

## Planning and Assessment

IRF21/3554

### Gateway determination report

<b>LGA</b>	Central Coast
<b>PPA</b>	Central Coast Council
<b>NAME</b>	Rezone land at 39 Dell Road (0 homes, 0 jobs)
<b>NUMBER</b>	PP-2021-4927
<b>LEP TO BE AMENDED</b>	<i>Gosford Local Environmental Plan 2014</i>
<b>ADDRESS</b>	39 Dell Road, West Gosford
<b>DESCRIPTION</b>	Part Lot 6 DP3944
<b>RECEIVED</b>	08 September 2021 (Adequate)
<b>FILE NO.</b>	IRF21/3554
<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 Site description

The site at 39 Dell Road, West Gosford and is described as part Lot 6 DP3944. The site comprises approximately 8.7 hectares of land, is irregular in formation and is currently vacant.

The south east portion of the parent lot, approximately 1 hectare in size, is not included in this planning proposal.

The western portion of the land is part of the north south escarpment located to the west of Gosford City Centre with topography ranging from 110m AHD on the western boundary to 6m AHD in the north east corner. The escarpment is visually and environmentally significant, with parts of the broader formation incorporated into Council's Coastal Open Space System. The developable portion of the site is located to the east of the boundary with frontage to Nells Road.

Scattered stockpiles are present in the eastern portion of the site, including within the existing IN1 General Industrial zoned land.

An intermittent tributary of Narara Creek is located adjacent to the northern boundary of the site, which is also identified as flood affected. Additional minor overland flow paths traverse the site from west to east.

The site has historically been used for quarry purposes and has partially been filled. Rehabilitation work have now been completed. The portion of the site proposed to be zoned IN1 General Industrial is largely cleared comprising disturbed grassland, reflecting its former use as a quarry.



Figure 1: Aerial Photograph of the Parent Lot

## 1.2 Existing planning controls

The site is part zoned IN1 General Industrial and part a deferred matter under the *Gosford Local Environmental Plan 2014*, which is zoned 7(a) Conservation and Scenic Protection (Conservation) under the Interim Development Order No 122 and has a minimum lot size of 40 hectares.

