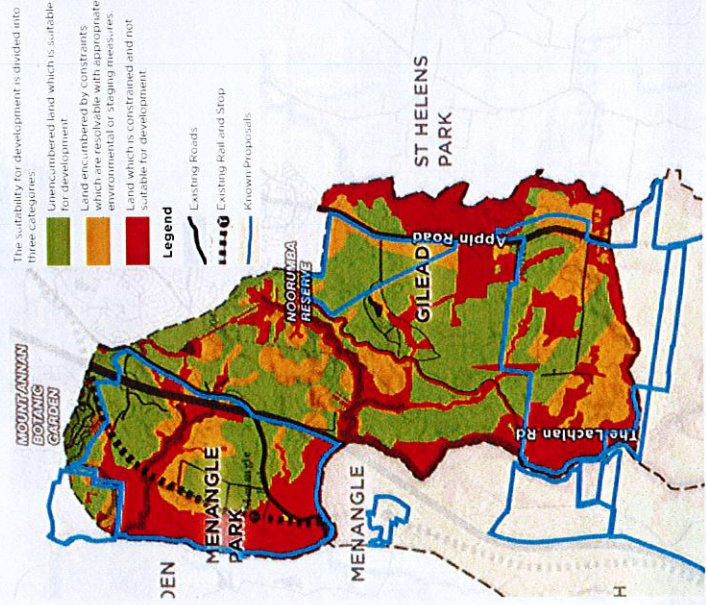


Figure 3 Menangle Park & Mount Gilead Suitability

Priority Precinct

Wilton

There is significant land owner interest and local authority support for bringing forward a new town at Wilton to cater for the growing population of Wollondilly Shire and deliver new jobs and services. Development of the new town will be proponent-led, with required infrastructure provided at no additional cost to Government.

Actions to deliver growth in Wilton include:

- ▶ Commencing the process of rezoning land at Wilton for urban development in partnership with Wollondilly Shire Council;
- ▶ Defining thresholds for the delivery of infrastructure needed to support stages of population growth;
- ▶ Establishing infrastructure funding arrangements, such as through a Special Infrastructure Contribution;

- ▶ Establishing a planning and development pathway for land that is constrained by underground mining, to manage risks to Government and the community; and
- ▶ Upgrade the Hume Highway between Picton Road and Raby Road.

The precinct is envisaged to have a major centre at West Wilton, being the main employment contributor to the Greater Macarthur area, and a village centre at Wilton.

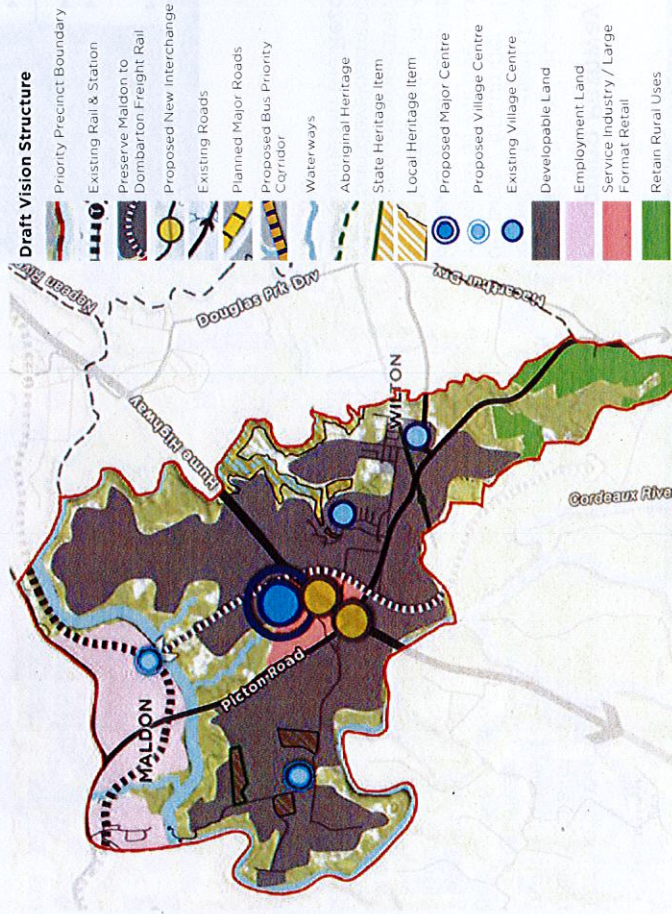


Figure 4 Wilton Structure

Potential Development Yields and Land Use			
Type	SUITABLE	ENCUMBERED	TOTAL
Residential	554 ha	552 ha	1,107 ha
Employment	131 ha	213 ha	344 ha
Other			1,352 ha
Constrained			1,372 ha
Total Precinct			4,175 ha
Approximate dwelling yield	8,300 dwellings	8,300 dwellings	16,600 dwellings
Centres	The precinct will contain five centres		
	▶ Wilton Major Centre - a major centre with approximately 100,000-150,000m ² of retail & employment GFA.		
	▶ West Wilton - a village centre with approximately 5,000m ² of retail GFA.		
	▶ Maldon - a village centre with approximately 3,000m ² of retail GFA.		
	▶ Bingarra Gorge - an existing village centre with approximately 5,000m ² of retail GFA.		
Land Uses	▶ Wilton Village - existing village centre at corner of Wilton Road / Camden Street		
	The future land uses in the precinct will be a mix of residential, commercial and industrial uses, with a major centre in West Wilton.		

Notes:

- ▶ Residential and Employment: Approximate Net Developable Areas (includes local roads). These areas also include 462 ha (Gross) of K2-Low Density Residential zoned land at Bingarra Gorge / Wilton township, 105 ha (Gross) of K2-Heavy Industrial of Maldon and Service / Large Format Retail to be located in the Wilton Major Centre.
- ▶ Other (non residential / non employment): Estimate for regional / local infrastructure (SPI - Special Activities and SPI2 - Infrastructure), public open space (REI), water management infrastructure, centres, riparian corridors (stream order 1 and 2), heritage carriages, retained rural lands and/or additional conservation areas.

Priority Precinct

The major centre at West Wilton is envisaged to be based on a 'main street' outcome with specialty stores fronting streets and sleaving large format retail and parking areas. There will also be a service industry and large format retail specialty employment area between the centre and Picton Road. The existing industrial area in Maldon is anticipated to grow to the east, providing additional employment opportunities.

Rezoning Pathway

Future rezoning process will test and refine suitable locations for urban development and appropriate densities. Encumbered land (identified as orange in Figure 5) will need to provide evidence that the necessary pathway steps have been undertaken prior to rezoning. This ensures that constraints are managed appropriately and that the land is suitable for urban development. The necessary pathway steps are outlined in the **Rezoning Pathways** section of this report.

Key Rezoning Issues

In addition to the general rezoning assessment requirements outlined in the **Delivery Pathway** section, the following key issues are specifically required to be considered in future rezoning processes:

- **Mining** – a significant portion of the precinct has approval for coal mining over the next 15 to 30 years. For development to occur in this area, it would need to occur after mining operations have ceased or proposals will need to demonstrate that they comply with the relevant rezoning pathways steps.
- **Heritage conservation** – the precinct contains a number of existing heritage items and known Aboriginal sites, some of which are located in or adjoin proposed centres. Further investigation will be required to ensure the significance of these heritage items and sites are retained.
- **Upper Canal** – the Upper Canal, which provides water to Sydney from the four Upper Nepean dams, crosses the western portion of the precinct through the Wilton centre. Future development in this area will need to ensure this system is not adversely impacted upon.

Infrastructure Requirements	
Transport	<ul style="list-style-type: none">► Upgrade existing Picton Road/Hume Highway interchange and provide new northern access ramps► Upgrade of Picton Road► Upgrade the Hume Highway between Picton Road and Raby Road
Electrical	<ul style="list-style-type: none">► Zone Substation at Bingara Gorge► Upgrade of Zone Substation in Maldon
Water	<ul style="list-style-type: none">► Two new SML water storage facilities► Duplication of water main to the Picton Reservoir
Sewer	<ul style="list-style-type: none">► Seven new pumping stations
Education	<ul style="list-style-type: none">► 7 primary schools► 2 high schools► Specialty school (i.e. agricultural)
Emergency Services	<ul style="list-style-type: none">► Ambulance hub► Police station
Health	<ul style="list-style-type: none">► Integrated health facility
Cultural	<ul style="list-style-type: none">► Cultural facility
Open Space	<ul style="list-style-type: none">► Regional park► District park

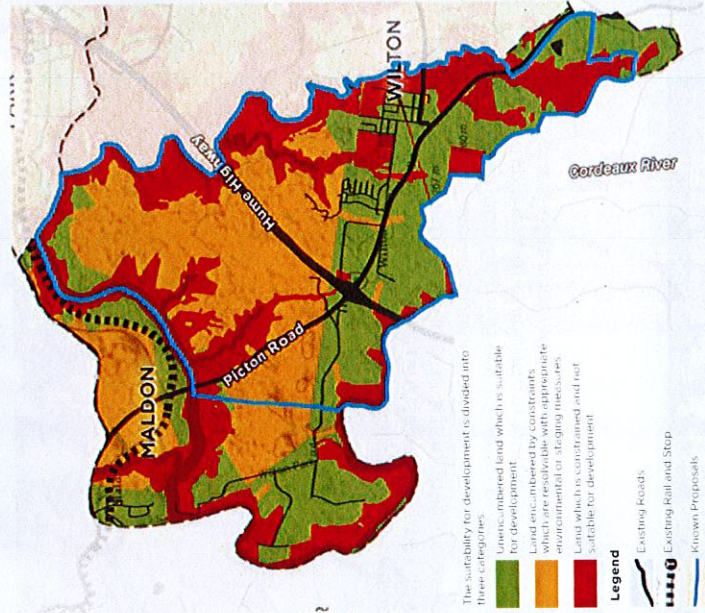


Figure 5 Wilton Suitability

Delivery Pathway

Record #22D

Rezoning Process

The preferred rezoning process is a state-led rezoning through an amendment to State Environmental Planning Policy (Sydney Region Growth Centres), 2006 as this process:

- ▶ Gives the precincts priority growth area status and makes use of the established Growth Centres implementation process administered by the Department of Planning and Environment;
- ▶ Enables opportunity for a whole precinct to be comprehensively planned, rather than relying on individual planning proposals;
- ▶ Provides the potential for acceleration of housing supply through fast tracking preparation of the SEPP amendment; and
- ▶ Allows Government to coordinate agency input on complex planning issues such as mining, transport and infrastructure.

