

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 18 April 2016

**PE5 – Draft Planning Proposal – Appin Vale**

PE5

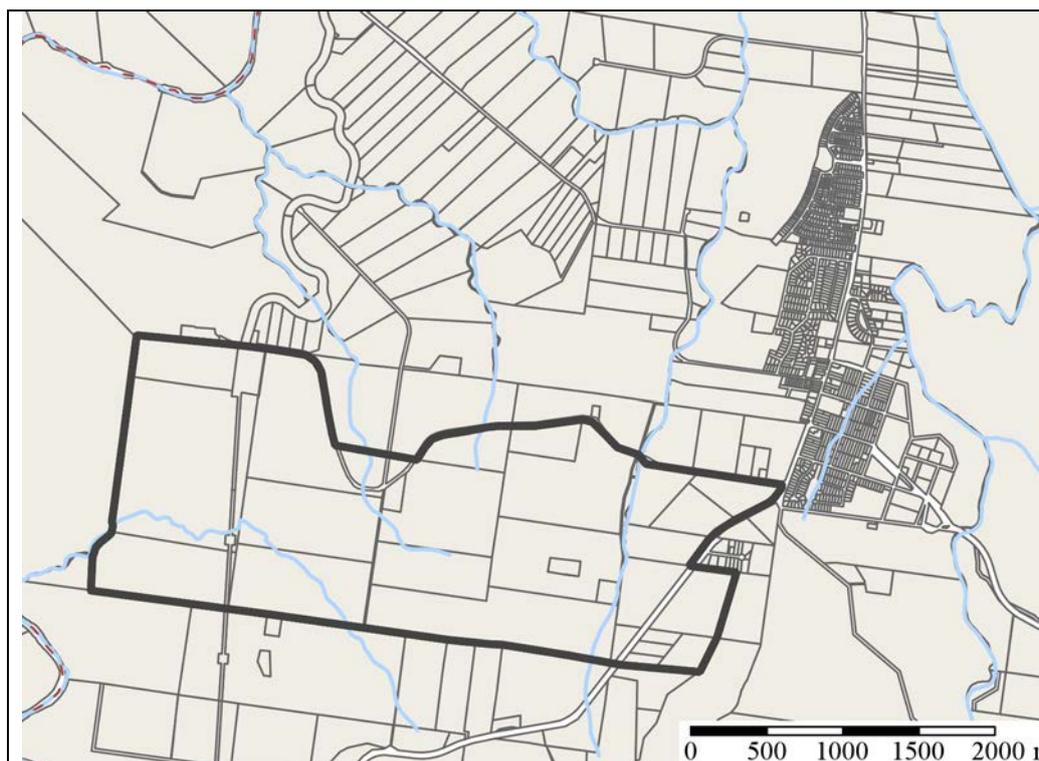
**Draft Planning Proposal – Appin Vale**

243773

TRIM 7896

**Proponent:** Walker Corporation Pty Ltd  
**Owner:** Mr D J Bint & Mrs P J Bint, Mr K Brewin & Mrs H T Brewin, Mr E J D’Arcy & Mrs D A D’Arcy, Mr A J Demanuele & Mrs M A Demanuele, Endeavour Coal Pty Limited, Mr G A Hamer & Mrs A Hamer, Mr P J Lawrence & Mrs A M Lawrence, Mr J B Mileto, Mr J P Mollerson & Mrs J Mollerson, Morrison Bros Dairies Pty Ltd, Mr S J Pizzuto & Mrs M R Pizzuto, Sydney Water, Walker Corporation Pty Limited, Water NSW

Planning & Economy



LOCATION MAP N ↑

Stage	Completed
Preliminary notification	Not commenced
Gateway Determination	Not received
Consultation with Public Agencies	Not commenced
Specialist Studies	Not received
Public exhibition/community consultation	Not commenced
Referred to Minister for Publication	Not commenced

**PE5 – Draft Planning Proposal – Appin Vale**

**EXECUTIVE SUMMARY**

- At the Ordinary Meeting held 16 November 2015 Council resolved that the proponent for the Appin Vale Draft Planning Proposal be invited to withdraw their rezoning application.
- In response, the proponent has advised that they are not prepared to withdraw the planning proposal.
- This report seeks to establish Council's position on the proponent's submission.
- The draft planning proposal seeks to allow for the rezoning of 585 hectares of rural land to the south of Brooks Point Road, Appin for a new urban release area providing 4,000 dwellings, employment areas, a new town centre, schools, active open space, infrastructure, the conservation of ecologically important land and to protect land required for the proposed future Appin Bypass.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirement extends to any person with a financial interest in the application of any associate of the person making a public submission. No disclosure or political donation has been made in association with this application.
- It is recommended that the draft planning proposal remain on hold until the Greater Macarthur Land Release Investigation is finalised.

