

## Planning and Assessment

IRF20/2118

### Gateway determination report

<b>LGA</b>	Central Coast
<b>PPA</b>	Central Coast Council
<b>NAME</b>	Glenworth Valley Outdoor Adventures site
<b>NUMBER</b>	PP_2020_CCOAS_003_00
<b>LEP TO BE AMENDED</b>	Gosford LEP 2014 or the draft Central Coast LEP
<b>ADDRESS</b>	Various lots at Glenworth Valley and Calga
<b>DESCRIPTION</b>	Lot and DP Lots 19, 20, 21, 23, 24, 25, 30, 31, 32, 33, 37, 50, 53, 64, 65, 68, 81, 82, 85, 86, 87, 89, 91, 108, 145 DP 755221, Lots 22, 23, 32, 73, 75, 76 DP 755253, Lots 1, 3 DP 617088, Lot 881 DP 563889, Lot 1 DP 1222754, Lot 245 DP 48817, Lot 7 DP 1230083, Lot 7012 DP 1059767, Lot 7029 DP 93603, Lot 7035 DP 1051932, Lot 7036 DP 1059768, Lot 7303 DP 1154929, Glenworth Valley, and Lot 882 DP 563889, Lot A DP 365595, Lot C DP 382358, Lot 2 DP 1139242, part of Lot 102 DP 1139060, Lot 7039 DP 1059766, Lot 7303 DP 1161109, Calga.
<b>RECEIVED</b>	8 May 2020
<b>ADEQUATE</b>	6 July 2020
<b>FILE NO.</b>	IRF20/2118
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 1. INTRODUCTION

### 1.1 Background to the planning proposal

There is an existing planning proposal for the site that received a Gateway determination on 17 July 2014. Since receiving a Gateway determination, the planning proposal has not progressed to public exhibition.

Central Coast Council advised the Department on the basis of agency consultation and additional requirements of the landowner, Council resolved on 27 April 2020 to support a new planning proposal for the site.

The Department clarified with Council whether it had any objection to issuing a new Gateway determination for the new planning proposal and discontinuing the original planning proposal. Council advised it had no objection. An alteration to not proceed

with the original planning proposal has been prepared with a new Gateway determination issued for the new planning proposal under PP\_2020\_CCOAS\_003\_00.

## **1.2 Description of planning proposal**

The planning proposal seeks to enable additional permitted uses on the subject site to allow a range of recreational, tourist, agricultural and limited entertainment and food and drink uses on land at Glenworth Valley and Calga.

## **1.3 Site description**

The site has an area of approximately 1,173.6 hectares (ha) comprising of 49 lots ranging in size from 0.1ha to 267.5ha. The majority of lots are under the single ownership of the proponent with the remainder being Crown Lands and the Darkinjung Local Aboriginal Land Council.

The site has a cleared valley floor with vegetated hillsides and ridgelines containing several areas of endangered ecological communities and regionally significant vegetation. Several watercourses connect to Propran Creek, which flows through the site before draining into the Hawksbury River.

The site is a tourist destination and Central Coast Council indicates it attracts up to 200,000 visitors a year. The site caters for a broad range of nature-based activities, including temporary music festivals and sports events, abseiling, horse riding, and quad biking. There is a permanent multi-purpose building on the site.

## **1.4 Existing planning controls**

The site comprises of 1,070 ha of land zoned E2 Environmental Conservation and 103 ha of land zoned RU2 Rural Landscape under *Gosford Local Environmental Plan 2014*.

A 40 ha minimum lot size and 8.5m building height applies to the E2 Environmental Conservation zoned land. A 20 ha minimum lot size applies to the RU2 Rural Landscape zoned land.

In 1969, a riding school was approved over 30 lots. This was a permitted use under the 1(a) zone. A number of ancillary activities operate under this approval such as trail riding, horse riding lessons, overnight riding camps, horse agistment and overnight camping accommodation.

In 1979, Interim Development Order 122 zoned the subject land to 7(a) Conservation. As horse riding schools are prohibited under this zone it became a non-conforming existing use. The use has not been abandoned.