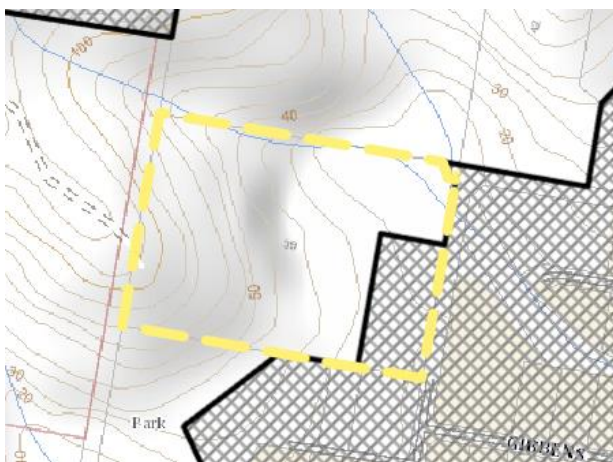


Figure 2: Land Application



Figure 3: Land Zoning

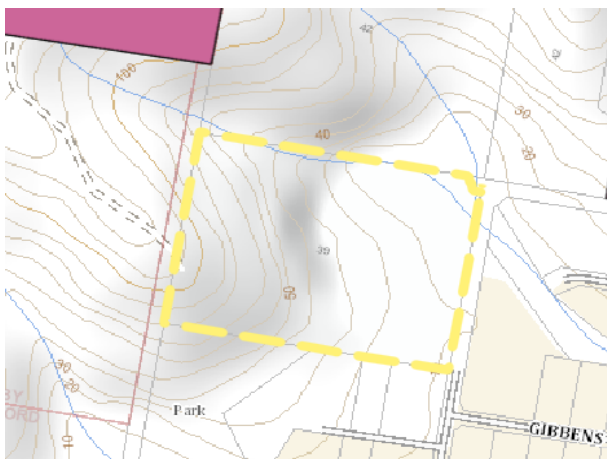


Figure 4: Minimum Lot Size

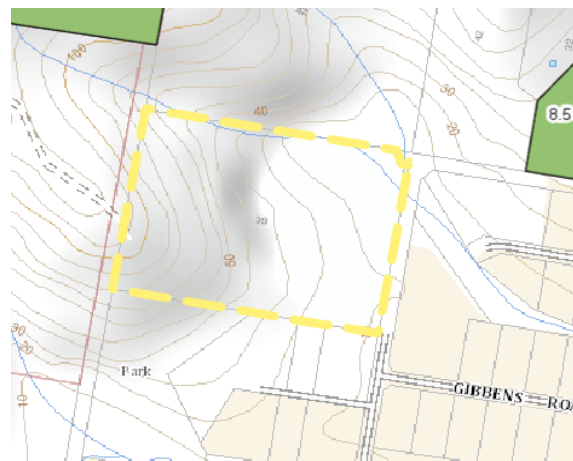


Figure 5: Height of Building



### 1.3 Surrounding area

The site is adjacent to the West Gosford Industrial Area comprising a mix of industrial and light industrial uses. To the west of the site is Crown Land, beyond which comprises vegetated undeveloped land. Land to the north contains similar characteristics to that to the east.



Figure 6: Site context

## 2. PROPOSAL

### 2.1 Description of planning proposal

The planning proposal includes:

- rezoning from 7(a) Conservation and Scenic Protection (Conservation) under the Interim Development Order No 122 to E2 Environmental Conservation and IN1 General Industrial under the *Gosford Local Environmental Plan 2014* or Central Coast Consolidated Local Environmental Plan, whichever is in effect at the time;
- application of a minimum lot size of 40 hectares to land proposed to be zoned E2 Environmental Conservation. No minimum lot size for IN1 General Industrial zoned land; and
- application of a height of building of 8.5m to land proposed to be zoned E2 Environmental Conservation. No Height of Building for IN1 General Industrial zoned land.

The site constraints are limiting factors in the amount of land that can be considered for industrial zoning. The technical studies prepared and submitted with the planning proposal define the appropriate area for IN1 General Industrial development.

#### Previous planning proposal and planning agreement

A previous planning proposal (PP\_2016\_002\_000) was considered by the Department of Planning Industry and Environment and was issued a gateway determination on 22 January 2016. Following four gateway extensions this planning proposal was issued an alternation of gateway determination on 30 November 2020 to not proceed.

Through investigations into site constraints, and the work undertaken as part of the previous planning proposal, PP\_2016\_002\_000, on site, it was agreed with the proponent that the remainder of the land, be rezoned to E2 Environmental Conservation and transferred to Council for integration into the Coastal Open Space System network through a planning agreement.

Council has indicated it intends entering into a planning agreement for the:

- dedication of land zoned E2 Environmental Conservation to Council for inclusion in the Coastal Open Space System;
- rehabilitation and maintenance of the site prior to Council taking ownership of the land;
- construction of an access road for maintenance and firefighting purposes, roadworks and intersection works as required; and
- construction of a gate at the entry to the fire trail to restrict access to approved persons.

Whilst the arrangements for the planning agreement were being undertaken, the previous planning proposal was issued a gateway alteration to not proceed. The applicant has updated their application for planning proposal and progressed the planning agreement with Council. A letter of offer dated 4 August 2021 accompanies the planning proposal.

The access requirement for the identified fire trail will be subject to further assessment during public exhibition of the planning proposal in accordance with Planning for Bushfire Protection 2019.

## **2.2 Objectives or intended outcomes**

The intended outcome of the planning proposal is to rezone part of the lot to IN1 General Industrial , and incorporate the remaining constrained land within Council's Coastal Open Space System.

The opportunity for the inclusion of land into the Coastal Open Space System presented itself in the assessment of the planning proposal. Council have advised a large portion of the site had significant ecological value and therefore was capable of inclusion in the Coastal Open Space System. However, previous activities have left part of the site heavily disturbed requiring the development of a bushland management plan for the structured regeneration and weed eradication of disturbed areas.

The objectives are clearly stated in the planning proposal and do not require amendment prior to community consultation.