**REPORT**

**1.1 INTRODUCTION**

In response to Council's invitation to withdraw their planning proposal the proponent has indicated that they are continuing to meet with the NSW Government including Transport for NSW and the Department of Planning and Environment ("Department") to resolve issues which resulted in West Appin not being included in the *Greater Macarthur Land Release Investigation - Preliminary Strategy & Action Plan*.

Specifically the proponent requests that Council investigate the Appin Vale proposal further and conduct pre-Gateway (preliminary) consultation in 6 months' time. A copy of the proponent's correspondence is provided at Attachment 1.

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**1.2 DESCRIPTION OF PROPOSAL**

The draft planning proposal seeks changes to the Wollondilly Local Environmental Plan 2011 to rezone approximately 585 hectares of mostly rural land to the south of Brooks Point Road, Appin for a new urban release area providing 4,000 dwellings, employment areas, a new town centre, schools, active open space, infrastructure, the conservation of ecologically important land and to protect land required for the proposed future Appin Bypass.

The site comprises several allotments owned by 15 different owners (Refer attachment 2). The majority of the land has been cleared for grazing. The existing Appin Power Station is contained within the site along with the Sydney Water Supply Canal (zoned SP2) which enters the site to the north and runs through to the south. Walker Corporation owns the majority of the site including land proposed for approximately 2,700 dwellings, the mixed use zones, some employment lands and a portion of the town centre. The remaining lands are expected to provide a further 1,300 dwellings, the majority of the town centre and the remainder of the employment lands. (Refer current and proposed zoning maps in attachment 3).

The following land use zones are proposed:

<b>Proposed Land Use Zone</b>	<b>Area (hectares)</b>
R2 Low Density Residential	264.43
R3 Medium Density Residential	1.64
R5 Large Lot Residential	25.5
SP1 & 2 infrastructure	
▪ Roads and drainage	66.62
▪ Community facilities	1.08
▪ Primary School	3.07
▪ High School	4.52
E2 Environmental Conservation	109.66
B1 Neighbourhood Centre	3.32
B2 Local Centre	11.4
B4 Mixed Use	17.36
IN2 Light Industrial	56.15
RE1 Public Recreation	17.47
Heritage Conservation (proposed land use zone not confirmed)	2.02

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**1.3 BACKGROUND**

The original draft planning proposal was submitted on 21 January 2014. Since this time it has been on hold pending the outcome of regional strategic planning policy processes.

**NSW Government Potential Home Sites Program (PHSP)**

In August 2011, the Minister for Planning and Infrastructure called for expressions of interest from landowners with sites of more than 100 hectares who believed they could deliver houses quickly to the market.

The purpose was to identify sites, in appropriate locations, that will increase dwelling production in the short term and at no additional cost to the Government. Nine (9) of the 29 submissions plus two (2) late nominated sites were for land located in Wollondilly, one of these being the Appin Vale site.

At the February 2012 Ordinary Meeting, as part of its submission to the PHSP consultation, Council resolved to not support the Appin Vale proposal in principle.

In March 2013, the NSW Government announced the outcomes of the review into potential housing opportunities. The government decided to support the immediate action to progress 15,850 potential new housing lots and to investigate a further 60,000 lots in upcoming local or regional strategies.

Following the evaluation report the NSW Government identifies nine (9) sites within Wollondilly Shire as potential sites for further investigation for residential development. Appin Vale was one of these sites.

A review of the Wollondilly Growth Management Strategy 2011 (GMS 2011) was identified by the NSW Government as a key requirement to assess suitability and drive future urban residential land release within the Wollondilly Local Government Area.

The nine sites were outlined in the Department of Planning document *Summary of Endorsed Departmental Actions on Potential Home Sites*. The sites have been tabled as “Strategic investigation” sites included in the Department’s endorsed actions.

