

Planning and Assessment

Gateway Determination Report

LGA	Central Coast
PPA	Hunter & Central Coast Regional Planning Panel
NAME	Reeves Street, Somersby (up to 14 homes, 0 jobs)
NUMBER	PP_2020_CCOAS_001_00
LEP TO BE AMENDED	Gosford Local Environmental Plan 2014 and draft Central Coast LEP
ADDRESS	Reeves Street, Somersby
DESCRIPTION	Lot 481 DP 1184693
RECEIVED	31/01/2020
ADEQUATE	29/04/2020
FILE NO.	EF20/1809
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal (**Attachment A**) seeks to amend Gosford Local Environmental Plan (LEP) 2014 (GLEP 2014) or Draft Central Coast LEP (once notified) to protect much of the site through a conservation zone, while allowing some rural residential style development along Reeves Road in an environmental management zone. The planning proposal will:

- rezone the site from RU2 Rural Landscape and E2 Environmental Conservation to E2 Environmental Conservation and E3 Environmental Management;
- amend the minimum lot size provisions and apply a minimum lot size of 2ha to the E3 Environmental Management zone and 40ha to the E2 Environmental Conservation zone; and
- include site specific provisions to allow the minimum lot size development standard in the E3 area to be varied to protect significant trees and facilitate enhanced environmental outcomes. The local provisions will supplement the minimum lot size development standard and will allow:
 - a flexible approach to the application of the minimum subdivision lot size, whereby lot size averaging will ensure the protection of significant trees and ecological features; and
 - introduce a “limited build area” provision over part of the E3 zone supported by a site-specific map amendment to GLEP 2014 or Draft

Central Coast LEP (once notified) that defines the “limited build area” over part of the E3 zone.

The proposal will provide for an additional 8-14 rural residential lots subject to assessment to determine an optimum layout that balances development with environmental management.

1.2 Site description

The site is located to the south of Reeves Street, Somersby, has an area of 178.5ha and is described as Lot 481 DP 1184693.

The site drains to the east through a centralised network of gullies which contain Fountain Creek. The highest points of the site are located at the north-western and south-western corners. The gradient of the slope increases from 4% to 12% in the eastern half of the site, with land surrounding Fountain Creek having a moderate to steep slope. Fountain Creek is a tributary of Narara Creek located further east of the site, which flows into Brisbane Water (Figure 1).

The site is vegetated and contains a variety of native flora and fauna habitats. A proposed Biodiversity Corridor identified in the Central Coast Regional Plan 2036 (CCRP) traverses the eastern edge of the site (Figure 4).

The Aboriginal Heritage Information Management System (AHIMS) records two sites of significance within the subject site, an Axe Grinding Groove and an Engraving Site (Figure 4).

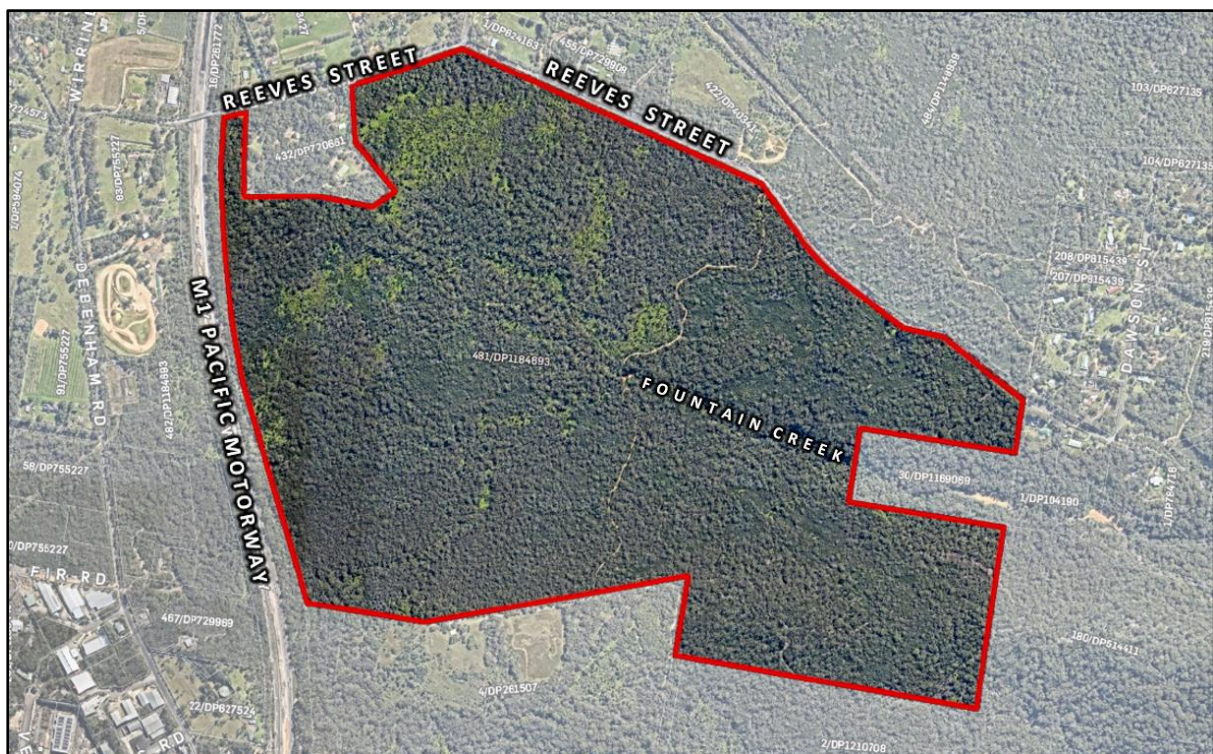


Figure 1: Aerial map of subject site.