## 2.3 Explanation of provisions

The intended outcome of the planning proposal will be achieved by amending the land application map and applying the relevant development standards under the *Gosford Local Environmental Plan 2014* or *Central Coast Local Environmental Plan*, whichever is in effect at the time.

The following amendments are proposed:

Provision	Existing Provision	Proposed Amendment
Land Application Map LAP_001	Not mapped	Mapped
Land Zoning LZN_015A	Not mapped <i>Note: 7(a) under Interim Development Order 122</i>	E2 Environmental Conservation
		IN1 General Industrial
Lot Size LSZ_015A	Not mapped <i>Note: 7(a) – 40ha under the Interim Development Order 122</i>	E2 Environmental Conservation – 40ha
		IN1 General Industrial – not mapped
Height of Building HOB_015A	Not mapped	E2 Environmental Conservation – 8.5m
		IN1 General Industrial – not mapped

The explanation of provisions are clear and do not require amendment prior to community consultation.

## 2.4 Mapping

The following mapping changes are proposed to implement the objectives of the planning proposal:

- amend Land Application Map LAP\_001 to remove the subject land from Deferred Matter and include it as land affected by *Gosford Local Environmental Plan 2014* or Consolidated Central Coast Local Environmental Plan, whichever is in effect at the time.
- amend Land Zoning Map Sheet from part IN1 General Industrial to E2 Environmental Conservation and IN1 General Industrial.
- amend Lot Size Map Sheet LSZ\_015A from no specified minimum lot size to AB2 (40 hectares); and
- amend Height of Building Map Sheet HOB\_015A to 8.5 metres.

The proposed map amendments for the site are provided in Figures 7-10 below.





Figure 7: Land Application



Figure 8: Land Zoning

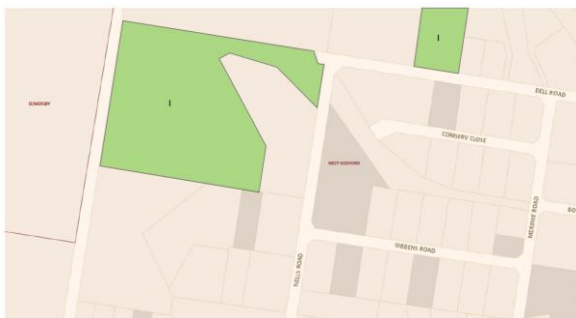


Figure 9: Height of Building



Figure 10: Minimum Lot Size

### 3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is not the result of a strategic study or report. Council has advised the land identified for inclusion in the Coastal Open Space System has been identified in Council's strategic studies since the 1990s.

During preparation of the *Gosford Local Environmental Plan 2014* Council resolved to defer the rezoning of the site. Council further resolved to undertake various miscellaneous mapping amendments that in part would include zoning of approximately one hectare of the site to IN1 General Industrial. However, during this process the applicant requested a larger area of land be rezoned than what Council proposed through the miscellaneous mapping amendments. To facilitate this, a local environmental plan amendment request was made to Council, and formed a previous planning proposal for the site.

Council has resolved to prepare an environmental lands review which may include this site. However, this work has not commenced, and is dependent on Council's strategic priority program. Further, due to uncertainty over the outcome of this project, it is considered appropriate to progress the planning proposal independent of this process.

The planning proposal has suitably demonstrated strategic merit, as detailed in the Department's assessment in Section 4 below, and summarised as follows:

- the rezoning will assist in providing employment lands within the Central Coast, assisting in job containment, with an additional 1.4 ha of industrial zoned land that was previously unavailable for development.
- the proposal forms a direct extension of existing IN1 General Industrial land, making efficient use of infrastructure and service availability.

- the proposal will focus commercial and retail development in centres, growth corridors and identified clusters, and supporting it with public domain improvements, will encourage local employment growth.
- the transfer of E2 Environmental Conservation land to Council is considered to reflect the constraints of the land and services the long term environmental philosophy of the Coastal Open Space System.
- the planning agreement will result in a benefit to the public and ensure the cost of managing the E2 Environmental Conservation Lands and fire trail access are met by the proponent.