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**Draft Wollondilly Growth Management Strategy 2014 (Draft GMS 2014)**

In 2013, in response to the outcome of the NSW Government Potential Home Sites Program, Wollondilly began a review of the GMS 2011. The review was funded in part by the Department of Planning and Environment.

A number of workshop meetings were held between Councillors and staff over an 18 month period from early 2013 to mid-2014 in order to reach a common understanding on the aims, directions and content of the draft GMS.

At the November 2014 Ordinary Meeting, Council supported the Draft GMS 2014 and resolved to seek the Department's endorsement and agreement to commence public consultation.

In response the Department advised that they would undertake a review of Council's Draft GMS 2014 once the outcome of the Government's consideration on two matters was known. Namely the Wilton Junction threshold issues and the West Appin infrastructure investigation. The Department asked Council not to commence a public exhibition. These considerations were then rolled into the Greater Macarthur Land Release Investigation which are still to be finalised and are critical to the Draft GMS 2014. Subsequently, the Department's review of the Draft GMS 2014 is still pending. The Draft GMS 2014 remains a confidential document.

**West Appin Infrastructure Investigation**

Following a meeting with a consortium of land owners in West Appin, a proposal to work collaboratively on the preparation of a joint Masterplan for West Appin. At the September 2013 Ordinary Meeting, Council meeting and at that meeting Council resolved to seek the views of the Planning Minister about his Department assisting Council with a 'Wilton Junction' style Masterplanning approach at West Appin.

In response the NSW Government committed to a high level infrastructure investigation led by the Department of Planning and Environment. To facilitate the high level infrastructure investigation, formal planning proposals were then received from Walker Corporation for Appin Vale, Mir Group for their Brooks Point project and Ingham Rural Property Group for their North Appin proposal. These proposals were significant and in total seek urban rezoning anticipating the creation of lands and associated infrastructure 11,500 residential lots plus employment lands.

All three planning proposals were subsequently deferred pending the outcomes of the final report.

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**A Plan for Growing Sydney & the Greater Macarthur Land Release Investigation**

In December 2014 the Department of Planning and Environment released their metropolitan strategy "A Plan for Growing Sydney" which identified a potential new land release area referred to as Greater Macarthur. The Greater Macarthur Urban Release Investigation Area took into account the work undertaken in Appin to date as a part of its assessment. While this work was being undertaken Council resolved at its meeting in March 2015 to place all planning proposals in the investigation area on hold. This included six planning proposals in Appin being Macquariedale Road, Brooks Point Road, Appin Bulli Road, Appin Vale, North Appin and Brooks Point.

The Department released the *Greater Macarthur Land Release Investigation - Preliminary Strategy & Action Plan* for public exhibition on September 22 2015. In the Preliminary Strategy the Department reported that:

*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."*

**1.4 PROPOSED PROPONENT LED CHANGES TO THE PLANNING PROPOSAL**

The proponent has indicated that they are currently in discussion with the NSW Government about the feasibility of growth in West Appin and have requested that Council investigate the Appin Vale proposal further and arrange pre-Gateway (preliminary) consultation in 6 months time.

In summary, the proponent's position is as follows:

- *The NSW Government are still considering the potential for growth at Appin in the short to medium term. In this regard, the proponent has been in discussions with Transport for NSW and the Department of Planning & Environment to resolve issues that prevented West Appin being identified as a Growth Centre in the Greater Macarthur Land release Investigation; Preliminary Strategy & Action Plan.*

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- *Even without growth the road infrastructure in and around Appin requires investment and there is no funding commitment for the necessary infrastructure from the NSW Government.*
- *Development at Appin Vale would enable Walker Corporation to fund a bypass for Appin (either on the current alignment or elsewhere). This commitment could be secured by way of a Voluntary Planning Agreement.*
- *Council will lose an opportunity to secure significant infrastructure if it does not support the Appin Vale proposal.*
- *Until there is a Section 117 Direction clearly prohibiting Council from considering a planning proposal such as Appin Vale we (the proponent) believe there is no planning or legal justification for withdrawal or rejection”.*

Regarding the final point, a Section 117 Direction is a Ministerial direction issued by the Minister for Planning under section 117(2) of the *Environmental Planning & Assessment Act 1979* and must be followed by planning authorities when preparing planning proposals.