1.3 Existing planning controls

The site is currently zoned RU2 Rural Landscape and E2 Environmental Conservation under GLEP 2014 (Figure 2).

The current minimum lot sizes are 20ha for the RU2 zone and 40ha for the E2 zone. No change to the zones or minimum lot size is proposed in the Draft Central Coast LEP, as exhibited.

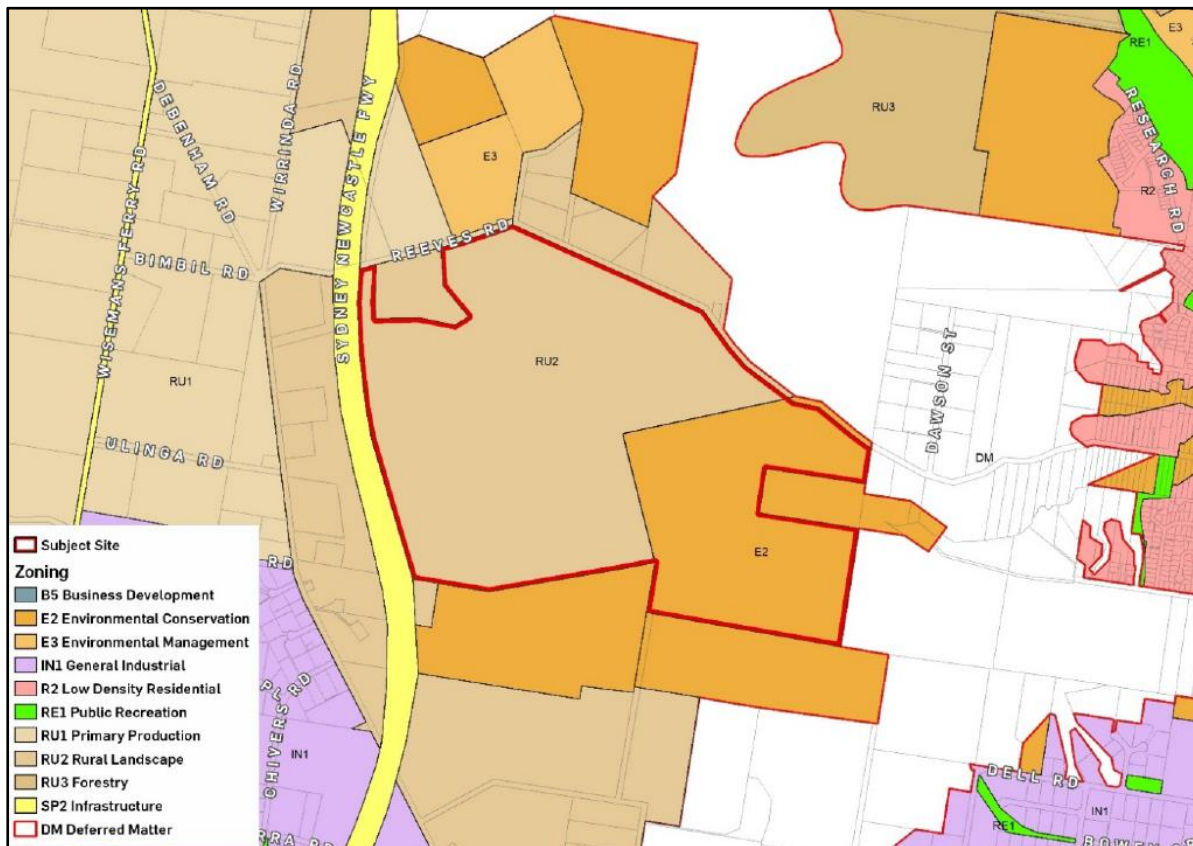


Figure 2: Current Land Use Zone Map.

1.4 Surrounding area

The site is bound by Reeves Street to the north, the M1 Pacific Motorway to the west, and bushland to the south and east.

The M1 Pacific Motorway runs parallel to the western boundary of the site and links to other arterial roads within the region. The site is located north east of the Somersby Industrial Park and approximately 4.5km north-west of the Gosford City Centre, which accommodates regional amenities and services (Figure 3).

Nearby land uses include:

- the M1 Pacific Motorway;
- rural residential lots to the north of Reeves Street and beyond;
- a rural residential subdivision of approximately 20 lots further along Reeves Street to the north-east;
- an RSPCA animal shelter on the northern side of Reeves Street opposite the northern boundary of Lot 481;
- a Girl Guide camp on the southern side of Reeves Street near the north west boundary of the site;

- an additional permitted use exists in the GLEP 2014 for a driver training facility on land to the east of the RSPCA, but this has not been constructed; and
- a motorcycle track to the west of the site beyond the M1.



Figure 3: Locality map of site in relation to the southern Central Coast.