Each rezoning process will prepare technical studies in accordance with the specific requirements of the Department of Planning and Environment. It is envisaged that the following studies and/or documents will be required:

- ▶ Traffic and Transport Assessment.
- ▶ European and Aboriginal Heritage Assessment.
- ▶ Landscape and Visual Assessment.
- ▶ Biodiversity Assessment.
- ▶ Riparian Corridor and Stream Classification.
- ▶ Water management.
- ▶ Economic Impact Statement.
- ▶ Social and recreation needs assessment.
- ▶ Air quality assessment.
- ▶ Infrastructure Strategy.
- ▶ Indicative Layout Plan.
- ▶ Development Control Plan.

Pathway Steps

Land identified as being encumbered will need to provide evidence that the necessary pathway steps outlined below are satisfied prior to urban development occurring.

Coal Mining

The co-existence of coal mining and urban development is a risk to the NSW Government and mining companies as they are likely to incur high costs involved with managing mining impacts including mine subsidence and community intolerance. A staged approach is preferred where urban development occurs first in already subsidised areas with the remaining urban development areas occurring in due course once mining / subsidence is complete.

The following process has to be taken where urban development is proposed on land encumbered by coal mining operations:

1. Planning for early exploration and resource extraction:
 - a. Proposed covenants and/or easements that ensure access for mining surface facilities, construction and operation are clearly drafted or mapped. Any covenants or easements will be taken into account at the rezoning stage.
 - b. Resource extraction operators are to endorse any proposed covenants and/or easements with the view that future commercial agreement between operators and interested urban development proponents are in place at the commencement of any rezoning process.

2. Provide building design standards and compliance regimes:

- a. Develop mine subsidence design guidelines for proposed residential and non-residential land uses to occur within the Encumbered Urban Footprint.
 - b. Develop principles so that a strengthened compliance regime can be implemented by the Mine Subsidence Board (MSB) at commencement of rezoning process.
 - c. MSB is to endorse the general design guidelines and principles for strengthened compliance regime.
3. Long term urban land release sequencing plan:
 - a. Prepare a long term sequencing plan for both the urban land release and approved resource extraction operations, with input from resource extraction operators.
 - b. NSW Trade & Investment (Resources & Energy), MSB and the relevant Council are to endorse the draft long term sequencing plan to enable Stakeholder and Community Consultation.
 4. Communications strategy:
 - a. Prepare a communications strategy to inform landowners of the co-existence potential and pathway requirements associated with the potential urban land release.
 - b. Resource extraction operators and the relevant Council are to endorse the communications strategy.

Delivery Pathway

Coal Seam Gas

Urban development can only occur on land within 200 metres of coal seam gas operations once:

- ▶ The coal seam gas wells have been closed and sealed;
- ▶ The Rosalind Park Gas Plant has finalised its operation; and
- ▶ The Appin East and Appin West (Tower) gas/power stations have finalised their operations.

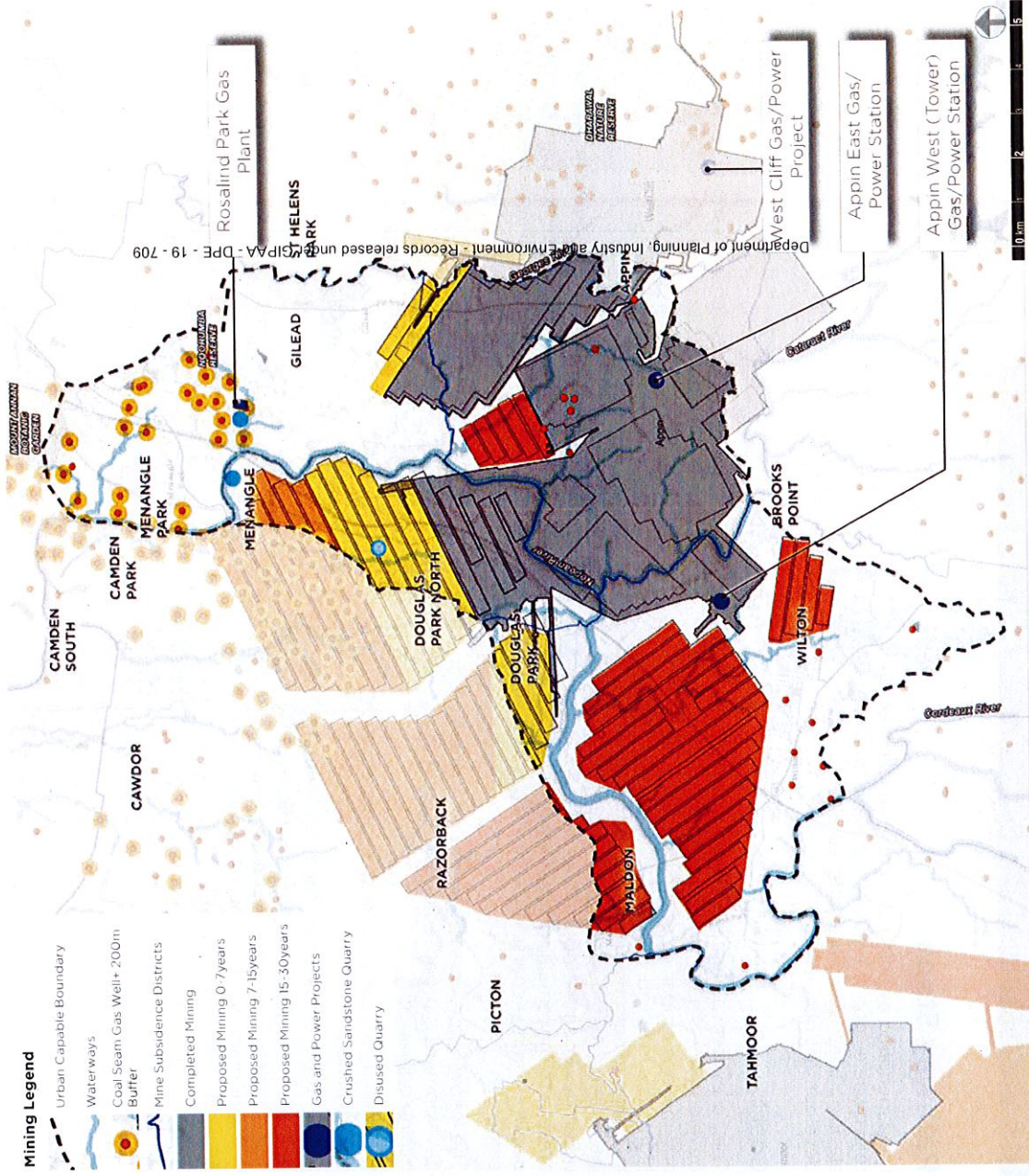


Figure 6 Current and Planned Mining

Delivery Pathway

Record #22D

Agriculture

The poultry cluster, located around Appin and Douglas Park (identified in Figure 7), and agricultural land identified as Class 2 under the Land and Soil Capability Assessment Scheme are identified as providing benefits to the area and wider region and should be retained.

The following process is required to be undertaken where urban development is proposed on land encumbered by these agriculture activities:

1. Identify the economic value of agricultural production and employment, noting any significant changes in value and type of production in recent years (for example over two census periods).
2. Estimate the impact of urban development on agricultural production and employment, including impacts on viability of agricultural clusters and costs of, and potential for, relocation.
3. Identify land where ongoing agricultural production could co-exist with urban development, including land with multiple constraints (such as flooding or heritage).
4. Propose a long term land use strategy, based on steps above:
 - a. Noting where the value of agriculture is high enough to warrant protection, or more consideration.
 - b. Identifying measures to overcome adverse impacts, such as buffer zones, relocation of uses, sequencing of land release and replacement of lost employment.
 - c. Consult with councils and NSW Department of Trade and Investment to refine the long-term land use strategy.
5. Communications strategy:
 - a. Prepare strategy to inform landowners and other targeted agricultural industry stakeholders of long-term land use strategy and pathway.