Ministerial Direction 7.2 *Implementation of Greater Macarthur Land Release Investigation* was issued 22 September 2015 and seeks to ensure that development within the Greater Macarthur Land Release Investigation Area is consistent with the Preliminary Strategy and Action Plan. This Direction sets out that planning proposals can only be inconsistent where the inconsistency is of minor significance or the proposal will not undermine the Preliminary Strategy. It considered unlikely that the Appin Vale Draft Planning Proposal could meet these terms.

**CONSULTATION**

**2.1 CONSULTATION WITH COUNCIL MANAGERS & STAFF**

No specific consultation has been undertaken with Council staff for this report.

**2.2 CONSULTATION WITH PUBLIC AGENCIES**

Consultation would be undertaken with public agencies when and if a Gateway Determination was issued.

**2.3 COMMUNITY CONSULTATION**

No community consultation has been undertaken to date as the draft planning proposal has been on hold.

However in late 2015 Council held a number of workshops in Appin to enable residents and other local stakeholders to have a broader discussion about growth in and around Appin. These were held in late 2015 and were facilitated by an independent consultant.

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One of the outcomes from the workshops was to identify the key issues with growth in and around Appin. These were:

- Environment; e.g. threatened species, water quality, air quality, illegal dumping
- Infrastructure; e.g. roads, water & sewage, electricity
- Heritage & Rural Living; e.g. greenbelt, heritage items, village landscape, aboriginal heritage, local character
- Communication & Transparency; communication methods, lack of trust.

All these concerns are relevant to the Appin Vale Draft Planning Proposal.

**2.4 OPTIONS FOR CONSIDERATION**

The draft planning proposal is at an early stage in the rezoning process and to date there has not been any preliminary consultation with the community and a preliminary assessment has not been completed by Council staff.

If Council is inclined to not support the proposal then it is recommended that such a decision should be based on a report which provides full consideration of whether the draft planning proposal has strategic planning merit. The focus of this report has not been to establish whether the draft proposal has strategic planning merit but rather to update the Council on the proponent's response to the request to withdraw the planning proposal. It is also noted that the full details of the Appin Vale planning proposal have not been reported to Council to date and there may be aspects of the proposal which Council may be willing to support.

Therefore, if Council ultimately wants to determine the draft planning proposal then it is recommended that Council resolve for a report to be provided to the next available Ordinary Meeting of Council.

In responding to the proponent's submission Council's options are:

1. Resolve to support the draft planning proposal in its original form and prepare a Planning Proposal accordingly. Matters can be more fully investigated and resolved with future specialist studies as determined by the Gateway process.
2. Resolve to request a report to a future Council meeting which includes a preliminary assessment of the draft proposal and whether it is considered to have strategic planning merit. This could be with or without preliminary consultation with the community.
3. Resolve that the draft planning proposal remain on hold. This would enable Council to wait for the final outcome of the Greater Macarthur Land Release Investigation.

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Option 3 is the recommendation of this report.

It should be noted that the draft planning proposal has been with Council for more than 90 days. The applicant can apply for a pre-Gateway review in accordance with the *Environmental Planning & Assessment Regulation 2000* if Council fails to indicate support for the application within 90 days of receiving the application.

**FINANCIAL IMPLICATIONS**

Funding for this project to date has been achieved through the adopted Planning Proposal fees and charges.

Council has experienced a record increase in the number of Planning Proposals submitted in addition to the Wilton Junction project. All proposals which result in an increased intensity of land use within the Shire shall also lead to increased demand for Council services and facilities over time. Council will need to consider this in the adopted budget and forward estimates.

**ATTACHMENTS:**

1. Letter from Walker Corporation Pty Ltd dated 3 March 2016.
2. Land Ownership Map from Walker Corporation Pty Ltd 2014
3. Current and Proposed Land Use Zoning Map from Walker Corporation Pty Ltd 2014

**RECOMMENDATION**

That the Appin Vale Draft Planning Proposal remain on hold pending the finalisation of the Greater Macarthur Land Release Investigation.

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**ATTACHMENT 1 - 7896 – 18 APRIL 2016**



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3 March 2016

Mr Luke Johnson  
Wollondilly Shire Council  
PO Box 21  
PICTON NSW 2571

Sent via email

Dear Mr Johnson

**APPIN VALE DRAFT PLANNING PROPOSAL**

This letter presents Walker Corporation's response to Council's resolution inviting Walker to withdraw the Appin Vale draft planning proposal.