1.5 Summary of recommendation

It is recommended that the planning proposal proceed subject to conditions. The proposal is consistent with SEPP (Aboriginal Lands) 2019, Interim Development Delivery Plan and Hunter and Central Coast Regional Panel (HCCRPP) recommendations.

The site is currently vegetated and not being used for rural land uses permissible in the RU2 zone such as intensive agriculture and farm buildings. It is considered appropriate that the proposal rezones much of the site, including part of the proposed Biodiversity Corridor, as E2 Environmental Conservation, representing an increase in land zoned for conservation.

The proposed 30.8 hectares to be zoned E3 Environmental Management provide Darkinjung Local Aboriginal Land Council (Darkinjung) with an opportunity for some economic development and aligns with strategic direction to strengthen the economic self-determination of Aboriginal communities.

Several matters need to be resolved before the planning controls are finalised, including consultation with NSW Rural Fire Service concerning impacts of bushfire and NSW Environment, Energy and Science (EES) Office of Environment and Heritage's Biodiversity Conservation Trust on biodiversity and Aboriginal heritage issues.

Consultation is also required with Central Coast Council for its input into resolving the details of the local provision prior to public exhibition, as well as how the proposal achieves the objectives of Council's Coastal Open Space System (COSS) Strategy.

The Draft Aboriginal Cultural Heritage report lodged with the planning proposal is incomplete, and it being proposed that a condition will require a finalised study and any relevant issues to be adequately addressed prior to public exhibition.

2. PROPOSAL

2.1 Objectives or intended outcomes

The objectives and intended outcomes of the planning proposal are as follows:

- preservation of important ecological land on the site; and
- allowing orderly rural residential development along the Reeves Street frontage.

The intended development objectives for the land are illustrated in the Structure Plan displayed in Figure 4.

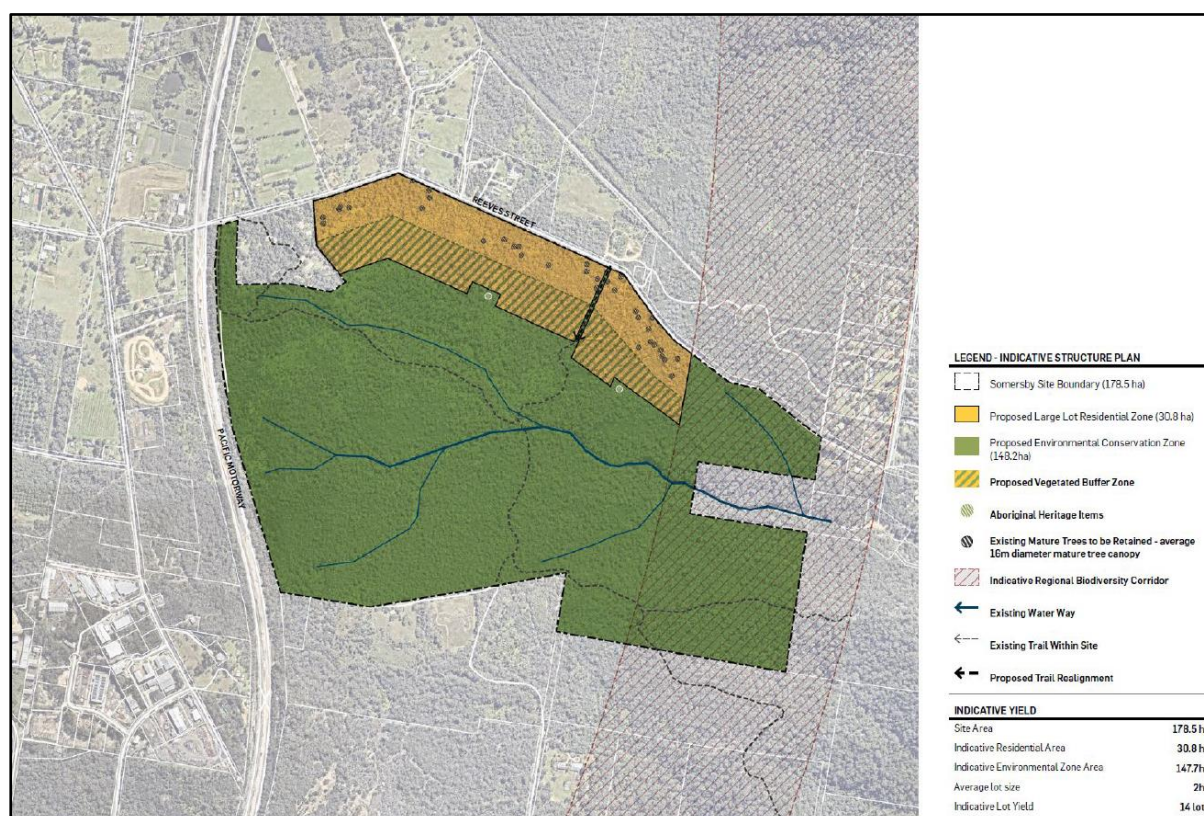


Figure 4: Site Structure Plan (source – Urbis 2020).

An overview of the existing and proposed land zoning across the site is summarised below:

Zone	Existing	Proposed
RU2 Rural Landscape	124 ha	0 ha
E2 Environmental Conservation	54 ha	147.7 ha
E3 Environmental Management	0 ha	30.8 ha

The proposal intends to develop and implement a Biodiversity Offset Strategy that appropriately compensates for the loss of biodiversity values as a result of development fronting Reeves Street.