Until 2006, existing use rights provisions in the *Environmental Planning and Assessment Act 1979* allowed consent to be granted for other uses not normally permitted in a zone, if the land enjoyed existing use rights. The following development consents were issued using the "existing use rights" provided by the horse riding school.

- In 1999, development consent for music festivals was issued. This consent permits three events per year, lasting up to 78 hours in duration with up to 15,000 people attending per day (DA 2839/99).

- In 2005, an additional consent was issued for small scale music festivals up to 2,500 people per day (DA 25814/04).
- In 2003, development consent was issued for a recreation facility in the form of paintball fields (DA 19911/03).
- Also in 2003, development consent was issued for a recreation facility in the form of quad bike tours (DA 20082/03).

In 2006, the "existing use rights" provisions under the *Environmental Planning and Assessment Act 1979* and Regulations were changed to prohibit other non-conforming uses from being permitted. Hence no more development applications could be considered for uses that were not permitted in the 1979 7(a) zone. The reliance on existing use rights also created a complex approval regime in relation to the "uses" themselves and also which lots to which the existing use rights applied.

#### 1.4 Surrounding area

The site is accessed from Cooks Road, which adjoins Peats Ridge Road that connects to the M1 motorway at Calga interchange approximately 3km to the south east of the site.

Popran National Park is located west of the site and two regionally significant resources of sand and sandstone are located in the vicinity of the site at Calga Sands Quarry to the east and Mount White Quarry to the south. The site and surrounds are characterised by vegetated ridgelines and rural and resource land uses (Figure 1).

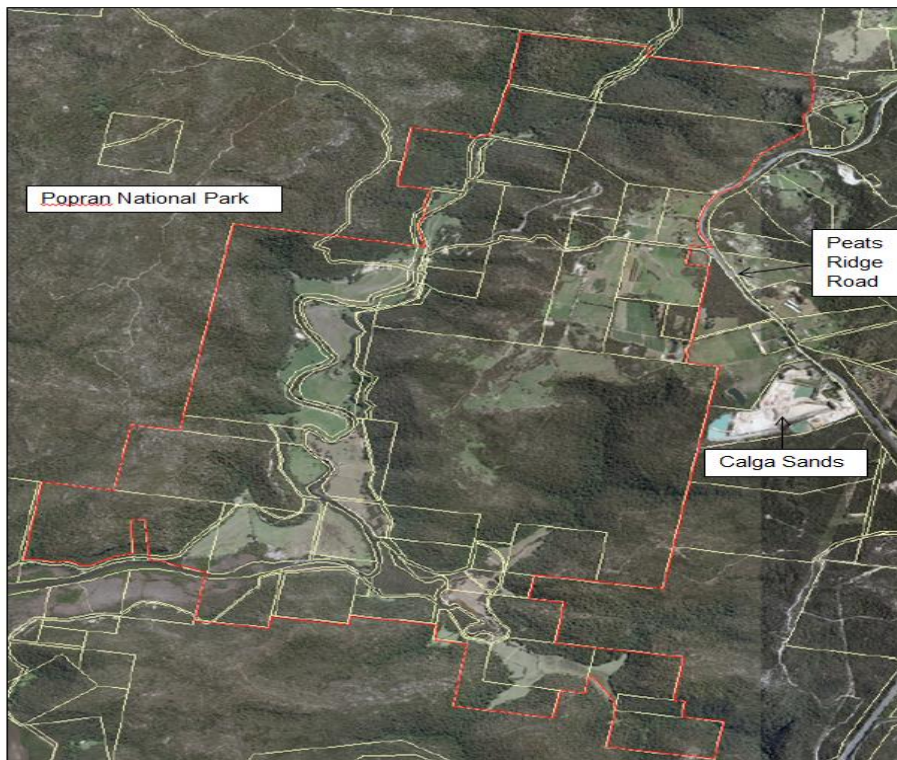


Figure 1 – Location map of site and surrounds

## 2. PROPOSAL

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### 2.1 Objectives or intended outcomes

The planning proposal seeks to enable the following additional permitted uses on the site:

- on land zoned RU2 Rural Landscape the additional permitted uses of eco-tourist facilities, camping grounds, tourist and visitor accommodation;
- on land zoned E2 Environmental Conservation the additional permitted uses of eco-tourist facilities and recreation facilities (outdoor);
- on specific existing cleared areas of land zoned E2 Environmental Conservation development for the purpose of extensive agriculture;
- on specific existing cleared areas of land zoned E2 Environmental Conservation development for the purposes of camping grounds and function centres;
- on existing cleared areas of Lot 108 DP 755221 and Lot 145 DP 755221, development for the purposes of tourist and visitor accommodation and
- on part of Lot 89 DP 755221 which currently accommodates and existing multi-purpose building development for the purposes of a function centre, entertainment facility and food and drink premises subject to the floor area of these uses being limited to a maximum of 1500m<sup>2</sup> with any additions being attached to, or directly adjacent to the existing multi-purpose building.

The objectives are lot specific and Central Coast Council has prepared a map to support the objectives. The map identifies the location of the proposed additional permitted uses across the site. This will assist the community to visualise where the specific uses are proposed to be located.

Further explanation should be included in the planning proposal to explain the intended outcomes. This should include analysis of the nature of the current uses across the site (which are mix of temporary and permanent) and the fact that existing land uses have been established primarily on the basis of existing use rights and employ a range of measures to control impacts.

The planning proposal would benefit from clearer explanation of how each of the proposed additional permitted uses in the planning proposal apply to:

- existing use rights; and/or
- accommodating new activities.

It may also be worth outlining that related activities could be ancillary to these additional permitted uses. This is particularly the case when considering whether the existing grazing activities associated with the riding school could continue by way of existing use rights or as ancillary to approved uses without the need to list the activities in the in Schedule 1 of *Gosford Local Environmental Plan 2014* or the new Central Coast LEP.