Walker is not prepared to withdraw the proposal.

Walker is continuing to meet with government including Transport for NSW and NSW Planning and Environment to resolve the issues that motivated the government to not include West Appin in the draft Greater Macarthur Land Release Strategy.

The biggest issue is the cost of upgrading the regional road network both with and without development at Appin.

I refer to the Minister for Planning's reported comments in a recent edition of the Wollondilly Advertiser which indicates the government is still considering Appin (Annexure 1).

Our traffic modelling (presented in our submission to the GMLRI) shows that even without growth at Appin, Wollondilly residents will need Appin Road to be duplicated, a connection between Appin-Bulli Road and the Hume Highway and a high level bridge connection at Broughton Pass.

However no funding is provided within the NSW Long Term Transport Master Plan for this infrastructure and the government has said repeatedly that it is not prepared to invest in infrastructure associated with growth ("no cost to government").

The Appin Vale planning proposal provides an opportunity for Council to deliver the Appin village By Pass (whether on the current alignment or elsewhere) providing \$81.5 million in new road works at no cost and no risk under a Voluntary Planning Agreement.

If Appin Vale is rejected by Council the opportunity for Council to negotiate the delivery of these types of large scale infrastructure will be lost.

Walker Corporation Pty Ltd ABN 95 001 176 263 Walker Group Constructions Pty Ltd ABN 59 097 303 716  
Walker Group Constructions (QLD) Pty Ltd ABN 71 114 375 745 Walker Group Holdings Pty Ltd ABN 81 001 215 069

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**ATTACHMENT 1 - 7896 – 18 APRIL 2016**

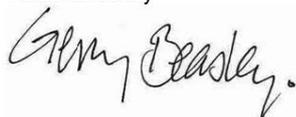
Letter Wollondilly Council – 3.3.16

Until there is a Section 117 Direction clearly prohibiting Council from considering a planning proposal such as Appin Vale we believe there is no planning or legal justification for withdrawal or rejection. In fact we suggest there are advantages to Council because it keeps open an option to deliver needed road infrastructure.

Accordingly Walker asks Council to resolve to allow its officers to further investigate the Appin Vale proposal with Walker Corporation and to ultimately allow this proposal to be presented to the community in a pre-gateway consultation in 6 months' time.

Thank you for the opportunity to respond to Council's planning proposal.

Yours sincerely



Gerry Beasley  
Executive Planner  
Walker Corporation Pty Limited

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**ATTACHMENT 1 - 7896 – 18 APRIL 2016**

Letter Wollondilly Council – 3.3.16

**ANNEXURE 1**

**PE5 – Draft Planning Proposal – Appin Vale**

**ATTACHMENT 1 - 7896 – 18 APRIL 2016**

Wollondilly Advertiser 11 February 2016

**Planning Minister Rob Stokes discusses future plans for Appin's development**

By Ashleigh Tullis  
Feb 11, 2016, 1:43 p.m.  
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NSW Planning Minister Rob Stokes at Gledswood Hills this week

NSW Planning Minister Rob Stokes at Gledswood Hills this week.

NSW Planning Minister Rob Stokes was in Macarthur last week and spoke exclusively with the *Advertiser* about Appin's future, specifically residential development and infrastructure.

Mr Stokes said the state government priority growth areas were Wilton Junction, Menangle Park and Mount Gilead.

Mr Stokes said the state government was open to discussions with developers about the construction of new housing estates in other areas in Macarthur.

"For Appin specifically, we are happy to look at more opportunities in that area but as far as the Greater Macarthur structure plan is concerned, it wasn't included in that because there are still concerns about Appin Road," he said.

"There is the need to make sure there is sensible and feasible ways to fund the infrastructure to support the [land opportunities]."

Mr Stokes said developers would need to contribute to upgrading roads before new housing estates got the green light.

The most recent fatality on Appin Road occurred two weeks ago.

A man was killed when his car and a coal truck collided on January 27.

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In the past 20 years more than 40 people have died in accidents along the road.

When asked if any imminent upgrades to Appin Road were planned, the minister said the state government was in consultation with the developers.

“We are having conversations with the landowners at the moment and we are going through some of the things they say they can bring to the table – what the staging of infrastructure might be and how it might be funded,” Mr Stokes said.