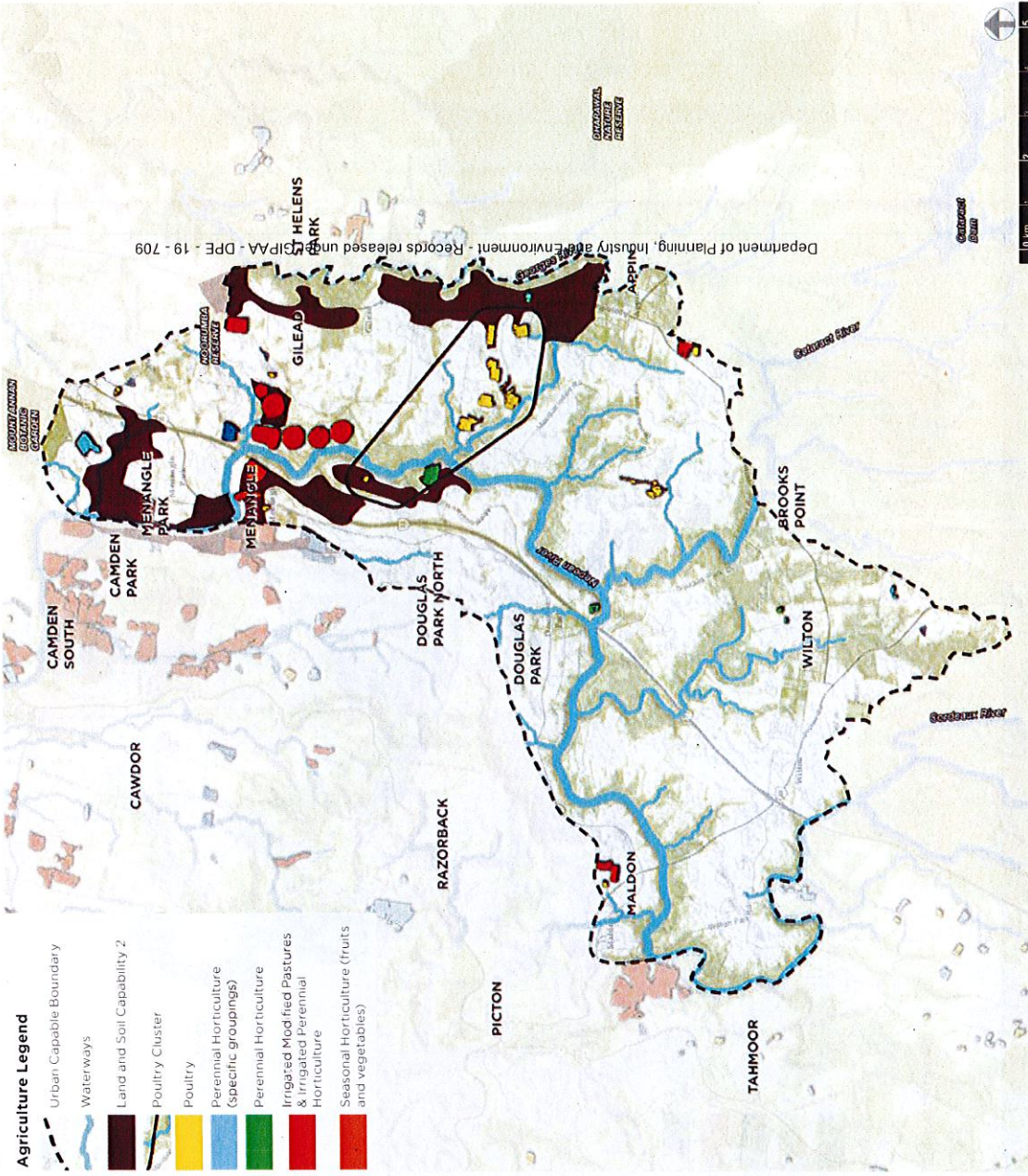


Figure 7 Agriculture and Land & Soil Capability

Delivery Pathway

Biodiversity

The following process is required to be followed prior to land with biodiversity constraints (shown in Figure 8) being rezoned for urban development:

1. Prepare a detailed biodiversity assessment.
2. Consider, in particular, whether critical habitat or threatened species, populations or ecological communities, or their habitats, will or may be adversely affected by the rezoning proposals.
3. Prepare and an Indicative Layout Plan (ILP). The ILP will:
 - a. Identify Conservation Areas.
 - b. Avoid urban development within areas of High Biodiversity Constraint Value.
 - c. Where possible, avoid infrastructure services on areas mapped as High Biodiversity Constraint Value.
 - d. Locate Asset Protection Zones (APZs) outside of High Conservation Value land.
4. Prepare a Vegetation Management Plan that prioritises the rehabilitation of degraded areas located within areas of High Conservation Value.
5. Target High Conservation Value areas for Biobanking Agreements / Biodiversity Certification to ensure conservation outcomes have in perpetuity funding.
6. Consider options for the long term management and ownership of conservation areas including:
 - a. Retaining in private ownership.
 - b. Establishing a Trust ownership.



Figure 8 Biodiversity

Delivery Pathway

Record #22D

Waterways

Limited urban development may occur in land identified as constrained by the 100 year Average Recurrence Interval (ARI) provided that detailed flood studies are prepared prior to the rezoning of land. The flood studies will demonstrate that any filling of the floodplain will not have any impact on adjoining lands.

Limited development may occur on third order streams provided that detailed investigation and ground truthing is undertaken to determine the extent of the riparian corridor prior to the rezoning of land.

Regional Open Space Opportunities

Greater Macarthur is within close proximity to existing regional open space (identified on Figure 9).

The majority of regional open space in Greater Macarthur are used for passive recreation such as walking and cycling rather than active recreation (e.g. team sports). The identification of major rivers, waterways, river foreshore, creeks and wetlands as a cultural and recreational amenity can further enhance opportunities to improve access to and enjoyment of these places as part of an integrated regional open space network. The potential for new and/or enhanced open space would be investigated as part of any future rezoning process.

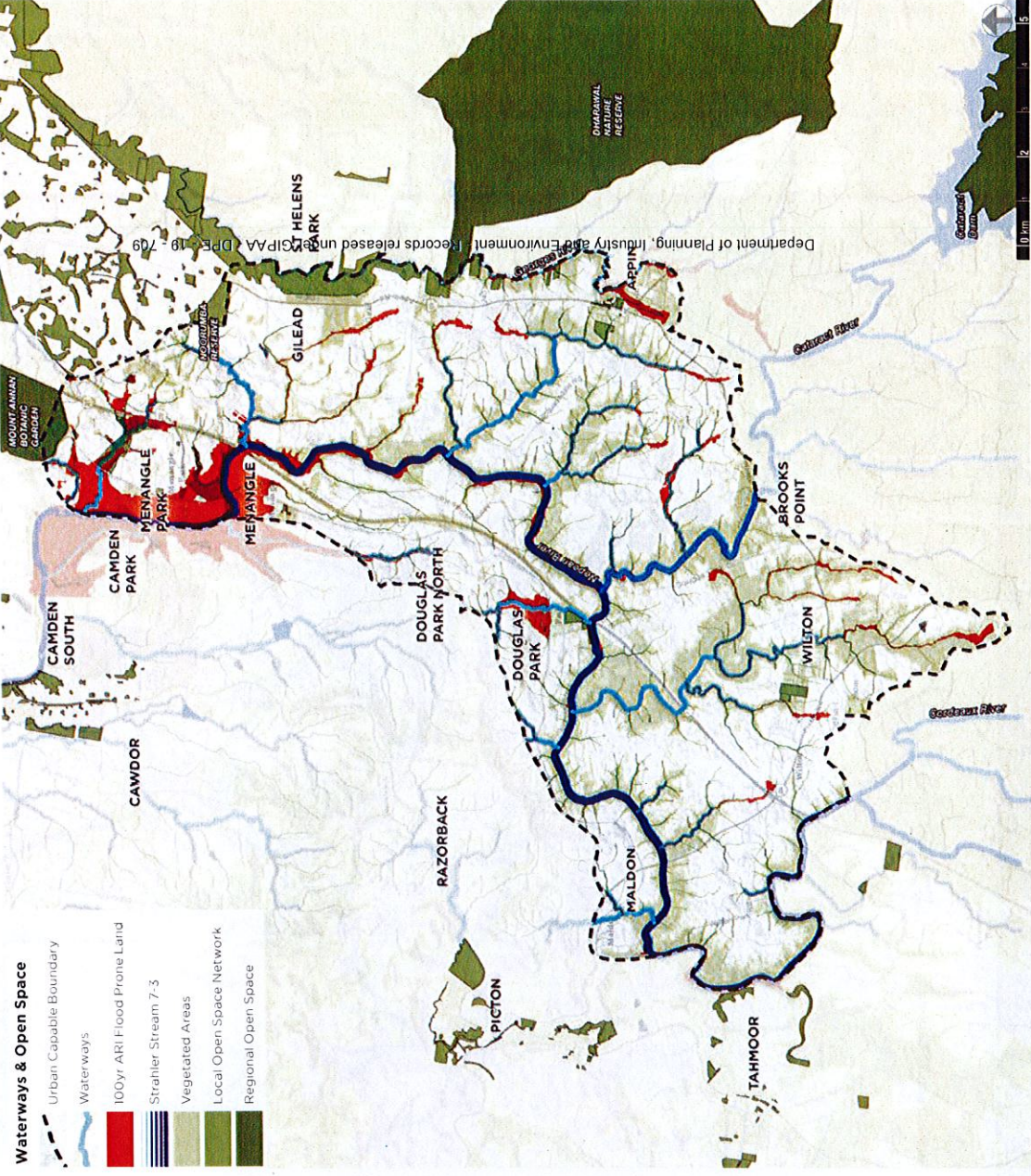


Figure 9 Waterways and Flood Prone Land/ Regional Open Space Opportunities

Delivery Pathway

Review Process

The Department of Planning and Environment intention is for the Strategy and Action Plan for Greater Macarthur to be a planning document that will be subject to ongoing review in line with the review framework established in *A Plan for Growing Sydney*.