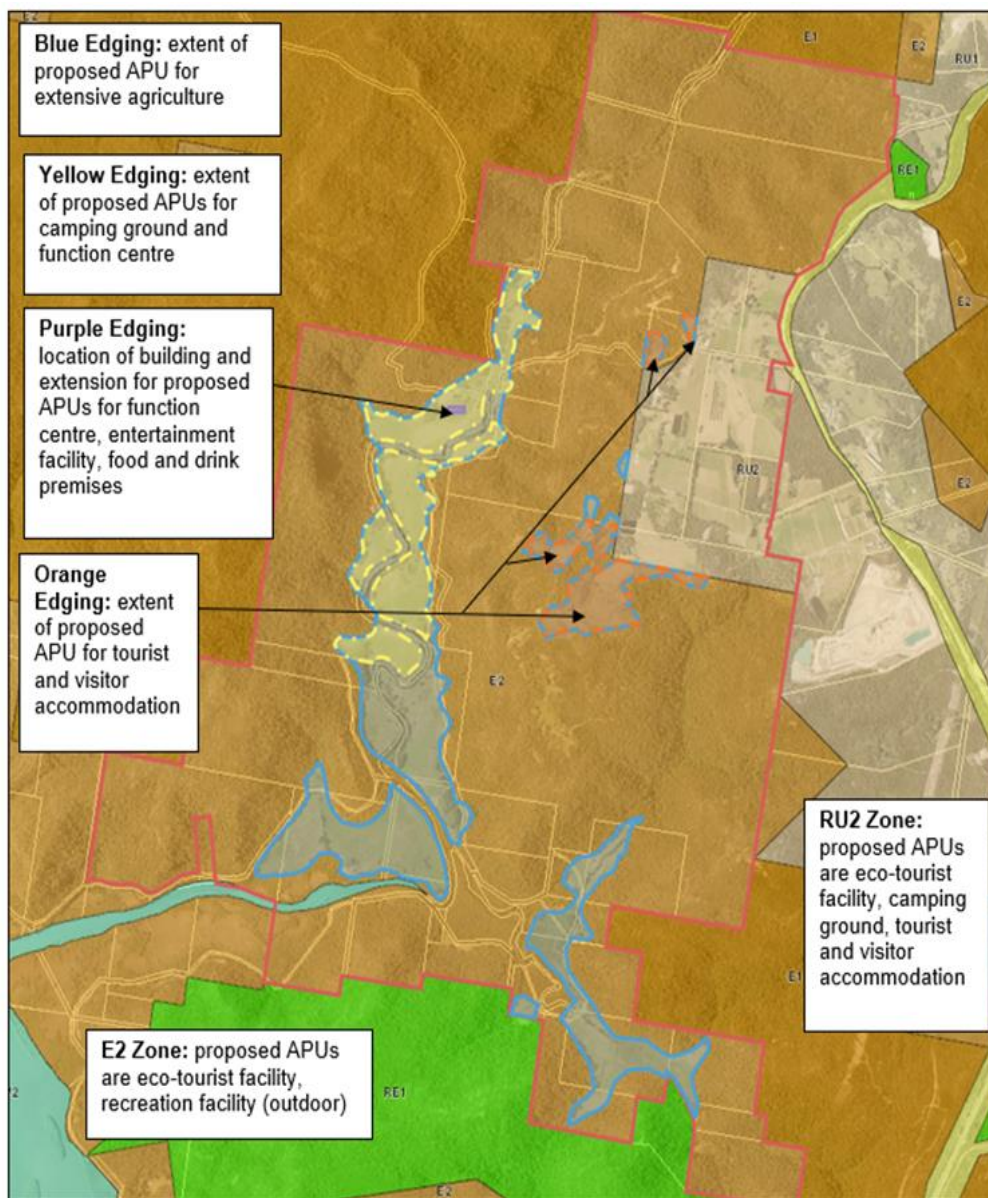


Figure 2 – Zoning Map and additional permitted uses

## 2.2 Explanation of provisions

Central Coast Council proposes to include the additional permitted uses in Schedule 1 of *Gosford Local Environmental Plan 2014* or the new Central Coast LEP and provides an explanation for the reasons for their inclusion and identifies the reasons to limit certain uses to specific areas within the site and are generally satisfactory.

Central Coast Council has identified the additional permitted uses of eco-tourist facilities in the E2 zone and camping grounds in the RU2 zone under *Gosford Local Environmental Plan 2014* would not be required under the draft Central Coast LEP as these uses are proposed to be permissible in their respective zone in the draft Central Coast LEP.

It is noted that the draft Central Coast LEP may be finalised before the planning proposal amends the *Gosford Local Environmental Plan 2014* and Central Coast Council's inclusion of the draft instrument is considered appropriate.

### 2.3 Mapping

An existing zoning map is provided as well as a zoning map overlayed with the proposed additional permitted uses as they apply to various locations within the site. The maps provided are sufficient for assessment.

However, an additional permitted uses map would need to be prepared when the LEP is finalised.

## 3. NEED FOR THE PLANNING PROPOSAL

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Central Coast Council has advised the planning proposal is not the result of a strategic study or report. However, it considers the proposal is justified as it will facilitate long term certainty to the continued and future operations of Glenworth Valley Outdoor Adventures site.

The site currently relies on existing use rights and associated complex approval process does not allow the facility to grow and develop as new nature-based outdoor recreation opportunities emerge.

The inclusion of additional permitted uses, while retaining the underlying zones, will enable tourist and recreational related activities to be developed on the site whilst protecting the environmental quality of the site enabling the on-going development and enhancement of a significant tourist facility.

## 4. STRATEGIC ASSESSMENT

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### 4.1 State

The planning proposal is consistent with the state planning framework.

### 4.2 Regional

#### Central Coast Regional Plan 2036

Land in Central Coast is subject to the *Central Coast Regional Plan 2036*. Central Coast Council's assessment states the planning proposal is consistent with the following relevant directions and actions in the Regional Plan:

- Direction 3: Support priority economic sectors.
  - Action 3.5 Capitalise on the region's location and coastline to enhance the visitor economy with a focus on events-based tourism and update planning controls.
- Direction 7: Increase job containment in the region.
  - Action 7.1 Facilitate economic development that will lead to more local employment opportunities on the Central Coast.
- Direction 8: Recognise the cultural landscape of the Central Coast.
  - Action 8.1 Protect the Central Coast's scenic amenity by planning for development that respects the distinct qualities of different places.
- Direction 12: Protect and manage environmental values.
  - Action 12.1 Identify terrestrial and aquatic biodiversity values and protect areas of high environmental value to sustain the lifestyle, economic success and environmental health of the region.