The Indicative Subdivision and Dwelling Envelope Plan (Figure 5) illustrates how the intended development can be achieved on the site.

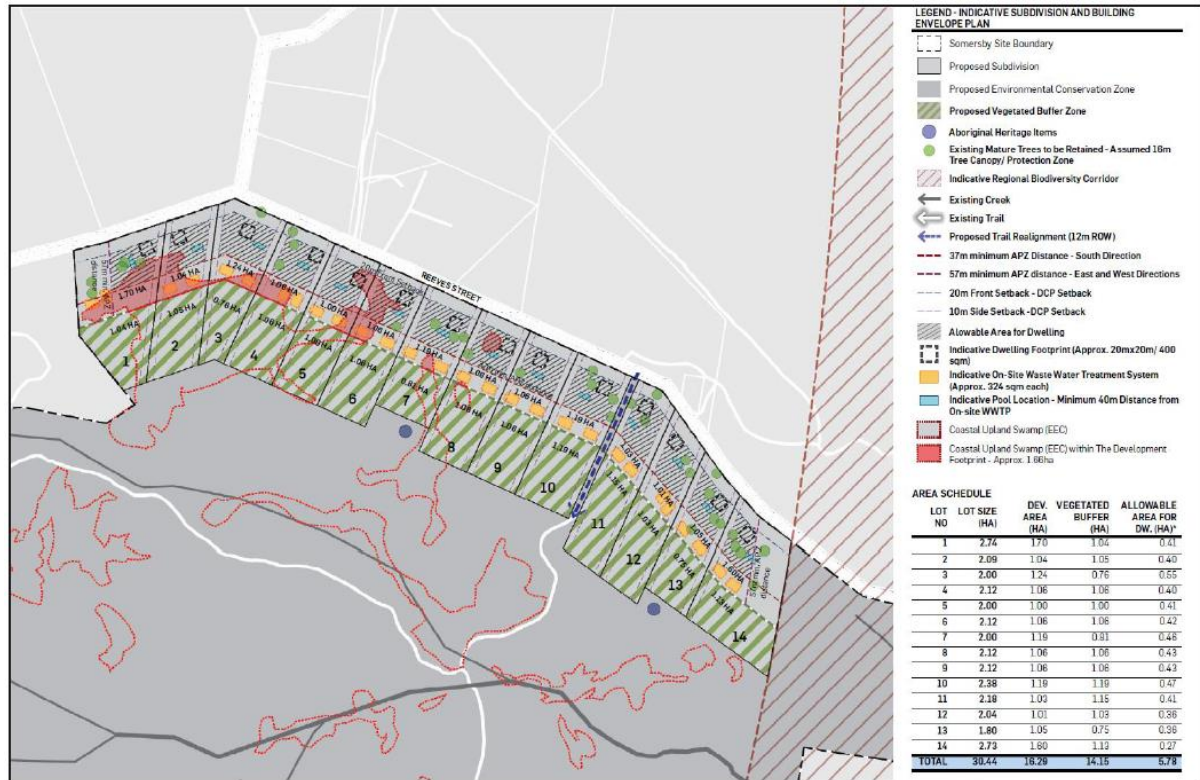


Figure 5: Indicative Subdivision and Dwelling Envelope Plan (source – Urbis 2020).

While this would not form part of the LEP amendment, and final lot layout may be different, it demonstrates the development envisaged by the proposal is feasible.

2.2 Explanation of provisions

The objectives of the planning proposal are intended to be achieved through rezoning part of the site fronting Reeves Street to E3 Environmental Management to facilitate the development of up to 14 rural residential lots. The remainder of the site will conserve the high ecological value by being zoned E2 Environmental Conservation, including the portion of the proposed Biodiversity Corridor identified in the CCRP which traverses the site.

The proposal seeks to amend the minimum lot sizes across the site, being 2ha for the E3 zone to facilitate the envisaged rural residential subdivision, and 40ha across the E2 zone.

The proposal includes a local provision that allows the subdivision design to be flexible in terms of minimum lot size and seeks to limit development in the rear portions of each lot to an outbuilding ancillary to each dwelling house, where it can be demonstrated that significant ecology is protected. Options for these local provisions have been proposed in the planning proposal and are discussed further below.

2.3 Mapping

The proposal includes amendments to the GLEP 2014 maps as follows:

- Land Zoning Map – Sheet LZN_014B;
- Lot Size Map – Sheet LSZ_014B; and
- Height of Building Map – Sheet HOB_014B. This is a new map that will be required to be created and inserted into the GLEP 2014, showing an 8.5m height of building restriction on the proposed E3 zone.

The maps included in the planning proposal show the current and proposed controls. The proposed map amendments are included below and considered to be suitable for exhibition purposes (refer to Figures 6 and 7).

If the Draft Central Coast LEP is finalised before this LEP amendment, the corresponding map sheets in that LEP will require amendment.