“Obviously we are not going to ignore or deny any opportunities to fast track the provision of infrastructure but we need to make sure it is done in an ordered way.”

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**ATTACHMENT 2 - 7896 – 18 APRIL 2016**

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**Legend**

	<b>BOUNDARY OF PLANNING PROPOSAL</b>		
1	WALKER	5	DEMANUELL
2	WONSON	6	DARCY
3	BHP	7	PIZZUTO
4	LAWRENCE	8	SYDNEY WATER



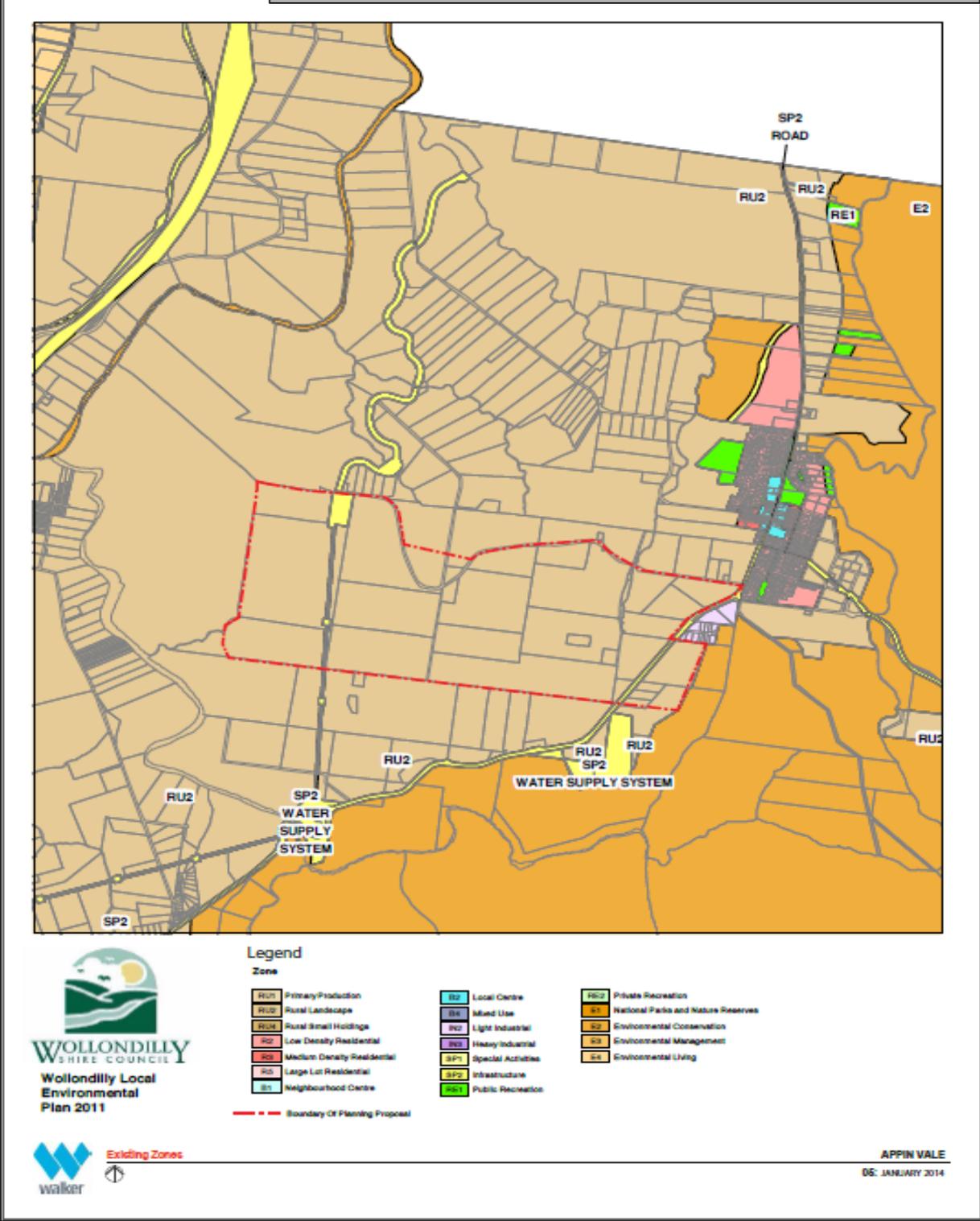
*Site and ownership of major land holdings*  
 Scale 1:20,000 @ A2 sheet  
 1:10,000 @ A0 sheet