- Action 12.5 Sensitively manage natural areas on the fringe of the urban areas and in the west of the region to mitigate land use incompatibility issues and provide important quality of life and tourism benefits for the region.

### **4.3 Local**

#### **4.3.1 Local Strategic Planning Statement**

The planning proposal was prepared before Central Coast Council had exhibited the draft Central Coast Local Strategic Planning Statement (LSPS). Following the conclusion of exhibition Council resolved to adopt the LSPS was on 29 June 2020. Given the LSPS was recently adopted, it is recommended the planning proposal be updated to include an assessment for consistency with the LSPS before proceeding to community consultation.

#### **4.3.2 Central Coast Community Strategic Plan (CSP) – One Central Coast**

Central Coast Council's assessment has identified the planning proposal is consistent with the following objectives in its CSP:

- C4 Promote and grow tourism that celebrates the natural and cultural assets of the Central Coast in a way that is accessible, sustainable and eco-friendly.
- F1 Protect our rich environmental heritage by conserving beaches, waterways, bushland, wildlife corridors and inland areas and the diversity of local native species.
- L1 Promote healthy living and ensure sport, leisure, recreation and aquatic facilities and open spaces are well maintained and activated.

The planning proposal is consistent with the objectives of Council's CSP as it will promote environmental values of recreational opportunities, while protecting environmental values of the land by restricting tourist uses to generally cleared areas. Recreation activities would still need to be consistent with the objectives of the E2 and RU2 zones while promoting nature-based tourism activities in a regional significant tourist destination.

#### **4.3.3 Biodiversity Strategy**

Central Coast Council's assessment notes the proposal is consistent its Biodiversity Strategy given the land will be retained in the existing RU2 and E2 zones and the additional permitted uses to be listed in Schedule 1 of *Gosford Local Environmental Plan 2014* are proposed to be located in areas that are currently cleared to ensure the environmental values of the land and existing vegetation remain protected.

#### **4.3.4 Policy D2.02 Rezoning of Land Zoned Conservation and Scenic Protection (Conservation) 7(a) / Environmental Conservation E2**

Central Coast Council's assessment notes the overall use and management of the site as a nature-based recreation facility would be consistent with its policy, as it promotes environmental awareness and education by users and provides opportunities for informal recreation.

### **4.4 Section 9.1 Ministerial directions**

Central Coast Council assessment in the planning proposal has considered the following section.9.1 Ministerial directions it considers any inconsistencies or justified inconsistencies are discussed below:

- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.2 Coastal Management
- 2.3 Heritage Conservation
- 2.4 Recreational Vehicle Areas
- 2.6 Remediation of Contaminated Land
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.10 Implementation of Regional Plans
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

### 1.3 Mining, Petroleum Production and Extractive Industries

The site is in the vicinity of Mount White sandstone quarry and Calga Sand Quarry. Central Coast Council should consult with the Division of Resources and Geoscience given the potential of land use conflict within the vicinity of the quarries before consistency with the direction can be determined.

### 2.3 Heritage Conservation

Central Coast Council has advised there are three local environmental heritage items and part of the land is identified as State Heritage item being Calga Aboriginal Cultural Landscape. Council has advised the heritage items and aboriginal archaeology are listed and protected under the provisions of *Gosford Local Environmental Plan 2014* and the *National Parks and Wildlife Act 1974*.

Heritage matters will still be subject to assessment of development applications. However, Council should also consult with Heritage NSW and the Darkinjung Local Aboriginal Land Council before consistency with the direction can be determined.