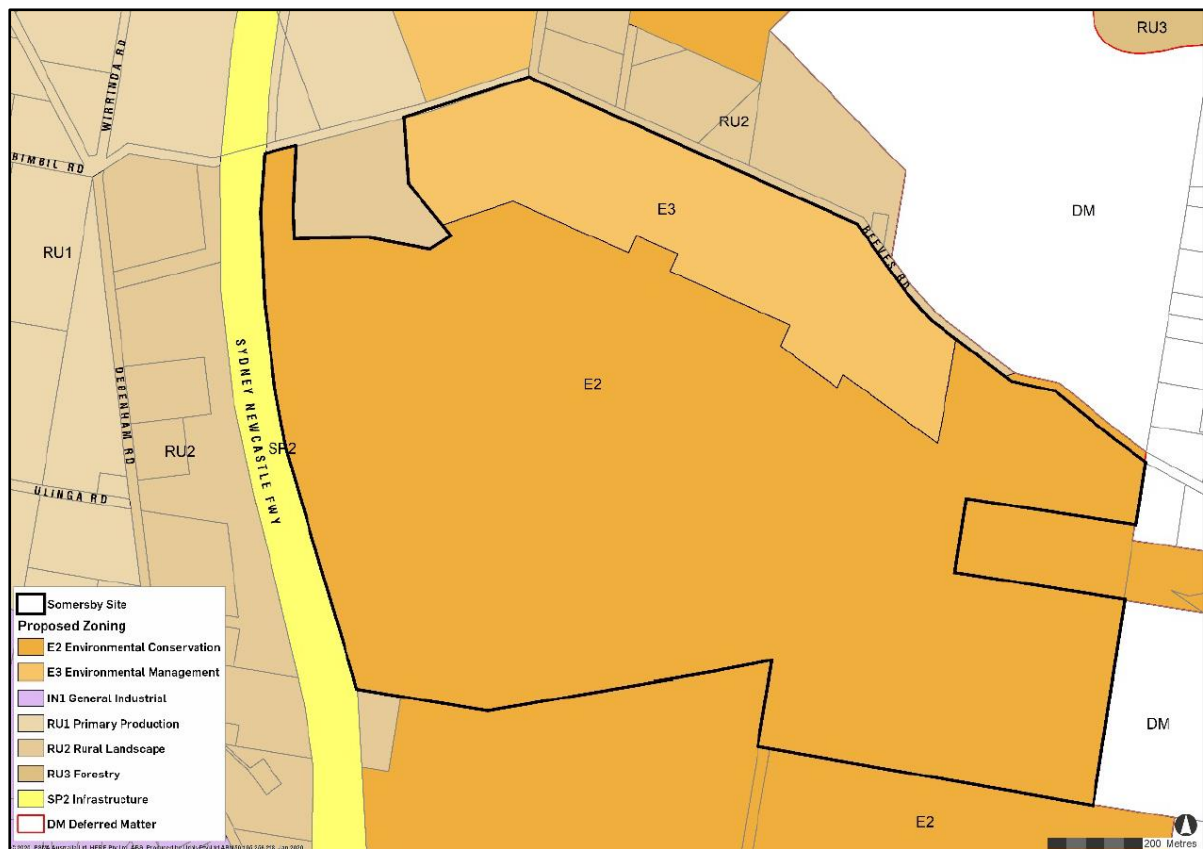


Figure 6: Proposed Land Zoning Map (source – Urbis 2020).