A planning proposal is the only means of achieving the objectives of the planning proposal.

## 4. STRATEGIC ASSESSMENT

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### 4.1 Regional / District

#### 4.1.1 Central Coast Regional Plan 2036

The *Central Coast Regional Plan 2036* is applicable to the site and the proposed rezoning. The planning proposal is consistent with the relevant actions identified in the Plan, as discussed below:

- **Action 3.2:** Harness opportunities for business investment by providing additional IN1 General Industrial zoned lands in proximity existing industrial lands, residential areas, and roads infrastructure.
- **Action 5.1:** Maintain an adequate supply of employment land in West Gosford that is appropriately serviced to respond to changing land use, location and the floor space demands of industry.
- **Action 5.3:** Enable the development of new industrial land in a locality of limited supply and coordinate infrastructure delivery through access to available infrastructure and services.
- **Action 7.1** Facilitate economic development that will lead to more local employment opportunities on the Central Coast through the expansion to the existing West Gosford industrial estate.
- **Action 8.1** Protect the Central Coast's scenic amenity by planning for development that respects the distinct qualities of different places through dedication of addition land to be included within Council's Coastal Open Space System.
- **Action 12.4** Strengthen the Coastal Open Space System by expanding its links and extending new corridors to balance growth in the north of the region and protect the network of natural areas across the region through the inclusion of an additional 7.3 hectares of land in the Coastal Open Space System.
- **Action 12.5:** Sensitively manage natural areas on the fringe of the urban areas to mitigate land use incompatibility issues through limitations placed on the extent of IN1 General Industrial zoned land and protection of E2 Environmental Conservation zoned land in the Coastal Open Space System.

The planning proposal is consistent with the *Central Coast Regional Plan 2036*.

## 4.2 Local

### 4.2.1 One - Central Coast, Community Strategic Plan 2018-2028

The Central Coast Community Strategic Plan outlines a set of guiding principles, aspirations and values for the community. These reflect on social, economic, environmental and governance aspects for now and the future.

The planning proposal is consistent with the applicable strategies in the Community Strategic Plan, as follows:

- **Focus Area – A Growing and Competitive Region (Objectives C1 and C3):** The rezoning will assist in containment of employment lands within the Central Coast, assisting in job containment, with an additional 1.4 ha of industrial zoned land that was previously unavailable for development. It will increase the capacity for economic development and increase local employment opportunities for residents of the Central Coast.
- **Focus Area – Cherished and Natural Beauty (Objective F2):** 7.3 ha portion of the site is to be dedicated to Council for inclusion into the Coastal Open Space System.
- **Focus Area – Balance and Sustainable Development (Objective I3):** The planning proposal connects with existing industrial estate of industrial land. The expansion will make sustainable use of existing infrastructure adjacent to the West Gosford industrial estate. Future development will conform to Councils requirements for sustainable stormwater design and furthermore, a sizable portion of the site will be dedicated to Council for inclusion into the Coastal Open Space System securing local habitat in perpetuity.

The planning proposal is consistent with the key focus areas and objectives contained in the Community Strategic Plan.

### 4.2.2 Local Strategic Planning Statement

The Central Coast Local Strategic Planning Statement establishes a vision for the future and a proactive framework for delivering a growing and sustainable region with a strong network of Centres and thriving and connected communities. The following strategies and priorities are applicable to this planning proposal.

- **Planning Priority 1 Align development to our infrastructure capacity structure capacity** as it will build capacity in the area by expanding the existing industrial precinct of West Gosford, and create employment in the locality without requiring the development of additional infrastructure to support it.
- **Planning Priority 3 Grow the Regional Economic Corridors, to support a strong local economy:** The planning proposal has the capacity to strengthen the economic viability of the West Gosford industrial estate. Furthermore, the planning proposal supports the key objective of the Somersby to Erina Growth Corridor Strategy, by encouraging greater utilisation of existing infrastructure and economic corridors.
- **Planning Priority 24 Map, protect, and cherish natural areas and ecosystems:** A significant portion of the site is currently zoned 7(a) Conservation and Scenic Protection under the Interim Development Order 122 and contains land of steep topography unsuitable for any form of



development. However, these lands contain significant remnant native vegetation. It is proposed that these lands will be zoned E2 Environmental Conservation and dedicated to Council for inclusion into the Coastal Open Space System.