The Department will periodically review the strategy based on:

- ▶ Housing market demand needs (ongoing role of Greater Macarthur in meeting Sydney's housing supply needs).
- ▶ Infrastructure servicing planning and delivery (private or public commitment to deliver required infrastructure).
- ▶ Private sector interest in land encumbered by co-existence Land use values, where the proponent has satisfactorily demonstrated a proposal to meet the pathway requirements identified in the Growth Framework.

Infrastructure funding mechanism

Before rezoning takes place, an appropriate mechanism will need to be in place to secure the infrastructure needed to support growth. The preferred approach is a Special Infrastructure Contribution (SIC) at no cost to government, otherwise a series of planning agreements would need to be entered into between the Minister for Planning and the relevant proponents.

A Special Infrastructure Contribution will create a framework to share the costs and coordinate delivery of major new transport and community infrastructure.

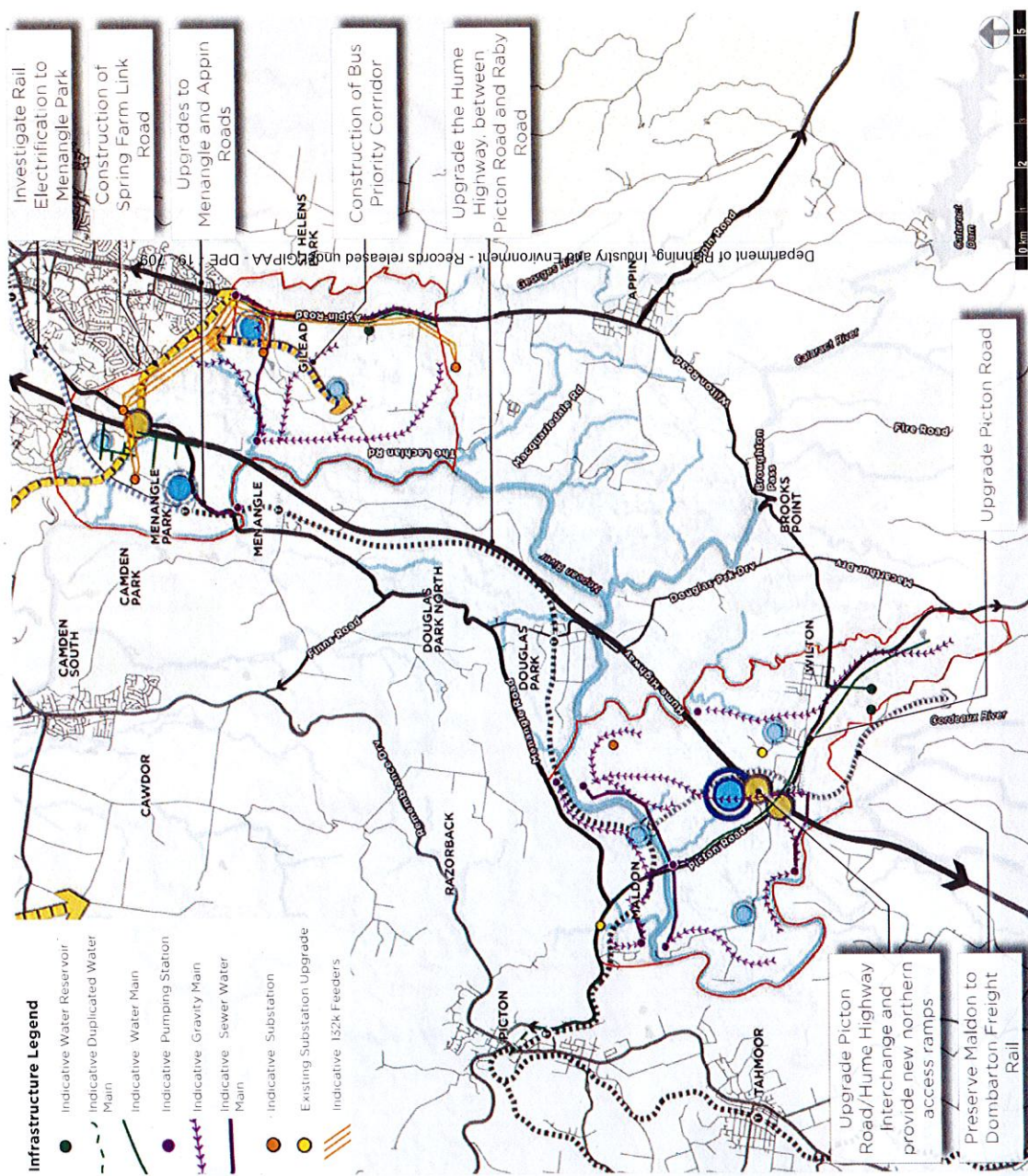


Figure 10 Summary Infrastructure Provision



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NSW Planning & Environment GPO Box 39 Sydney NSW 2001.

For more information visit: <http://www.planning.nsw.gov.au/en-us/deliveringhomes/priorityprecincts/greatermacarthurlandreleaseinvestigationarea.aspx>



Meeting Business Contact Form

(Refer to the Business Contact Protocol for information)

Date of contact Friday, 10 March 2017 **Start time:** 9.30 am **End time:** 11.30 am

Meeting venue Govt Offices ☐ Council Offices ☐ On site ☒ Other ☐

Meeting address
(required for meetings)

Contact Type

- ☒ Developer or agent of a developer ☐ Proponent ☐ Objector
☐ Planning Consultant ☐ Environmental Group ☐ Community Group
☐ Parliamentary Secretary ☐ Minister or representative ☐ Local Government Council
☐ Council or gov't agency acting as a developer
☐ Other (please specify)

Meeting Attendees / Participants

Name	Title	Organisation
1. David Robertson	Director	Cumberland Ecology
2. Katrina Wolf	Ecologist	Cumberland Ecology
3. Ian Hunter	Executive Director	Office of Environment and Heritage
4. Susan Harrison	Senior Team Leader	Office of Environment and Heritage
5. Greg Steenbeeke	Senior Ecologist	Office of Environment and Heritage

Officer Details

Primary Officer	Brendan NELSON	Deputy Secretary	Growth, Design and Programs
Additional Officer	Gina METCALFE	Precinct Manager	Land Release
Additional Officer	Bruce COLMAN	Director	Land Release

Office (Check one) ☐ ODG ☐ PSH&I ☒ GP&D ☐ PCB ☐ DAS&A ☐ PR&GC ☐ F&S

Project Details

Project Number, or ID Number, or Topic	Wilton Junction - Obj Folder: fA630217
Project Title or Location Name	Wilton South East Precinct
Address of site, project, proposal, or application	Picton Road Wilton
Name of Local Government area	Wollondilly

Subject and Outcome

Subject Matter (Brief summary)	The site visit was convened to view critically endangered ecological communities proposed to be cleared by Walker Corporation as part of a rezoning.	
Matters Discussed	Vegetation communities Impacts of development Potential access points and development footprint	
Notes / Actions	1 Vegetation communities include canopy and grassland. 2 Edge effects can compromise vegetation including urban runoff, introduction of weeds and pets. 3 Stormwater treatment and a perimeter road can mitigate some of these effects. 4 Vegetation is mainly regrowth after extensive post war logging. 5 Vegetation is in relatively good condition where it has been fenced to exclude cattle. 6 A road is proposed for bushfire access and connectivity. 7 A bridge for 8 to 10 metres would allow fauna migration. Agreed after ecologists for developer left site visit: 8 OEH will prepare a revised footprint to reflect likelihood of conserved areas surviving edge effects. 9 Derived native grasslands can be developed but will need to be offset with land conserved elsewhere subject to the biodiversity certification process.	
Primary Outcome select one	<input type="checkbox"/> Meeting declined <input checked="" type="checkbox"/> Dept provided advice on process <input type="checkbox"/> Dept provided advice on progress of the matter/project <input type="checkbox"/> Parties agreed to reconvene	<input type="checkbox"/> Additional info to be provided by other parties to the meeting <input type="checkbox"/> Matter to be referred to or discussed with another party <input type="checkbox"/> No further action



Other Outcomes check applicable	<input type="checkbox"/> Dept provided advice on process	<input type="checkbox"/> Additional info to be provided by other parties to the meeting
	<input type="checkbox"/> Dept provided advice on progress of matter/project	<input type="checkbox"/> Parties agreed to reconvene
	<input type="checkbox"/> Matter to be referred to or discussed with another party	<input type="checkbox"/> No further action

Name of Officer completing form	
Name: Gina Metcalfe	Title: Precinct Manager
Signature:	Date: 15.3.17
Name of Officer approving form	
Name: Bruce Colman	Title: Director Land Release
Signature:	Date: 15th March 2017
Completed Business Contact Forms must be saved in the relevant project folder/file in Objective within 10 working days of the date of the contact. The document title must include:	<ul style="list-style-type: none">• the words 'Business Contact'• the type, e.g. 'Proponent', 'Developer', 'Objector', etc.• the name of the relevant Office dealing with the issue• the date of the contact in 'YYYY-MM-DD' format. <p>Eg. BUSINESS CONTACT -- ABC Developers -- Growth Design and Programs -- 2016-05-14</p>

Wilton Site Visit

Agenda

Details

Date:	Friday, 10 March 2017
Time:	7.30am (depart Sydney) – 12.00pm (return)
Location	Wilton Farm – Picton Road, Picton

Meeting purpose

To inspect Wilton farm to view critically endangered ecological community potentially affected by proposed rezoning of land for urban purposes.