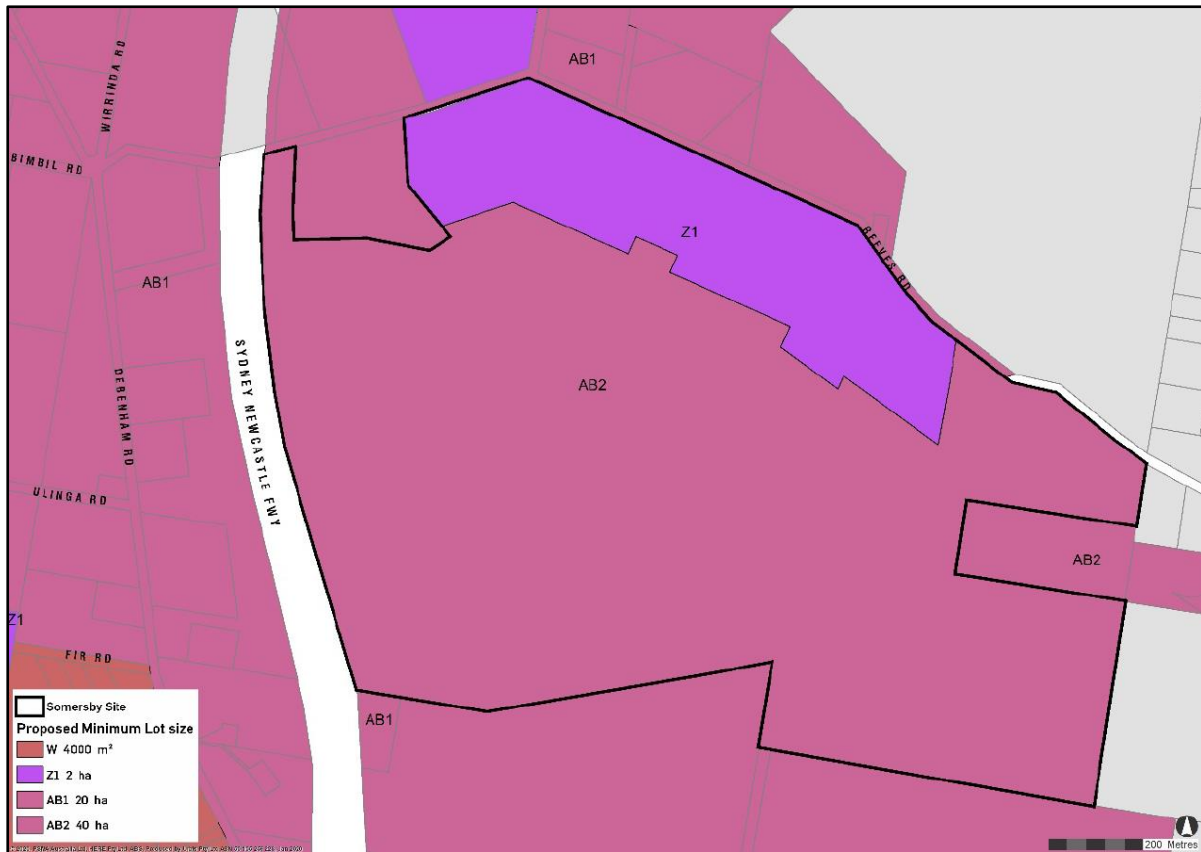


Figure 7: Proposed Lot Size Map (source - Urbis 2020).

The proposal provides options to implement the site-specific subdivision provisions applying to the E3 land through inserting an additional clause in Part 7 Additional Local Provisions or through a subclause in Schedule 1 Additional Permitted Uses.

In either option, the site-specific provisions will be accompanied by a map to define a “limited build area” overlay on the E3 zoned land (Figure 8).

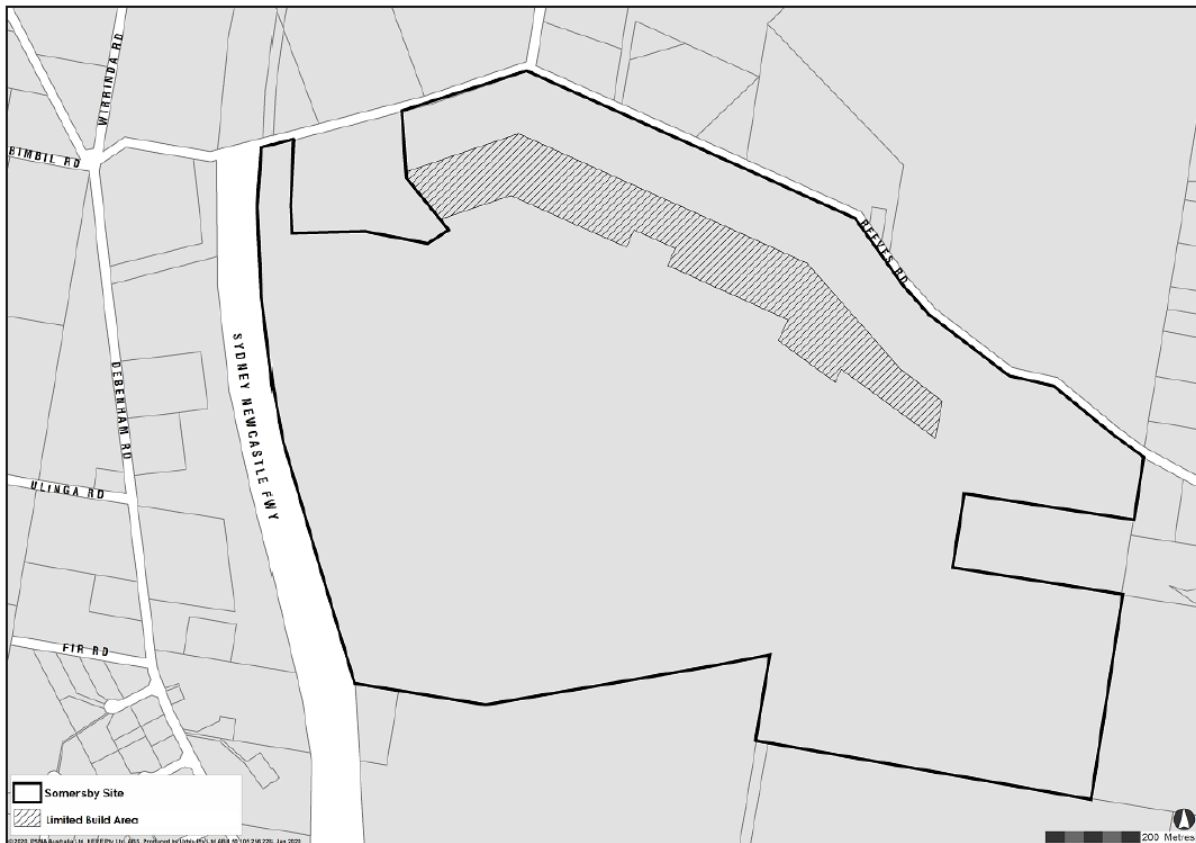


Figure 8: Proposed "Limited Build Area" Map.

It has typically not been the case to levy for regional infrastructure contributions for development of this magnitude in the former Gosford local government area (e.g. the Somersby rural residential planning proposals for Wisemans Ferry Road and Reeves Street/Goldsmith Road in recent years). The Department will confirm the need for 'release area' mapping to trigger the satisfactory arrangements provisions of Part 6 of the GLEP 2014, prior to exhibition.