- **Planning Priority 25 Manage floodplains, coastal areas and bushland to improve community resilience to natural hazards:** There is minimal risk of flooding across the site and is addressed by the proponent to ensure any issues relating to flooding will be sufficiently addressed at development assessment stage. Likewise, bushfire hazard can be adequately addressed at development assessment stage.

The planning proposal is consistent with the key strategies and priorities in the Central Coast Interim Local Strategic Planning Statement.

#### 4.2.3 Central Coast Council Biodiversity Strategy (2020)

The Central Coast Council Biodiversity Strategy provides a framework and guide for the management of biodiversity on the Central Coast that is consistent with regional, state and national strategies, plans and policies. The planning proposal will achieve the objectives of Goal 4.1 through the implementation of appropriate planning controls to protect biodiversity and seek to ensure that local environmental plans strengthen protection of biodiversity within the Local Government Area.

The planning proposal is consistent with this goal as it seeks to protect the vegetation by zoning approximately 7.3ha of the land to E2 Environmental Conservation and further to include the parcel into the Coastal Open Space System.

The planning proposal is consistent with the Central Coast Council's Biodiversity Strategy.

#### 4.2.4 Coastal Open Space System Strategy (2010)

The Coastal Open Space System Strategy identifies 4.2 hectares of the site for inclusion into the Coastal Open Space System. The additional 3.1 hectares was offered by the proponent to Council, as it was undevelopable and accepted by Council due to its direct connection to existing lands within the Coastal Open Space System.

The planning proposal is consistent with the Central Coast Coastal Open Space System Strategy.

#### 4.2.5 Rainforest Policy (June 2020)

Council's policy requires a 50m exclusion zone surrounding any rainforest area and prohibition of industrial development and/or extractive industries within rainforest catchments. The previous planning proposal identified that a 40m buffer is considered acceptable in this instance given Council consented to the rehabilitation of the site under DA45990/20144. This will be further addressed as part of any development application lodged.

The planning proposal is consistent with Council's Rainforest Policy.

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

The proposal has been considered against the relevant State Environmental Planning Policies (SEPP) as detailed below.

- **SEPP (Mining, Petroleum & Extractive Industries) 2007** - The exploration or development of the site for mining, petroleum or extractive industries, would not be compatible, with the adjoining light industrial activities. Furthermore, it is likely that such activities in proximity to the conservation lands would undermine the conservation values and aims of the Coastal Open Space System and is therefore incompatible.
- **SEPP (Vegetation in Non-Rural Areas) 2018** - Approximately 7.4 ha, of the site will be dedicated to Council for inclusion into the Coast Open Space System, in support of natural heritage, aesthetic value, recreational, educational and scientific resource for future generations.

The planning proposal is consistent with the relevant State Environmental Planning Policies.

#### 4.4 Section 9.1 Ministerial directions

The following table provides an assessment of the proposal against the relevant Section 9.1 Ministerial directions.

Direction	Comment
1.1 Business and Industrial Zones	<p>The planning proposal will provide additional 1.4 hectares of employment land adjacent to an established industrial area, with the balance of the site proposed to be zoned E2 Environmental Conservation.</p> <p>The planning proposal is consistent with the Central Coast Regional Plan and Local Strategic Planning Statement.</p> <p>The planning proposal is consistent with this direction.</p>
2.1 Environmental Protection Zones	<p>The site is mapped as vulnerable regulated land under the native vegetation regulatory map containing Coastal Warm Temperature Rainforest and Coastal Narrabeen Moist Forest to the north and west, and Narrabeen Coastal Blackbutt Forrest to the south.</p> <p>The planning proposal seeks to provide 7.3 hectares to E2 Environmental Conservation for inclusion with the Coastal Open Space System. The transfer and incorporation into the Coastal Open Space System is to be facilitated via a planning agreement, including a bushland management plan, between the proponent and Council.</p> <p>Consultation with the Biodiversity Conservation Division should be undertaken on the appropriateness of the proposed E2 Environmental Conservation zone.</p>
2.3 Heritage	<p>The planning proposal states the direction is not applicable.</p> <p>A search of the Aboriginal Heritage Information Management System database did not locate any items or sites of Aboriginal heritage near the site.</p>

