



Your ref: PP-2022-3770
Our ref: DOC24/117930

Ms Rianan Rush and Mr Rod Mergan
Senior Strategic Planners
Central Coast Council
P.O. Box 20
Wyong NSW 2259

By email: Rianan.rush@centralcoast.nsw.gov.au, Rod.mergan@centralcoast.nsw.gov.au

Dear Ms Rush and Mr Mergan

Review of Environmental Zones for the Deferred Lands – Central Coast LGA

Biodiversity Conservation and Science (BCS) originally received your request for advice on the review of Environmental Zones for the Deferred Land Planning Proposal (the PP) on the 12 February 2024. On the 26 March 2024 we attended a meeting to clarify our concerns about the project which we had provided in our advice of the 14 March 2024. BCS then received your email of the 4 April 2024 with “Response Points”. We thank you for this opportunity to follow up on some of the topics discussed at the meeting and in your email.

BCS appreciates the complexity of this project and its historical background. We are also aware of issues with the current zoning, how these have negatively affected high conservation land, and that a solution needs to be found as soon as possible. Our advice is aimed at achieving strong conservation outcomes, which recognises the solid work done by Council in the past.

While BCS understands that this Planning Proposal (PP) only relates to biodiversity and environmental matters, we are concerned that Aboriginal cultural heritage matters appear to not be considered in this PP, and that future land-uses will not recognise high cultural values.

Our advice is provided in **Attachment A**. If you have any further questions about this issue, please contact Steven Crick, Senior Team Leader, Hunter Central Coast Planning, on 4927 3248 or at huntercentralcoast@environment.nsw.gov.au

Yours sincerely

Joe Thompson
Director Hunter Central Coast Branch
Biodiversity and Conservation Division

Date 24/4/24

Enclosure: Attachment

Review of Environmental Zones for the Deferred Lands - CCC

BCS biodiversity comments

Ministerial Direction 3.1

- The PP is inconsistent with Ministerial Direction 3.1 issued under Section 9.1(2) of the *Environmental Planning and Assessment Act 1979* as it reduces the environmental protection of the land through predominant translation of zones indicating high environmental values (HEV) to lower environmental protection zones. BCS does not agree that the rezoning of one road parcel is the only inconsistency in the PP.

Ministerial Direction 1.2

- Ministerial Direction 1.2 relates to the requirement under the Central Coast Regional Plan 2041 for strategic planning proposals to protect areas of High Environmental Values (HEV). Without onsite ecological assessment a precautionary approach is requested, and the existing conservation zoning level of land should be maintained.

Central Coast Strategic Conservation Plan

- This PP includes lots within the area covered by the proposed Central Coast Strategic Conservation Plan. Any reduction in conservation outcomes, including additional permissibilities, will be difficult to reverse in the future when conservation priorities for the Plan have been established.

Zone translations

- Zones are a signal to landowners as to what is permissible on the land and this sets development expectations. Using lot size as the main deterrent of development, or a development control plan (DCP), rather than limiting what is permissible with consent in a zone, is not recommended; the provisions should reflect the intent/objectives of the zone.
- BCS does not agree with the approach of using the development application (DA) stage to limit inappropriate development. Clear signals should be provided by the zone provisions.
- All land zoned 7a and 7b should be zoned C2. Areas with potential biodiversity value (e.g. vegetated areas, creek lines, buffers and corridors) should be assumed to provide potential HEV and the existing conservation zoning status maintained (e.g. 7a/7b would go to C2). For example, Endangered Ecological Communities (EEC), with buffers, should be included in a C2 zone. If the boundaries of the EEC vegetation (plus buffers) are complex, practical straight lines should be used to encompass all the EEC values.
- We note your comment that there are inherent conflicts between Direction 3.1 and PN-09-002 and agree that the Practice Notice 09-002 on Environmental Protection Zones is not aligned with current environmental policy and legislation. This results in two

standards, one of which has a lower environmental standard as an outcome and the other which expects a higher standard. To rectify this, BCS recommends the consideration of threatened species habitat as a criterium for inclusion in a C2 zone *in addition to* the criteria listed in Practice Notice 09-002 on Environmental Protection Zones Council can use BioNet or consider specific areas known for particular threatened species, e.g. Serious and Irreversible Impact entities. The lack of inclusion of threatened species habitat in the Practice Note on Environmental Protection Zones should not be used as justification for not including land that is clearly habitat for threatened species – in particular in land contiguous with other C2 lands – this goes against the objectives of the planning guidance for C2 land. Including threatened species habitat would be in keeping with the objectives of the zone.