### 4.4 Planning for Bushfire Protection

The planning proposal will affect land that is mapped as bushfire prone and consultation with the NSW Rural Fire Service should occur before consistency with this direction can be determined.

### 6.3 Site Specific Provisions

The planning proposal is inconsistent with this direction as it allows site specific additional permitted uses in the E2 and RU2 zones. Central Coast Council has sought to justify the inconsistency due to the unique characteristics of the land in Glenworth Valley.



#### **4.5 State environmental planning policies (SEPPs)**

##### SEPP No. 19 – Bushland in Urban Areas

Central Coast Council has advised the planning proposal is consistent with the objectives of the SEPP which gives priority to retaining bushland. The uses proposed will be subject to detailed assessment during the development stage.

##### SEPP (Koala Habitat Protection) 2019

The planning proposal applies to a land area of 1,106ha and contains a variety of habitats. Individual assessment of potential Koala habitat would be subject to assessment under a development application once uses and locations are identified.

##### SEPP (Coastal Management) 2018

The southern part of the subject site adjoining Popran Creek is identified as “coastal wetlands” and “proximity area for coastal wetlands” and the additional permitted uses would be classified as designated development if a development application was received to locate such uses within the coastal wetlands.

Any future development application would need to address matters mapped as coastal environment area and coastal use area before consent could be issued.

##### SEPP (Mining, Petroleum Production & Extractive Industries) 2007

The site is in the vicinity of two regionally significant resources (Calga Sands and Mount White) and consultation with the Division of Resources and Geoscience in NSW should occur given the additional uses proposed have the potential to impact future operations of these sites.

##### SREP No 8 - Central Coast Plateau Areas

The land is within the boundary of the SREP No 8 map. Central Coast Council has provided an assessment against special provisions of clause 11 which requires consideration of certain objectives when a draft local environmental plan is prepared. However, this clause was repealed on 28 February 2019 and matters covered are generally in section 9.1 Ministerial directions 1.2 and 1.5.

Council should consult with the Department of Primary Industries - NSW Agriculture given the site contains prime agricultural land.

##### SREP No 9 - Extractive Industry (No 2-1995)

The site is within the vicinity of Mount White sandstone quarry and Calga Sand Quarry both identified as regionally significant resources in Schedule 1 of SREP No 9.

Central Coast Council has advised a development application was approved on the RU2 zoned part of lot 108 DP755221 for a 3 unit motel and five caravan park sites. Council has advised the addition of tourist and visitor accommodation use in the RU2 zone reflects the existing approved uses and other eco-tourist facilities would not be located within the vicinity of the quarry.

Given the proximity to the regionally significant resources, Council should consult with Division of Resources and Geoscience in NSW and Environment Protection Authority as required under clause 15 given the potential of the uses to restrict the obtaining of deposits of extractive material.

#### SREP No. 20 - Hawkesbury-Nepean River (No.2 -1997)

Central Coast Council has considered the requirements of the SREP. The site contains areas of wetlands and adjoins Popran National Park.

Council is required to consult with Biodiversity and Conservation Division on biodiversity impacts and National Parks and Wildlife Service under clause 6(2)(f) of the SREP.

### **5. SITE-SPECIFIC ASSESSMENT**

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#### **5.1 Social**

The Glenworth Valley site is a major tourist attraction and the planning proposal seeks to accommodate activities consistent with nature-based recreation. Central Coast Council had advised the planning proposal will provide an opportunity to increase outdoor recreational experiences and thus provide the community with options to enjoy the environment of the Central Coast and contribute to their overall well-being and is considered to provide positive social benefits.

#### **5.2 Environmental**

##### Biodiversity Impacts

There is expected to be high biodiversity values across the site given the proximity the National Park and areas of and endangered ecological community that occur along Popran Creek.

Central Coast Council has advised most of the additional permitted uses will be located in cleared area and would not impact adversely on habitat, threatened species, populations and ecological communities. Council has identified detailed assessment would occur at the development application stage. However, it is considered the planning proposal should be reviewed by Biodiversity and Conservation Division during agency consultation.