Direction	Comment
	<p>The disturbed nature of the site due to quarrying activities means it is unlikely there are Aboriginal relics on the site.</p> <p>The planning proposal should be updated to provide analysis against the direction, noting the it is consistent with this direction.</p>
2.6 Remediation of Contaminated Land	<p>The site comprises part of a former quarry, and a preliminary site investigation for contamination report has been prepared for the cleared portion of the site proposed to be zoned IN1 General Industrial. The report concluded there is a low to moderate potential for contamination on the site.</p> <p>The preliminary site investigation recommends the preparation of a site rehabilitation plan, including an unexpected find protocol, for the development application process. This will be further considered as part of the development control plan prepared for the site any consideration of any future development application. The site is considered suitable for an industrial land use.</p>
3.4 Integrating Land Use and Transport	<p>The site is located with easy access to the Central Coast Highway, which is the major arterial road connecting the West Gosford Industrial Estate to the M1. The site is also near local residential areas, providing opportunities for access via alternatives to private vehicles. Nells Road is an unformed local road that provides primary access to the site. The future development of the site will require upgrading of the western portion of Dell Road and the Northern end of Nells Road. Given access to the site is currently from Nells Road, it is appropriate Council consult with Transport for NSW.</p> <p>The planning proposal is consistent with this direction.</p>
4.2 Mine Subsidence and Unstable Land	<p>The topography of the site is steep and the site has been subject to historical fill requiring the applicant to undertake a contamination assessment and a geotechnical assessment. These reports provide a number of recommendations to mitigate the risk from land slip and address potential contamination issues, such as further investigation of remaining stockpiles in the proposed E2 Environmental Conservation zone, removing or battering of the near vertical cutting in the south east area of the site extending into the proposed E2 Environmental Conservation zone. These will be included in the proposed Development Control Plan.</p> <p>The planning proposal is consistent with the direction</p>
4.3 Flood Prone Land	<p>This direction applies because parts of the site are identified as low hazard flood fringe within the flood planning area. A small portion of the north eastern corner site is considered flood</p>

Direction	Comment
	<p>affected and is outside of the developable area of the land, with no additional requirements necessary for future development.</p> <p>A flood impact assessment was prepared in response to the requirements of the Gateway Determination for the previous planning proposal. The developable portion of the site is outside the area mapped as inundated and the flood impact assessment concludes that changes in flooding for post rehabilitation are unlikely within the project site and surrounding properties subject to the implementation of mitigation measures. Consideration of downstream impacts will be required during the assessment of any development application lodged on the site.</p> <p>The planning proposal is consistent with this direction.</p>
4.4 Planning for Bushfire Protection	<p>The site is mapped as bushfire prone land comprising Category 1 and 2 Vegetation and Bushfire Buffer.</p> <p>Council states the planning proposal is consistent with this direction, noting that both the previous planning proposal on site and the bushfire assessment report was referred to the NSW Rural Fire Service for comment, with no objection to the previous planning proposal.</p> <p>However, the bushfire assessment report was undertaken pursuant to Planning for Bushfire Protection 2006. An updated study will be required reflecting the requirements of Planning for Bushfire Protection 2019 and further consultation should be undertaken with NSW Rural Fire Service to determine the consistency of the planning proposal, including the proposed access arrangements.</p> <p>The planning proposal notes that consultation will be undertaken, and the mitigation measure proposed including a fire trail are considered appropriate to address consistency with this direction.</p> <p>Consistency with this direction is unresolved and will require consultation with the NSW Rural Fire Service.</p>
5.10 Implementation of Regional Plans	<p>A detailed assessment of the planning proposal against the provision of the <i>Central Coast Regional Plan 2036</i> is undertaken in Section 4 above.</p> <p>The planning proposal is consistent with this direction.</p>
6.2 Reserving Land for Public Purposes	<p>The planning proposal seeks to zone 7.3 hectares to E2 Environmental Conservation, with this land to form part of the Coastal Open Space System to benefit the people of Central Coast Council.</p> <p>The planning proposal is consistent with this direction.</p>



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

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### **5.1 Social**

The planning proposal will expand available industrial land within West Gosford increasing local employment opportunities. The additional lands make efficient use of existing road networks, services and utilities infrastructure.