3. NEED FOR THE PLANNING PROPOSAL

The CCRP includes a direction to strengthen the economic self-determination of Aboriginal communities and an action to strategically assess the landholdings of the Darkinjung and identify priority sites to create a pipeline of projects.

A suite of planning measures was released by the then Minister for Planning in February 2019, comprising:

- *State Environmental Planning Policy (Aboriginal Land) 2019*;
- Ministerial Direction 5.11 Development of Aboriginal Land Council land;
- Planning Circular PS 19-003 introducing Independent reviews of planning proposals for identified Aboriginal land; and
- a process for the creation of Development Delivery Plans to identify a pipeline of development proposals for Aboriginal land.

The planning proposal has arisen due to a Rezoning Request from Darkinjung, being the first proposal made under the new independent review process identified in Planning Circular PS 19-003. The independent proposal review was undertaken by the Hunter & Central Coast Regional Planning Panel (HCCRPP) who considered the

proposal to have strategic and site-specific merit and that a planning proposal should be submitted for a Gateway determination.

The HCCRPP noted additional recommendations for clarification and these have been addressed in the planning proposal. These include options for providing a buffer at the rear of the E3 zone and retaining significant trees, while avoiding and mitigating impacts on areas of high ecological value. The planning proposal addresses this by being flexible through lot averaging in the local provisions and proposing a “limited build area”.

A Stage 1 Preliminary Contamination Assessment has been undertaken to address the final recommendation of the HCCRPP (**Attachment B**). A detailed noise assessment will be undertaken at the subdivision DA stage, addressing potential noise impacts from the adjoining RSPCA facility and possible nearby driver training facility and motorcycle track.

To protect important ecological land from fragmentation and intensive development and secure part of the proposed Biodiversity Corridor, much of the site is proposed to be rezoned to E2 Environmental Conservation.

Local provisions are proposed to apply to the E3 zoned land. The objectives of the local provisions are to ensure that subdivision size and design conserves and protects environmental and heritage values, while allowing flexibility in the minimum size and arrangement of lots to facilitate improved environmental outcomes.

Limiting development in the rear of each lot will provide a buffer from the primary developable area of each lot and the adjacent E2 land, where the “limited build area” will allow the erection of one ancillary outbuilding only on each lot.

The planning proposal aims to rezone the site, change the minimum lot size and include a local provision to achieve the intended outcomes of allowing some rural residential style development, while conserving the remainder of the site. The proposal includes brief discussion on zoning options, stating that RU2, RU5 and E4 zones are inappropriate and inconsistent with preserving important ecological values. While this justification is brief, it is considered appropriate that the site be zoned E3 for the land fronting Reeves Street as it permits rural residential style development, but protects and manages the ecological, cultural and aesthetic values of the area. Each of the alternative zones would include permissible uses that are incompatible with the site attributes.

The GLEP 2014 includes minimum lot sizes for environmental zones of E2 40ha, E3 2ha and E4 4ha. The exhibited Draft Central Coast LEP, which seeks to consolidate the planning provisions of the former Gosford and Wyong councils, included E2 as having a 40ha minimum lot size, with E3 proposed to have a 20ha minimum. The planning proposal is seeking to set a minimum lot size for the E3 zone of 2ha, consistent with the existing GLEP 2014 and Draft Central Coast LEP. Given the significant area being rezoned to E2, a 2 ha MLS in the E3 supported by lot averaging provisions is supported, provided wastewater and asset protection zones can be accommodated and environmental values protected.

The planning proposal contains limited discussion on the proposed local provisions which could be included under Part 7 of the GLEP 2014 (or CCLEP) or as an additional subclause in Schedule 1 Additional Permitted Uses. The broad outcomes to be achieved are flexibility with minimum lot sizes in the E3 zone, protection of significant trees and ecological features, provisions for wastewater disposal and

bushfire controls and a buffer to the E2 zone in the south of the proposed E3 area. Consultation with Council will allow its view to be considered and the best option for achieving these outcomes settled prior to finalising the planning proposal.

4. STRATEGIC ASSESSMENT

4.1 State

The proposal is consistent with the Interim Darkinjung Development Delivery Plan and the site is mapped in the Aboriginal Land SEPP.

4.2 Regional

The site is located on land subject to the Central Coast Regional Plan 2036.

Central Coast Regional Plan 2036

The planning proposal is consistent with the following key directions of the CCRP:

Direction 6 – Strengthen the economic self-determination of Aboriginal communities.

The proposed rezoning of the site will facilitate the development of up to 14 rural residential lots. Following completion of the planning proposal the land can be subdivided for housing and Darkinjung will benefit from any future disposal of the land. This will assist in providing services for Darkinjung's members and the broader Aboriginal community and potentially provide funding for future economic development projects.

Direction 8 – Recognise the cultural landscape of the Central Coast.

The Constraints Mapping and Structure Plan (**Attachment C**) demonstrates that the future site development will be appropriate to the cultural landscape in which it is situated. Two AHIMS sites have been identified, and a 20m distance is proposed between the heritage items and private lot boundaries of the E3 zone.

The structure plan also maps mature trees and an APZ, with larger lot sizes proposed for more constrained lots. The intention is to allow a flexible approach to avoid existing mature trees from the proposed development footprint.

The scenic amenity of the area will be protected, with the majority of the land proposed to be zoned for environmental conservation to preserve existing vegetation. The rural residential lots will have a low impact and will be of a similar character to nearby rural residential uses.