Central Coast Council is regarded as having high-quality environmental data (e.g. vegetation classification, EEC mapping and corridor mapping) compared to a number of other local governments in NSW. Available environmental data should be used as the basis for conservation zones, even if the data is not considered to be ‘perfect’.

Where a 7a/7b zone is not considered suitable for transitioning to a C2 zone, the deferred lands should be assessed for HEV as described in the Regional Plan 2041 in order to be compliant with current planning policy.

- BCS supports the use of split zones if the boundaries are easy to recognise and practical, but not split zones using landforms or contour lines which are not clear and easy to define in situ. Currently there is inadequate justification for splits between C2 and C3 on some parcels of land. Split zones should not, for example, separate contiguous native vegetation between riparian zones and adjacent vegetation.

Wildlife corridors and COSS

- The effect of zone changes on corridors should be considered. No evidence of consideration of corridors has been given to date. Wildlife corridors should be zoned C2 wherever possible. Areas requiring rehabilitation in order to provide better corridor connectivity should also be included in a C zone.
- All proposed Coastal Open Space System (COSS) land which has already been assessed for its suitability in the past should be zoned C2. The fact that the land has already been included in the proposed COSS supports this zone.
- Gosford Shire Council had an “E2” zone with a dwelling entitlement with a 40 hectare (ha) lot; this entitlement should be retained. The use of a dwelling entitlement on 40ha C2 lots is requested as opposed to the use of split zoning C2/C3 to facilitate a dwelling entitlement. The use of a dwelling entitlement in this instance enables the existing conservation status of the land to be maintained. The only exception to this should be the C2 land which has been set aside for conservation with no dwelling entitlement as a result of the bonus provisions which were available under the COSS.

Permissibilities

- This PP appears to increase permissibilities within the C2, C3 and C4 zones to align the lots in the old Gosford Shire Council with the greater range of permissibilities provided for the previous Wyong Shire Council. Many of these permissibilities are at odds with the

biodiversity values of the land, have large footprints, and lead to an intensification of land-use.

- BCS recommends removing the following permissibilities for the C3: horticulture, animal boarding, secondary dwellings and veterinary hospitals.
- BCS recommends removing the following permissibilities from the C4 zone: agritourism, sewage reticulation systems, water recycling facilities, eco-tourist facilities.

Miscellaneous

- It is noted that there are mapping inaccuracies currently making some of the zones redundant (e.g. some of the riparian zones are not aligned with the creek). All GIS should be updated and corrected prior to mapping the zones.
- National Parks should be considered a sensitive land use, and wherever possible the C1 (National Parks) land should be buffered by C2 (Environmental Protection). No additional permissibilities should be allowed adjacent to NPWS (e.g. On page 56 of the PP it is stated that there are no nearby sensitive land uses adjacent to Bulls Hill quarry, although it is an in-holding in the National Park).
- All management zones within the Somersby Industrial Park should be zoned C2.
- Insufficient assessment has been completed to justify a reduced level of conservation zoning (e.g. proposed 7a/7b to C3). Areas with biodiversity value (e.g. vegetated areas, creek lines, buffers and corridors) should be assumed to provide potential HEV and the existing conservation zoning status maintained (e.g. 7a/7b would go to C2). Alternatively an ecological site assessment should be provided. BCS normally request a Stage 1 BAM assessment be provided where biodiversity has the potential to be affected. As an example, below, it is difficult to understand why the new zones do not follow the vegetation boundaries. In this case BCS request that all the vegetation is zoned C2(using straight lines) and it to be up to the landowner to justify why this should not be the case.