### **5.2 Environmental**

The site is located in West Gosford and is classified as Scenic Buffer 10 (Quarries and Landfills) under the Gosford Development Control Plan 2013, Chapter 2.1 Scenic Quality. West Gosford is a significant industrial centre within the region. While the development control plan acknowledges the importance of maintaining the industrial precinct, it also seeks to ensure that escarpment that forms part of the Coastal Open Space System, and is a buffer to industrial estate, remains as a natural visual backdrop.

The planning proposal achieves this outcome by maintaining the ecological values of the escarpment, and permitting sympathetic expansion of the existing industrial estate on land which is heavily disturbed through previous activities, without detrimentally impacting on the visual character of the industrial precinct.

### **5.3 Economic**

The planning proposal will contribute to the supply of Industrial land, which will once developed provide opportunities for employment and business growth and opportunities within the Central Coast.

The site is currently not serviced by sewer. An electrical easement is located crossing through the north-west corner of the site and then following the northern boundary to the east.

Water and sewer are available to the site, and sufficient capacity exists for the proponent to upgrade these services as part of a future development application.

## **6. CONSULTATION**

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### **6.1 Community**

The planning proposal identifies that community consultation will be undertaken for a period of 28 days.

Council has resolved to make a site-specific development control plan and planning agreement and exhibit it with the planning proposal. These will be exhibited for 28 days.

### **6.2 Agencies**

Council proposes consultation with the following agencies:

- NSW Rural Fire Service;
- Transport for NSW; and
- Biodiversity Conservation Division.

Given consistency with the relevant section 9.1 Ministerial direction, it is not proposed to condition the Gateway determination to undertake consultation with Transport for NSW.

## 7. TIME FRAME

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Council's project timeline recommends an 18 month completion timeframe.

The Gateway determination should require the planning proposal to be completed within 12 months, given the only additional study required is an updated bushfire assessment report, and having consideration to the volume of work undertaken as part of the previous planning proposal.

## 8. LOCAL PLAN-MAKING AUTHORITY

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Council has requested to be the local plan-making authority. Due to the nature of the proposed amendments Council should be given local plan-making delegations.

## 9. RECOMMENDATION

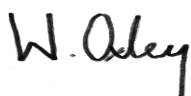
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It is recommended that the delegate of the Secretary:

1. note that the consistency with section 9.1 Ministerial direction 4.4 Planning for Bushfire Protection is unresolved and will require consultation with the NSW Rural Fire Service.

It is recommended that the delegate of the Minister for Planning and Public Services determine the planning proposal should proceed subject to the following conditions:

1. Council is to update the planning proposal to include sufficient analysis to adequately demonstrate consistency with section 9.1 Ministerial direction 2.3 Heritage Conservation prior to making the planning proposal available for community consultation.
2. The bushfire assessment report is to be updated in accordance with Planning for Bushfire Protection 2019 and is to be placed on public exhibition with the planning proposal. Once this information has been obtained, Council is to update its consideration of section 9.1 Ministerial direction 4.4 Planning for Bushfire Protection to reflect the outcomes of this work, if relevant.
3. The planning proposal should be made available for community consultation for a minimum of 28 days.
4. Consultation is required with the following public authorities:
  - (a) NSW Rural Fire Service; and
  - (b) Biodiversity Conservation Division.
5. The time frame for completing the local environmental plan is to be 12 months from the date of the Gateway determination.
6. Given the nature of the planning proposal, Council should be the local plan-making authority.



**William Oxley**  
**Manager,**  
**Local and Regional Planning**



11/10/2021

**Dan Simpkins**  
**Director ,**  
**Central Coast and Hunter Region**

Assessment Officer: Tegan Harris  
Planning Officer, Central Coast and Hunter Region  
Phone: 02 49273241