APPIN VALE  
 04: JANUARY 2014

**PE5 – Draft Planning Proposal – Appin Vale**

**ATTACHMENT 3 - 7896 – 18 APRIL 2016**

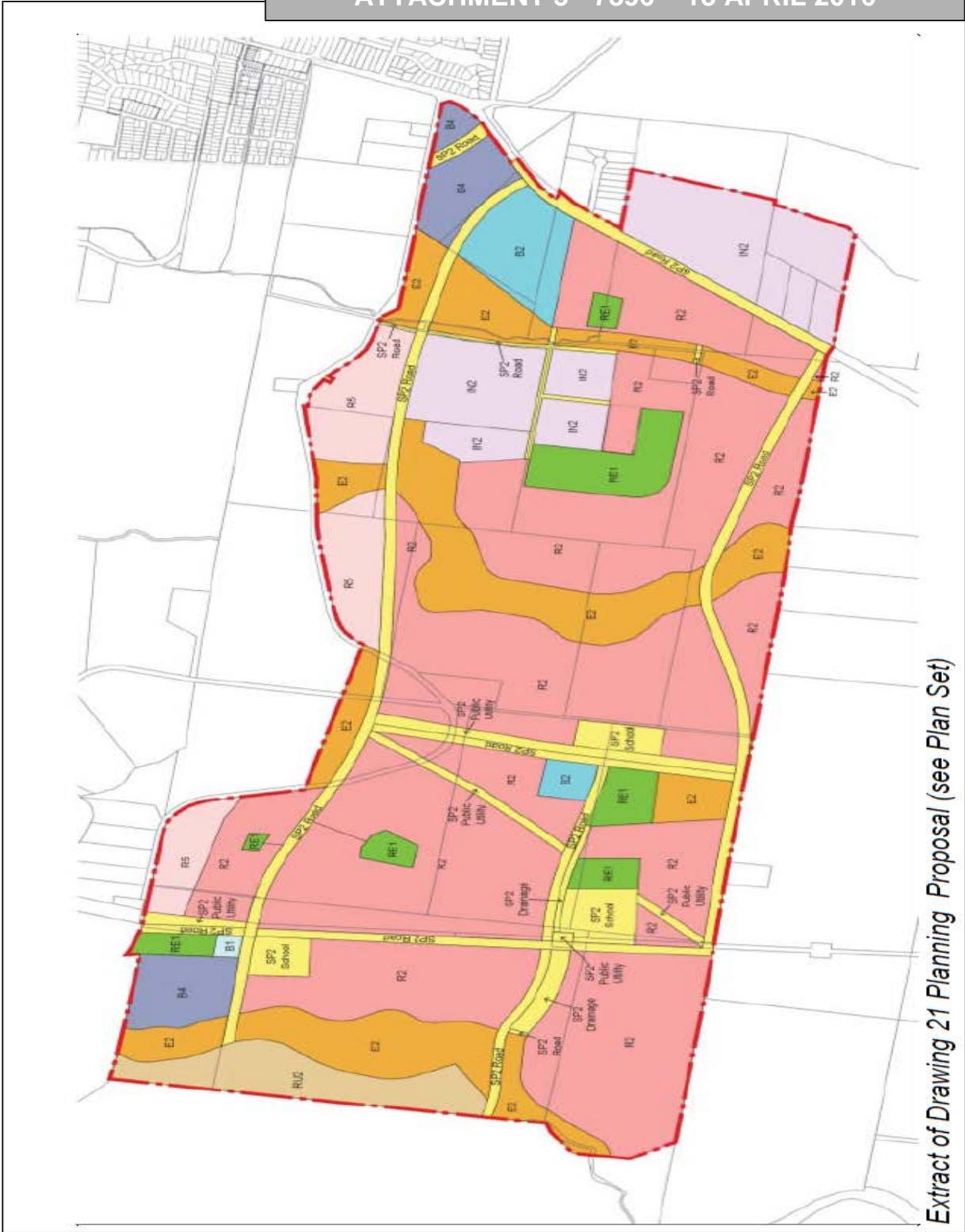
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**ATTACHMENT 3 - 7896 – 18 APRIL 2016**



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