Participants for the visit

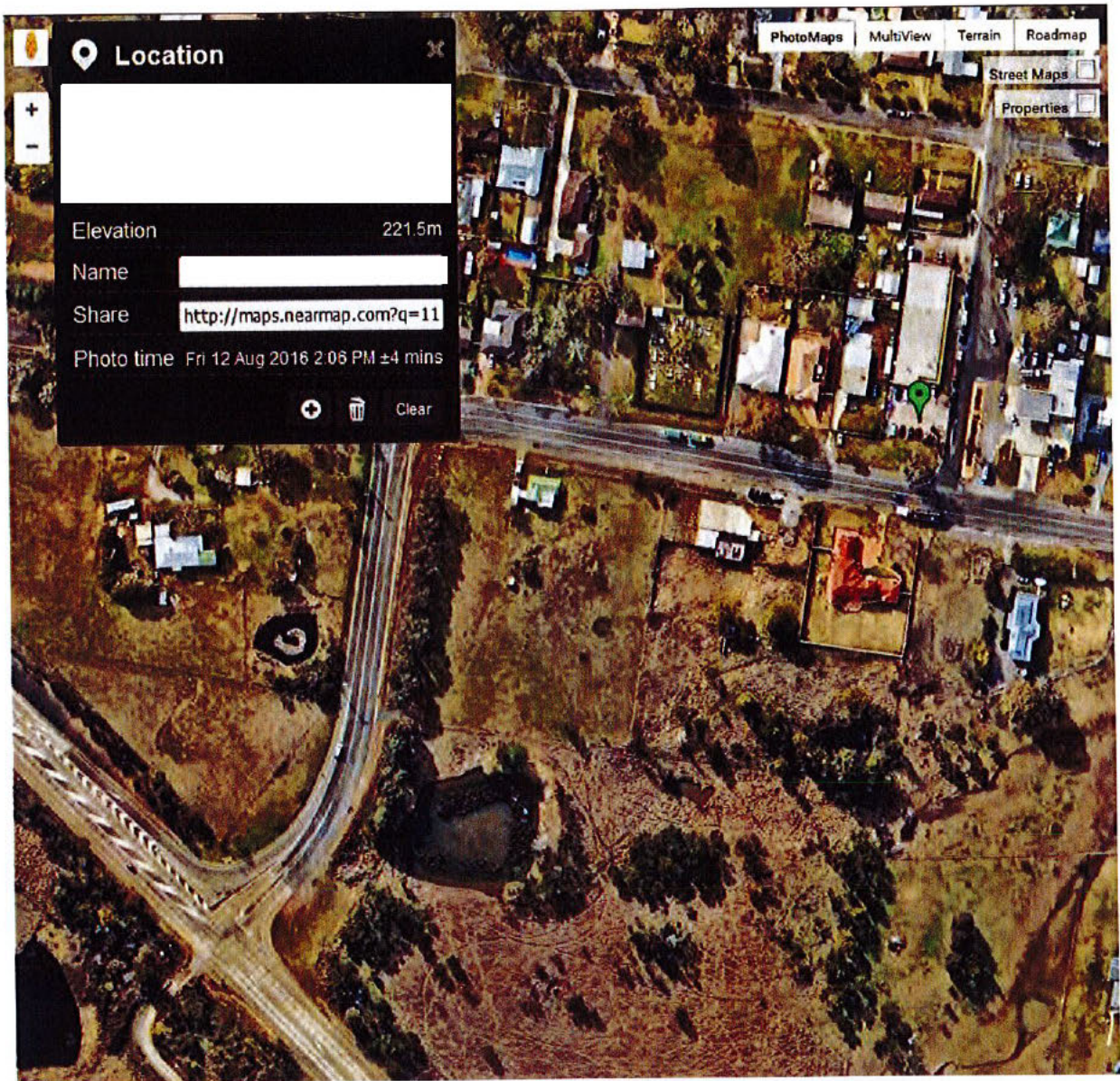
1. **Brendan Nelson:** Deputy Secretary GDP – Department of Planning and Environment
2. **Gina Metcalfe:** Team Leader – Department of Planning and Environment
3. **Bruce Colman:** Director, Land Release – Department of Planning and Environment
4. **Ian Hunter:** Executive Director, Regional Operations - OEH
5. **Susan Harrison:** Senior Team Leader - OEH
6. **Greg Steenbeeke:** Senior Threatened Species Officer OEH
7. **David Robertson:** Cumberland Ecology

Information for visit

- **Map:**
- **Summary of key issues (refer to attached)**

Order of Proceedings

Time	What	Who
7.30am	Travel to Wilton	
By 9am	Arrive at meeting point:	Contact for this point is
9.15am	Confirm arrivals and overview of agenda, travel to Wilton property in two 4WDs under direction from David Robertson	Gina Metcalfe
9.30am	Arrive at site view to vegetation	All
10.30 am	Conclude site visit and return to meeting point	All
11 am	DPE and OEH discussion of outcomes	All
11.30 am	Site Visit Close and return travel back to work	
1 pm	Brendan Nelson to arrive back in Pitt St for 2pm Board meeting	



Briefing note

Purpose

This briefing note outlines the ecological issues relating to a proposal to rezone land within the Wilton Priority Growth Area. The note has been prepared to inform a site visit planned to consider the proposal.

Current position

The Department of Planning and Environment (the Department) is preparing a draft land use and infrastructure strategy for Wilton Priority Growth Area.

In parallel, it is considering a submission from Walker Corporation (the proponent) in relation to rezoning of rural land in the Wilton South East Precinct within the growth area to enable urban development.

The Precinct has an approximate area of 437 ha and could accommodate up to 3,000 dwellings as shown in the proponent's draft Indicative Layout Plan submitted in late July 2016 (refer to Figure 1).

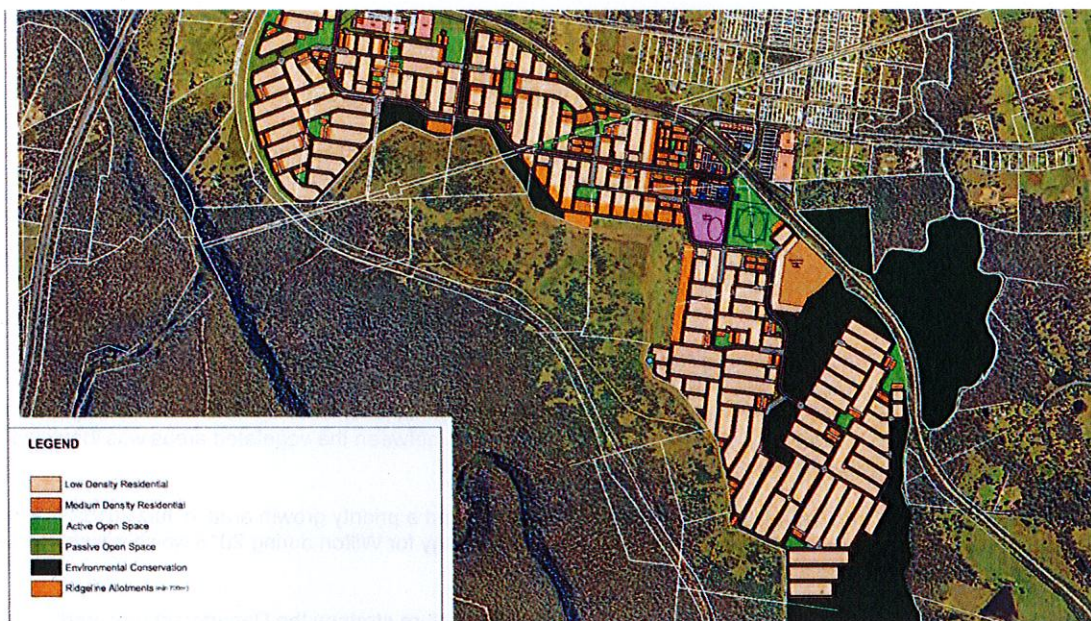


Figure 1 Draft Indicative Layout Plan July 2016

The proponent's draft indicative layout plan involves clearing critically endangered ecological communities for urban development, road connections, other utilities and bushfire hazard reduction.

The south-eastern edge of the Precinct, is defined by a vegetated corridor running north-south along Allens Creek. The site also includes a western finger of vegetation of approximately 40 hectares which almost traverses the Precinct.

Vegetation comprises threatened ecological communities of Shale Plains Woodland and Shale Sandstone Transition Forest, including derived native grasslands. Both communities are listed as critically endangered and endangered ecological communities under the *Threatened Species Conservation Act* and the Commonwealth *Environment Protection and Biodiversity Conservation Act*.

There is approximately 563,901 ha of vegetation (all woody vegetation types) in the CMA subregion, and of this, approximately 6763 ha or 1.12% is Shale Plains Woodland. Therefore, this critically endangered ecological community, which would be mostly impacted by development would not be considered relatively abundant in the region.

Options developed by the proponent

Between September and late December 2016, the proponent provided three alternative options to address feedback from the Office of Environment and Heritage and the Department's Land Release team.

OEH is not satisfied that Walker Corporation has sufficiently avoided or minimised impacts to critically endangered communities in its draft Indicative Layout Plan or with any of the options put forward to date.