##### Site Contamination

Central Coast Council has advised a Stage 1 Site Contamination Assessment was prepared and concluded the site has been assessed as having a low risk of contamination. Lot A DP 365595 Cooks Rd was identified as being used for storage of diesel fuel and oil consistent with rural uses. However, it is suitable or can be made suitable for the uses proposed.

##### Flooding and Drainage Management

Central Coast Council has advised the multi-purpose building has been constructed and the flooding and drainage comments supported the development application for the building at the time. It was not considered that the building would be affected by flooding from any gullies or watercourses within the property.

### Waste Management

Central Coast Council has advised an on-site have a Plan of Management for storage, management and disposal of solid waste related to the activity is serviced by a private waste collection contractor. The additional permitted uses have the potential to result in the frequency of usage being increased which will result in additional hydraulic loading on the on-site sewage management system. Council considers a wastewater management report be provided to address these concerns and this is supported.

### **5.3 Economic**

The additional uses will accommodate activities consistent with nature-based activities. The increase in uses is likely to provide additional economic activity on site through increased visitor numbers and potential employment opportunities in the region.

### **5.4 Infrastructure**

Central Coast Council has advised the road network has the capacity to support the various recreational and festival events being held with access to Cooks Road and its intersection with Peats Ridge Road. Roads and Maritime Services previously commented it had no objection subject to any future development of this land will require a Traffic Impact Study to be undertaken in accordance with the Guide to Traffic Generating Developments. Given the proposal has been revised, Council should consult with Transport for NSW.

## **6. CONSULTATION**

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### **6.1 Community**

Central Coast Council proposes to exhibit the planning proposal for a minimum of 28 days. This is considered appropriate.

### **6.2 Agencies**

Central Coast Council has advised it undertook agency consultation for the original planning proposal. However, it will undertake further consultation with these agencies again for the revised planning proposal. Council proposes to consult with:

- NSW Rural Fire Service
- Biodiversity Conservation Division
- NSW Trade and Investment (Crown Lands)
- Department of Primary Industries – Agriculture
- NSW Trade and Investment (Mineral Resources and Energy)
- Transport for NSW

In addition, the following agencies should be consulted:

- NSW Environment Protection Authority
- National Parks and Wildlife Service
- Darkinjung Local Aboriginal Land Council

- Heritage NSW

## **7. TIME FRAME**

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Council has requested a 12-month timeframe to make the plan.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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Council has requested delegations to make the plan. The planning proposal seeks to include additional permitted uses related to the ongoing operation of the existing tourist facility. It is considered these are minor local matters and Central Coast Council should be granted delegation to make the plan.

## **9. RECOMMENDATION**

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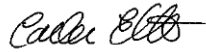
It is recommended that the delegate of the Secretary note the consistency with section 9.1 Ministerial directions 1.3 Mining, Petroleum Production and Extractive Industries, 2.3 Heritage Conservation, 4.4 Planning for Bushfire Protection and 6.3 Site Specific Provisions are unresolved and will require justification.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal is to be updated prior to community consultation to:
  - clarify the explanation of provisions section to show what new or expanded activities would be permitted, as opposed to existing use rights;
  - include an assessment for consistency with Central Coast Local Strategic Planning Statement; and
  - include information sufficient to address wastewater management.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities:
  - NSW Rural Fire Service
  - Biodiversity and Conservation Division
  - Transport for NSW
  - National Parks and Wildlife Service
  - Crown Land in NSW
  - Darkinjung Local Aboriginal Land Council
  - Heritage NSW
  - Department of Primary Industries – Agriculture
  - Division of Resources and Geoscience
  - NSW Environment Protection Authority
4. The time frame for completing the LEP is to be 18 months from the date of the Gateway determination.



5. Given the nature of the planning proposal, Council should be the local plan-making authority.



**Caitlin Elliott**  
**Manager,**  
**Central Coast and Hunter**



06/08/2020  
**Dan Simpkins**  
**Director,**  
**Central Coast and Hunter Region**  
**Planning and Assessment**

Assessment officer: Glenn Horal  
Senior Planning Officer, Central Coast and Hunter Region  
Phone: 4345 4409