Figure 10 Extensive Agriculture, 237-247 Scenic Highway
Terrigal - Aerial

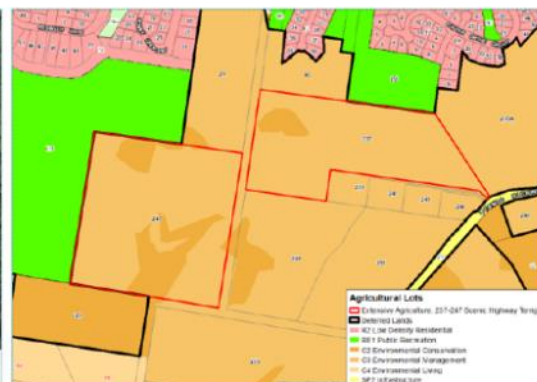





Figure 10 - Proposed Zones

BCS flooding comments

The C4 zone has been applied to lots that are highly constrained by flooding, being almost entirely located within Council's adopted flood planning area (FPA). As stated in previous

correspondence, it is considered that C2 or C3 zoning is more appropriate for the FPA, noting the objective of the C3 zone is “to provide a buffer to ... land that has environmental constraints or hazards”.

While it is acknowledged that there are difficulties associated with broad-scale rezoning, the examples below highlight the inconsistent approach to rezoning land within the FPA. BCS recommends review of lots affected by the FPA, to ensure that lots constrained by flooding are either fully or partially zoned as C2 or C3.

Title	1 & 2/DP839818	2/DP777236	11 & 10 & 9/4/DP72550
Proposed zoning			

BCS coastal comments

Application of the NSW Coastal Design Guidelines

While the planning proposal notes that it does not relate to land within a coastal vulnerability area or on land that is affected by a current or future coastal hazard in a local environment plan or development control plan, it has not considered studies or assessments undertaken by Council as required under Local Planning Direction 4.2 (Coastal Management) s(2)(b).

The proposal should be revised to include reference to how it has considered the findings of Council adopted studies that define coastal hazard exposure such as the Brisbane Water Estuary Management Study (2010) and the Coastal Zone Management Plan for Gosford Lagoons (2015). This process can be guided through completed of the mandatory assessment checklist of the NSW Coastal Design Guidelines 2023.

NPWS comments

It's unfortunate the PP does not provide detail of each lot currently zoned Deferred Matter (DM) adjacent to NPWS-managed lands. Instead, the PP only provides rulesets indicating how each type of zone will be treated in general. However, given the marked differences in the land uses that are permissible between C2 Environmental Conservation and C3 Environmental Management, NPWS finds it is unable to provide specific comment on most of the proposed changes and their potential to impact the environmentally sensitive areas currently reserved under the National Parks and Wildlife Act 1974 (NPW Act).

It is noted the consideration of any development application for new development on lots close to NPWS-managed lands should include the matters outlined in Developments adjacent to National Parks and Wildlife Service lands | NSW Environment and Heritage (DPIE-NPWS 2020). This includes consideration of wildlife corridors, access to NPWS-managed lands and loss of Aboriginal cultural heritage value.

These guidelines should be used during the PP process to correctly analyse appropriate constraints and reduce the risk of future land use conflicts arising from zoning decisions. Some land uses permissible under the Central Coast LEP's C3 Environmental Management zone would not be considered compatible with national parks. This includes 'animal boarding or training establishments', 'dual occupancies' and 'veterinary hospitals'.

In the consideration of NPWS-managed lands, NPWS would appreciate consideration of the lands in the COSS which NPWS has agreed will make appropriate additions to the reserve system under the NPW Act. See correspondence dated 8 September 2023 (attached).