The proponent's options are:

Option	Hectares of Cumberland Plain Woodland (Shale Plains Woodland) to be removed excluding DNG ¹	Hectares of Shale Sandstone Transition Forest to be removed excluding DNG
A Fig 1	26.1	1.6
B Fig 2	18.67	1.10
C Fig 3	15.5	Nil
D Fig 4	25	

With Option D the proponent offered to dedicate 70 ha of land on Allens Creek, outside of the precinct, as a bio-banking site in addition to any offsets required as a consequence of the biodiversity certification process. The vegetation on this site includes sandstone ridgetop forest and sandstone gully forest which included threatened species but are different ecological communities from those on the subject site.

The proponent argues the intensity and scale of development and associated clearing is required to support a primary school and enable access in/out of the eastern neighbourhood during emergency (e.g. accident, fire, flood).

The proponent also wishes to distribute the cost of three new intersections with Picton Road and other supporting infrastructure over the broadest possible catchment.

Background

In late 2015 the Greater Macarthur Land Release Investigation Land Use and Infrastructure Analysis and Preliminary Strategy and Action Plan were released for community consultation. The land that is subject of the planning proposal was identified as "unencumbered land which is suitable for development" with the exception of the areas vegetated with threatened ecological communities. Land between the vegetated areas was identified as being potentially suitable for rural residential development.

Following exhibition of the Preliminary Strategy, Wilton was declared a priority growth area in July 2016. The Department has prepared a draft land use and infrastructure strategy for Wilton during 2016 which will shortly be considered by the Executive and Minister before public exhibition.

As part of the process of preparing the draft land use and infrastructure strategy the Department procured specialist studies including biodiversity. Proposed Biodiversity Conservation areas are mapped in the draft strategy (refer to Figure 6).

The proposed Biodiversity Conservation areas are the outcome of a planning process that took into account key biodiversity values at a regional scale including:

- Priority Conservation Lands identified in the Cumberland Plain Recovery Plan (DECCW 2011). These lands, represent the best remaining opportunities in the region to maximise long-term biodiversity benefits for the lowest possible cost including the least likelihood of restricting land supply
- Landscape connectivity for fauna such as koala, a species surveyed for in 2016 across the eastern part of Wollondilly LGA including Wilton and were found to have an active and present status and at medium to high densities.
- Mapped vegetation community information from existing data

In general, the draft strategy identifies the above values for protection, with more than 90% of the Priority Conservation Lands being identified for conservation. The exceptions include patches of Priority Conservation Lands that extend out into predominantly cleared areas with limited connectivity and higher likelihood of edge effects.

Cleared land on the subject site has been identified as suitable for urban development.

¹ Native grasslands derived from the clearing of the woodland and forest in these critically endangered communities are also part of these community and covered equally by the TSC Act and EPBC Act.

Advice from the Office of Environment and Heritage on proponent's options

The Office of Environment and Heritage (OEH) sees immense value for the region in retaining the width of the vegetated corridor, including the finger of vegetation. OEH does not support the width or the area of the vegetated corridors being eroded. OEH does not believe that a reasonable attempt has been made by Walker Corporation to avoid clearing of vegetation in the south-east corner of the precinct. OEH is not satisfied that Walker Corporation has attempted to avoid critically endangered vegetation which would be the subject of assessment through a biodiversity certification application.

OEH advises that avoiding and minimising impacts is a primary principle underpinning offsetting (e.g. NSW Biodiversity Offsets Policy for Major Projects, Principles for the Use of biodiversity offsets in NSW, EPBC Act Offsets Policy). Offsets should be applied to compensate for impacts that cannot be avoided or mitigated. While the land at Allens Creek (Option D), offered by Walker as compensation for the loss of the endangered ecological communities on its land at Wilton, contains biodiversity values including threatened flora species and Shale Sandstone Transition Forest, this offer does not address the need to avoid the vegetation in the first instance nor would it deliver like-for-like offsets for the critically endangered ecological community which would be lost (Shale Plains Woodland).

Given the extent and scale of urban development that will be occurring across Greater Macarthur and Wilton - from Glenfield to Menangle Park and Mt Gilead down to Appin and West Appin, ending with the new town at Wilton - OEH also argues that efforts must be made now at the strategic planning stage to conserve the remaining threatened ecological communities, corridors and threatened species. OEH has provided a suggested conservation footprint (Figure 5).

Options

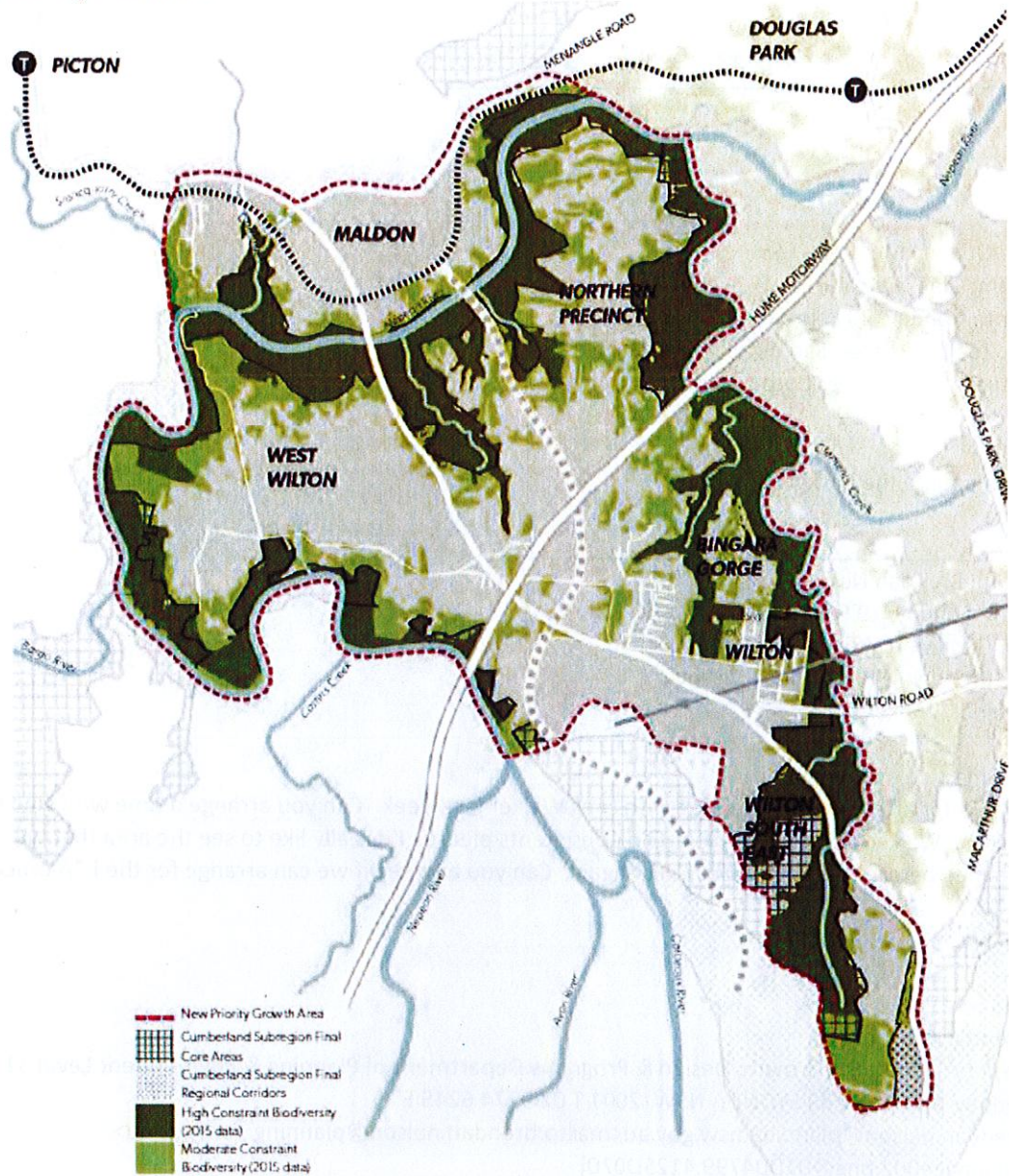
Options for the next steps include:

1. Exhibiting a plan to permit urban development as proposed by the proponent in Option D, including dedication of the Ashwood Road site.
2. Modify the OEH design to allow for any required infrastructure that can be shown to be unable to be delivered without avoiding the endangered ecological communities.
3. Deferring the affected part of the site from rezoning to allow biodiversity certification assessment of a modified option.

Costs and benefits of these options are outlined overleaf.

Option	Benefits	Costs
1. Exhibiting option D including removal of ~ 25 hectares of critically endangered vegetation	<ul style="list-style-type: none"> • Quick to proceed to exhibition. • Provides additional housing supply and more efficient development and infrastructure delivery. • Could secure additional conservation land outside the precinct via VPA (but does not avoid and minimise impact) 	<ul style="list-style-type: none"> • Involves loss of critically endangered ecological communities. • While exhibition might be quick, there may be delays in rezoning because of concerned submissions. • Sets a site by site process precedent (not strategic) for other land release precincts. • May require re-exhibition of plan if modifications are made post-exhibition. • Despite rezoning, Commonwealth or Council may not allow outcome to proceed based on legislation.
2. Modify the OEH design to allow for any required infrastructure that can be shown to be unable to be delivered without avoiding the endangered ecological communities	<ul style="list-style-type: none"> • Very limited clearing of native vegetation • Allows some development • Likely to achieve biodiversity certification and Commonwealth approval 	<ul style="list-style-type: none"> • Reduces yields • OEH will only support asset protection zones being accommodated within the area to be developed.
3. Defer affected part of the site from exhibition until it can be exhibited with a biodiversity certification application	<ul style="list-style-type: none"> • Allows for more strategic evaluation of proposal against the biodiversity certification assessment methodology • Has the potential for certification to meet the requirements of the EPBC Act and further streamlining approval processes. 	<ul style="list-style-type: none"> • Creates uncertainty for negotiation of voluntary planning agreement for infrastructure and establishment of Special Infrastructure Contributions framework. • The proponent does not want to delay rezoning.

Figure 6 Biodiversity constraints



Racho Donef

From: Gina Metcalfe
Sent: Tuesday, 17 July 2018 3:34 PM
To: Zoe Sadiq
Subject: FW: Walker Corp
Attachments: image001.png

-----Original Message-----

From: Gina Metcalfe
Sent: Monday, 20 February 2017 8:00 AM
To: Zoe Sadiq
Subject: FW: Walker Corp

FYI

I will update the background paper!
 Gina

From: Brendan Nelson
Sent: Sunday, 19 February 2017 12:55 PM
To: Gina Metcalfe
Cc: Brendan O'Brien; Linda Viskovic
Subject: Walker Corp

Hi Gina

Thanks for attending the meeting with Lang Walker last week. Can you arrange a time with Linda for you and I to visit the Walker property with our Eco Consultants please. I'd really like to see the area that we are wanting retained before we meet with Walker again. Can you also see if we can arrange for the EPA officer to attend with us?

Thanks
 Bn

Brendan Nelson RPIA
 Deputy Secretary – Growth, Design & Programs Department of Planning & Environment

[cid:image002.png@01D04799.4125D070]

MDPE18/4423

Mr Brian Williams

Dear Mr Williams

Thank you for writing to the Secretary of the Department of Planning and Environment about the biodiversity reports prepared for the Wilton and Greater Macarthur Growth Areas. The Secretary has asked me to reply on her behalf.

I understand that you wrote to the Office of Environment & Heritage (OEH), and a response to your email was sent from OEH on 14 December 2018. The Department has also provided a separate response to your correspondence on the rezoning of North Wilton Precinct.

I can confirm that both biodiversity reports prepared by Eco Logical were exhibited prior to the Wilton South East rezoning on 13 April 2018. The Minister for Planning considered both these reports in making the decision to rezone Wilton South East.

The *Wilton and Greater Macarthur Priority Growth Areas, Biodiversity Study 2017* was first published on the Department's website on 9 August 2017. Consultation with OEH was undertaken prior to their advice of 27 September 2017.

The 2015 biodiversity report can be found on the Department's website http://planspolicies.planning.nsw.gov.au/index.pl?action=view_job&job_id=7263. The 2017 biodiversity report can also be found on the Department's website http://planspolicies.planning.nsw.gov.au/index.pl?action=view_job&job_id=8666.

If you have any more questions, please contact Ms Gwenda Kullen, Manager Land Release Team, South West Land Release, at the Department of Planning and Environment on

Yours sincerely

Brett Whitworth
Acting Deputy Secretary
Planning + Design

7 January 2019

Koala Deed of Agreement – WAG speech to Wollondilly Shire Council community forum
Held on 16 Oct 2019

- Sept 2018 Walkers enter Koala deed of agreement with Wollondilly Council
- In return WSC drop case in Land & Environment Court against premature rezoning of Wilton SE
- Wilton Action Group request that the deed be released in the public interest
This was refused as being 'commercial in confidence'
- January 2019 – after receiving a letter on behalf of WAG from the Environmental Defenders Office , council and Walkers agree to let representative of WAG and the EDO read the Full deed in a closed room at Council
- WAG then lodged a GIPPA request to Council to have the document made public
- This was refused as being " Commercial in Confidence'
- WAG then lodged an appeal with the NSW Information and Privacy Commissioner, Last week the IPC ruled in WAGs favour stating that Council have no grounds to withhold the full DOA and suggest that council hold an internal review of this decision and consult with WAG. We submit that Council should expedite the release. Of the full Koala DOA especially after the Planning Panel's conditions on approval of 8 October included updating of koala safe security fencing. This IPC ruling has been sent to Council on 10 October.
- We are now past 12 months into what is only a 2 year deed, so in view of this and the fact that there have been 3 recent deaths on Picton Rd despite the newly installed Koala fencing we ask that Council urgently respond to the recommendations of the IPC
And release the deed to WAG and the public. We also request a progress report on the implementation of the deed of agreement.

Biodiversity Conservation (Savings and Transitional) Regulation 2017

Current version for 8 February 2019 to date (accessed 23 October 2019 at 17:46)

Part 7 > Clause 27

27 Definitions: Part 7

(1) In this Part:

former planning provisions means the provisions of the *Environmental Planning and Assessment Act 1979* that would be in force if that Act had not been amended by the new Act.

pending Part 5 assessment of an activity for which the proponent is also the determining authority, means:

- (a) if the activity is likely to significantly affect threatened species—an environmental impact assessment of the activity that began under Part 5 of the *Environmental Planning and Assessment Act 1979* before the commencement of the new Act if the proponent consulted (under section 112B of that Act) the Minister administering the *Threatened Species Conservation Act 1995* before the commencement of the new Act or obtained (under section 112C of that Act) the concurrence of the Chief Executive of the Office of Environment and Heritage before the commencement of the new Act, or
- (b) an environmental impact assessment of the activity that began under Part 5 of the *Environmental Planning and Assessment Act 1979* before the commencement of the new Act (but only if the proponent commences to carry out the activity within 18 months after the commencement of the new Act).

pending Part 5 assessment of an activity for which the proponent is not also the determining authority, means:

- (a) an environmental impact assessment of the activity under Part 5 of the *Environmental Planning and Assessment Act 1979* if the determining authority granted approval before the commencement of the new Act to the carrying out of the activity, or
- (b) an environmental impact assessment of the activity that began under Part 5 of the *Environmental Planning and Assessment Act 1979* before the commencement of the new Act (but only if the determining authority grants approval within 18 months of that commencement to the carrying out of the activity).

pending or interim planning application means any of the following:

- (a) an application for planning approval (or for the modification of a planning approval) made before the commencement of the new Act but not finally determined immediately before that commencement,
- (b) an application for planning approval (or for the modification of a planning approval) made within 18 months after the commencement of the new Act if an environmental impact statement is to be submitted in connection with the application and the Secretary of the

Department of Planning and Environment issued, before the commencement of the new Act, environmental assessment requirements for the preparation of the statement,

- (c) an application for planning approval (or for the modification of a planning approval) made within 12 months after the commencement of the new Act if a species impact statement is to be submitted in connection with the application and the Environment Agency Head issued, before the commencement of the new Act, requirements for the preparation of the statement,
- (d) an application for planning approval (or for the modification of a planning approval) made after the commencement of the new Act if an environmental impact statement is to be submitted in connection with the application and the Secretary of the Department of Planning and Environment determines in writing that the proponent had undertaken substantial environmental assessment in connection with the statement before the commencement of the new Act (but only if the application is made within 18 months after that determination),
- (e) except in the case of State significant development—an application for development consent under Part 4 of the *Environmental Planning and Assessment Act 1979* (or for the modification of such a development consent) made within 6 months after the commencement of the new Act (but only if any species impact statement that is to be submitted in connection with the application is submitted within 12 months after the commencement of the new Act),
- (f) in the case of development (except State significant development) within a Western Sydney interim designated area under subclause (3)—an application for development consent under Part 4 of the *Environmental Planning and Assessment Act 1979* (or for the modification of such a development consent) made on or before 24 November 2019 (but only if any species impact statement that is to be submitted in connection with the application is submitted on or before 24 May 2020),
- (f1) in the case of development (except State significant development) within an expired interim designated area under subclause (3)—an application for development consent under Part 4 of the *Environmental Planning and Assessment Act 1979* (or for the modification of such a development consent) made on or before 24 November 2018 (but only if any species impact statement that is to be submitted in connection with the application is submitted on or before 24 May 2019),
- (g) in the case of development for the purposes of mining—an application for development consent under Part 4 of the *Environmental Planning and Assessment Act 1979* (or for the modification of such a development consent) made within 2 years after the commencement of the new Act if the Secretary of the Department of Planning and Environment determines in writing (within 3 months after the commencement of the new Act) that the proponent had submitted before that commencement the conceptual project development plan for the mining project that is required by departmental policy before an application for development consent is made.

planning approval means:

- (a) a development consent under Part 4 of the *Environmental Planning and Assessment Act 1979*, or

(b) a State significant infrastructure approval under Part 5.1 of that Act.

planning approval body means:

- (a) in relation to an application for development consent under Part 4 of the *Environmental Planning and Assessment Act 1979* (or for the modification of such a consent)—the consent authority, or
 - (b) in relation to an application for State significant infrastructure approval under Part 5.1 of that Act (or for the modification of such an approval)—the Minister administering that Act.
- (2) For the purposes of paragraph (b) of the definition of **pending or interim planning application** in subclause (1), if the environmental assessment requirements referred to in that paragraph are re-issued, then the application is a pending planning application if the application is made within 18 months after the re-issue of the requirements (but only if the application is made within 3 years after the commencement of the new Act).
- (3) For the purposes of paragraph (f) of the definition of **pending or interim planning application** in subclause (1), the local government areas of Camden, City of Campbelltown, City of Fairfield, City of Hawkesbury, City of Liverpool, City of Penrith and **Wollondilly** are Western Sydney interim designated areas.
- (3A) For the purposes of paragraph (f1) of the definition of **pending or interim planning application** in subclause (1), the following are expired interim designated areas:
- (a) the local government areas of Central Coast, City of Cessnock, City of Coffs Harbour, City of Lake Macquarie, City of Maitland, City of Newcastle and Port Stephens,
 - (b) that part of the local government area of the City of Wollongong that comprises the land to which the West Dapto Urban Release Area proposed application for biodiversity certification applies (as described in the *Proposed Applications for Biodiversity Certification Order 2017* published in the Government Gazette No 126 of 24 November 2017 at pages 7246–7255).
- (4) A reference in this Part to Part 7 of the new Act not applying to a matter includes a reference to Division 12 of Part 7A of the *Fisheries Management Act 1994* (as inserted by the new Act) not applying to that matter.