Of the blocks adjacent to park that are addressed in detail in the PP, NPWS makes the following comments:

The Sandman, Bulls Hill Quarry, 1000-1002 Woy Woy Road Woy Woy Bay

The statement 'there are no nearby sensitive land uses' in relation to Bulls Hill Quarry is misleading. By definition, the surrounding Brisbane Water National Park must be considered an 'environmentally sensitive area'. Park visitors and the park's wildlife would be adversely affected by noise from the quarry.

Contrary to the statement on p.56, the land surrounding the DM land is currently zoned either C1 or C2 (not 'proposed to be zoned').

Based on continuity of vegetation cover and the topographic separation of parts of the property, some of Lot 225 DP755251 would be better zoned C2. This would be consistent with the proposed rezoning of Gosford Quarries, Kariong.

It is unfortunate that the existing land uses of 'extractive industry' and 'landscaping material supplies' will remain incompatible land uses on an inholding within Brisbane Water NP. The PP states this quarry's operations would become prohibited under the proposed C3 zoning and therefore will only continue to operate under existing use provisions. It is presumed this statement also applies to the land use of 'landscaping material supplies', as 'retail premises' are also prohibited on C3 zoned lands.

DM lands near Bulls Hill Quarry

Lot 1 DP1176071 and Lot 2 DP1176071 lie within the 500 m buffer of Bulls Hill Quarry and yet are not listed as deferred land within 500m of an extractive industry on p.55 of the PP.

Their proposed rezoning as mostly C3 is not discussed. There is no justification why most of Lot 1 DP1176071 and Lot 2 DP1176071 would not be proposed to be zoned C2 rather than C3 as these lands support vegetation contiguous with vegetation in the surrounding national park.



Your reference: D15139005
Our reference: DOC23/719581

Mr David Farmer
Chief Executive Officer
Central Coast Council
Wyong NSW 2259

By email: james.lawson@centralcoast.nsw.gov.au

Dear Mr Farmer

I refer to the Central Coast Council's letter of 11 May 2022 to transfer Council-owned land to the National Parks and Wildlife Service (NPWS).

NPWS and Council staff have inspected the various lots of interest to NPWS and identified twelve, covering nearly 29 hectares, as suitable for transfer. Those lots are listed in the table below and shown on the attached maps.

For management certainty and to identify potential encroachments, NPWS would like boundaries of the lots adjoining private land, to be pegged. Council may have already conducted identification surveys for these lots which will expedite the process. NPWS also requires Council, as discussed, to reduce the weed cover for two lots adjoining Wambina Nature Reserve to below five per cent before transfer.

Council has already resolved to transfer the land to NPWS for no monetary consideration. NPWS is willing to share the administrative costs associated with the transfers.

Table 1. List of Lots suitable for transfer to NPWS

NPWS reference	NPWS Reserve	Lot / DP	Area (ha)	Matters to resolve prior to transfer
AOI 4454	Munmorah State Conservation Area	5222/827059	6.79	
AOI 5283	Wambina Nature Reserve	101/DP866223	1.31	
		7/DP732402	3.87	• Weed cover reduced to below 5%
		1/DP1087483	13.81	• Weed cover reduced to below 5% • Council to confirm neighbouring Lot 3 DP614807 has not fenced Lot 1 into their property.
AOI 5284	Bouddi National Park	58//DP10261	0.18	
		15/3/DP6552	0.72	
		242//DP862307	0.51	
		252//DP858075	0.49	• Council to confirm neighbouring dwelling on Lot 261/872926 has not encroached onto Lot 252.
		262//DP872926	0.3	
		272//DP835504	0.3	
		282/1032270	0.35	
		16//DP812287	0.34	

I would appreciate if you could confirm Council's willingness to proceed and I will seek the appropriate acquisition approval to commence the process.

If you have any further questions about this issue, you may contact Todd Duffy, Manager Reserve Establishment Unit at todd.duffy@environment.nsw.gov.au or on 6841 0937.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Kingswood', with a horizontal line extending to the right.

Richard Kingswood
Director, Biodiversity and Ecological Health
National Parks and Wildlife Service

8 September 2023

Enclosure: Maps