Submission on Planning and Environment inquiry into and report on actions, policies and funding by government to ensure healthy, sustainable koala populations and habitat in New South Wales

WILTON ACTION GROUP - HISTORY AND SUMMARY OF OUR CONCERNS

Wilton Action Group was formed in early 2018 in response to the huge proposed development of over 16,500 homes in the Wilton Growth Area, a new city the size of Port Macquarie, in a fragile ecosystem which is also at the critical headquarters of the Nepean River. We advocate for a far more environmentally and ecologically sustainable development for Wilton, as the recent piecemeal rezonings of land in the designated precincts of Wilton South East and North have demonstrated a failure to consider cumulative impacts of development on this sensitive environment. Along with a real failure of government process to give proper consideration to detailed scientific advice from experts and its own departments the EPA and Office of Environment and Heritage about the need for very careful and ecologically sustainable development in Wilton given its sensitive environmental constraints.

TERMS OF REFERENCE are marked in bold, with our relevant feedback below them, we thank you for the opportunity to provide this feedback:

That Portfolio Committee No. 7 – Planning and Environment inquire into and report on actions, policies and funding by government to ensure healthy, sustainable koala populations and habitat in New South Wales, and in particular:

(a) the status of koala populations and koala habitat in New South Wales, including trends, key threats, resource availability, adequacy of protections and areas for further research,

Key threats in the Macarthur region, and the Wilton Priority Growth area in particular, are rezoning of land for urban development, and associated infrastructure barriers to koala movement. Protecting and restoring koala corridors that ensure connectivity is vital to the health and survival of south western Sydney's important koala population. To date, there have not been any prescribed actions in legislation to ensure this.

Recent development plans from the Appin/Mt Gilead area quote that the fencing strategy meets the objectives of the NSW Koala Strategy 2018, but this strategy has already been identified by conservationists as largely lacking in measurable positive conservation outcomes of any value, so it is hardly a plus. In fact, there has been little scientific study of the positive or negative impacts upon Koala populations by the use of fencing, so a positive

outcome from this measure is not guaranteed. Science based evidence of the benefits or otherwise of Koala fencing both on Koalas and other species affected such as goanas, turtles, echidnas, wallabies, kangaroos, should be considered before any fencing proposal is entertained. More research is vital.

Actions taken for koala preservation are mostly associated with individual planning proposals, and are not considered in a regional context. Their cumulative effect is not known, understood, or scientifically studied. It is likely that proposed fencing along Appin road will push koalas further towards Wilton and Picton road where they will encounter further fencing and bottlenecks restricting movement, but this is not being taken into account by those who propose the fencing along Appin Road. Koalas are territorial and need to roam and disperse, particularly with healthy recovering populations such as is found locally around Campbelltown, Appin and Wilton. This need to disperse is not being adequately considered in fencing proposals and requires further studies before and after fencing is put in place. We do not know how many underpasses Koalas need per kilometre of fencing to adequately disperse across infrastructure barriers such as Appin road and Picton road. The lack of science means we do not understand what measures are effective and what are not. We don't know if the fencing is reducing or increasing stress on the population. Koalas have actually survived quite well in urban areas, so is fencing actually the best option? Should reduced speed limits be considered instead, along with koala friendly urban design? Scientific studies should be commissioned to find out the answers to these questions.

(b) the impacts on koalas and koala habitat from:

(iv) the 2016 land management reforms, including the Local Land Services Amendment Act 2016 and associated regulations and codes

Management of the biodiversity impacts of development are not achieving the desired goals. The biodiversity offset scheme is flawed in its application and will potentially run out of comparable habitat to offset in the near future. Already areas already preserved or not under threat in the foreseeable future are being used as biodiversity offsets. This is resulting in a net loss of habitat. There is no clear direction, legislation or conservation planning measures in place to protect koalas and their habitat or migration pathways across the Greater Macarthur and Wilton growth areas.

(c) the effectiveness of State Environmental Planning Policy 44 - Koala Habitat Protection, the NSW Koala Strategy and the Biodiversity Conservation Act 2016, including the threatened species provisions and associated regulations, in protecting koala habitat and responding to key threats,

Wilton South East : Under SEPP 44 the DPE is obliged to do a site-specific koala plan and the rezoning of the land should not have happened until a biocertification and vegetation mapping process had been completed. When the state government's new Biodiversity Act came into force on 24 August 2017, Wollondilly Council received a phone call from DPE, telling them its growth area was exempt from the Act for a further 12 months – until the biocertification process was completed. This biocertification process is still outstanding as of 2 August 2019. Biodiversity certification is intended to inform strategic planning decisions. Development in Wilton to date has, by strategic manipulation of government policy, been able to avoid this process. There is no biocertification in place for either Bingara Gorge,

Wilton South East, or Wilton North. This urgently needs to be addressed. In addition to this, the naming of particular species of trees in SEPP 44 implies an implicit and complete scientific knowledge of koalas that we simply do not have. Developers are using the absence of such tree species as an excuse to not need to consider SEPP 44.

(d) identification of key areas of koala habitat on private and public land that should be protected, including areas currently at risk of logging or clearing, and the likely impacts of climate change on koalas and koala distribution,

There are large areas of as yet undeveloped land currently held by developers in the Wilton Growth Area that are under immediate threat from proposed urban development. Koala habitat and corridors need protection. Koala habitat was defined as not developable until they decided they needed more land for housing. This area includes CEEC Critical Endangered Ecological Communities. Wilton South East rezoning plan did not change despite advice from Office of Environment Heritage, the proponents koala specialist, and an independent specialist. Biocertification has not been done, yet the proposal has been rezoned and now has a DA application for stage 1. The 'koala corridor' claimed to be additionally protected in the 'final rezoning plan' is part of existing areas that the proponent had already determined would be biobanked into an 'environmental conservation zone' (no net gain to Koalas). The pinch point along Picton Road is still an issue as identified by OEH and the independent specialist. Recommendations of 400m habitat buffers from top of bank of the 2 Allens Creek tributaries was ignored. The critical East-West and North-South linkages (potential migration corridors) for the whole region, between Mt Gilead south of Campbelltown, all the way through to Wilton are currently under threat and unprotected. Large swathes of this land are held by developers. Urgent legislation is required immediately to protect vital habitat corridors in order to preserve biodiversity for all plants and animals in this region.

A Koala Deed was entered into between Walker Corporation and Wollondilly Shire Council. The Wilton Action Group has attempted to get this deed released to the public, to no avail. This deed should be released to the public immediately. It is in the public interest to know what is proposed by the developer to preserve Koala populations into the future in the Wilton South East development.

Preparation of the Draft Cumberland Plain Conservation Plan, supposedly will include measures to protect koalas. We still have not been given confirmation on when this will be finished and in the mean time land containing koala habitat is being rezoned. The draft plan which is apparently being used by government agencies is not publicly available. The community is unable to examine it's contents to ensure measures are in place or applied. This plan should be made available to the public immediately.

(e) the environmental, social and economic impacts of establishing new protected areas to conserve koala habitat, including national parks, and

There will be benefits to biodiversity, public health and amenity of developing preservation areas in and around areas currently under consideration for rezoning for urban development including areas recently rezoned but not yet developed. We strongly encourage some strong protection laws be implemented to protect such areas that are likely to be lost in the very near future. Developers have speculatively bought these areas for future urban development, this is their risk to take, it does not mean that the NSW government is obligated to deliver them a profitable slice of the Australian pie. If

developments become un-viable with biodiversity protections in place, that is actually a good thing, as it will incentivise more sustainable development in the future.

Meaningful preservation of east west linkages between the Nepean and George's Rivers in several locations are required. Independent scientific studies should determine the best conservation measures. This plan should reserve East west conservation corridors prior to any development being proposed, and these conservation corridors should be scientifically determined for placement and maximum species connectivity between regions to ensure biodiversity is maintained and enhanced. All species benefit from preservation of Koala corridors.

(f) any other related matter.

The land use planning and development control systems that operate in NSW are tied to a regulatory framework, however the consistency in the decision-making process and enforcement at the development stage is lacking. There is a disconnection between local plans, policies, best-practice guidelines and development conditions and their enforcement which is exacerbated by changes in the planning and approval system towards more code-based development and exempt forms of development, in which environmental and landscaping controls are given little or no attention. Fencing seems to be seen as the panacea to all problems, but it does not absolve developers and RMS of all other environmental impacts, if anything, it will probably increase the environmental impacts, by further increasing the barrier to effective movement and dispersal. Such effective barriers are almost unknown in the Australian landscape, especially locally in the Wilton area, the impact of fencing itself should be fully considered in a regional context (for all species) before any approvals for such fences are granted.

The NSW state government needs to give people, communities and the environment the upper hand. At the moment it is a developer free for all, the system is way out of balance and future generations will suffer. Ecology needs to be part of urban design. Currently it is seen as a barrier to it. Some radical changes in the way things are done are needed, urgently, if the planet, people and ecosystems are to survive the climate variability that has already started to affect us all.