Direction 12 – Protect and manage environmental values.

The proposed rezoning is a positive outcome as the environmental and cultural heritage values on the site will be preserved, or where impacted will be appropriately offset.

The original rezoning proposal has been amended to remove development from the proposed Biodiversity Corridor and this land will now be zoned E2. Dwelling house is currently a permissible use in the E2 zone under the Gosford LEP 2014 but will be prohibited in the E2 zone under the Draft Central Coast LEP unless a prior entitlement exists. The proposal is not seeking a dwelling entitlement for the E2 zone.

Together with the area comprising the corridor and remaining areas to be rezoned E2, 83% of the site will be protected and managed for environmental conservation.

Under the current planning controls, the RU2 land could be developed for some uses that are incompatible with the environmental values of the land and overall zoning the land to E2 and E3 is a better environmental outcome.

Direction 20 – Grow housing choice in and around local centres.

The proposal will provide for 8-14 rural residential lots which are well located close to Somersby Industrial area, 1.5km to the south west. The site is strategically positioned to access the Gosford City Centre to the south east, approximately 4.5km away.

Direction 21 – Providing housing choice to meet community needs.

The proposal provides for up to 14 rural residential lots which creates additional housing choice to meet the diverse needs of the Central Coast community.

4.3 Local

One Central Coast – Central Coast Community Strategic Plan 2018-2028 (CCCSP):

The planning proposal is consistent with the CCCSP in maintaining natural assets. The objectives included in the focus area of Green: Environmental Resources aim to protect the rich environmental heritage by conserving beaches, waterways, bushland, wildlife corridors and inland areas and the diversity of local native species. The planning proposal will protect the ecological and archaeological values on the majority of the site and contribute to the proposed Biodiversity Corridor connecting the National Parks and State Forests.

Coastal Open Space System (COSS) Lands:

Central Coast Council adopted the Coastal Open Space System (COSS) Strategy in August 2010.

Council's submission to the Independent Rezoning Review stated the site is identified for acquisition as part of the COSS due to its significant environmental and cultural values. There is no acquisition layer for COSS in Gosford LEP 2014.

Darkinjung has consulted with the COSS officers at Central Coast Council, who advised that entering into a stewardship agreement or the biocertification of the land is an option available to Darkinjung to achieve the objectives of the COSS Strategy without requiring acquisition.

Darkinjung has indicated that any impacts of the planning proposal will be appropriately offset.

The planning proposal is consistent with the CCCSP and the COSS. Council will be given a further opportunity for comment on the planning proposal as required by a Gateway determination condition.

4.4 Section 9.1 Ministerial Directions

1.2 Rural Zones – this Direction aims to protect the agricultural production value of rural land. The proposal would rezone and increase the density of the land currently zoned rural from approximately 6 lots to approximately 14.

The land falls within the area covered by Sydney Regional Environmental Plan No 8 Central Coast Plateau Areas but is not mapped as prime agricultural land under that plan. The RU2 land on the site has limited agricultural capability and development or vegetation clearing on the site is also constrained due to the environmental values of

the land. Rezoning to an environmental conservation and environmental management zone is more appropriate than maintaining the rural zone.

It is recommended that the Secretary agree that the inconsistency is of minor significance.

1.3 Mining, Petroleum Production and Extractive Industries – the planning proposal is inconsistent with this Direction as the rezoning from a rural zone to an environmental zone will prohibit the mining of minerals or other extractive materials. The site is in a potential resource area and identified as containing construction sand. Any proposed zoning changes that may prohibit or restrict potential future operations in the Somersby Plateau should be referred to the Division of Resources and Geoscience.

Determination of the consistency with this Direction can occur once the Division of Resources and Geoscience has provided comment. This consultation is recommended as a condition to the Gateway determination.

1.5 Rural Lands – the planning proposal will affect land within an existing rural zone and a proposed environment protection zone, as well as changing the existing minimum lot size to 2ha in the E3 zone and 40ha in the E2 zone.

The proposal is consistent with the CCRP, specifically Direction 6, to strengthen the economic self-determination of Aboriginal communities. Consideration has also been given to the significance of agriculture and primary production, where the site is heavily vegetated and not suitable for rural uses.

The fragmentation of rural land is not significant. Agriculture at Somersby is focused on lands to the west of the M1 Motorway and the rezoning of the site to an environmental zones aligns with adjoining zones to the south and east.

It is recommended that the Secretary agree that the inconsistency is of minor significance.

2.1 Environment Protection Zones – the planning proposal includes provisions which facilitate the protection and conservation of the environmentally sensitive land located on site. Whilst the proposal does not seek to rezone environmental zoned land, the proposal will have some biodiversity impacts due to the clearing required to facilitate the proposed development.

Darkinjung has consulted Umwelt to prepare a Biodiversity Certification Assessment Report (BCAR) (**Attachment D**) to assess the potential biodiversity impacts of the proposed development in accordance with the Biodiversity Assessment Method (BAM).

Surveys of the development footprint, following the application of avoidance and mitigation measures of the development footprint, identified BCAR biodiversity credits are required for:

- the Dwarf Apple Scribbly Gum (76 ecosystem credits);
- Scribbly Gum – Red Bloodwood (277 ecosystem credits);
- Heath-leaved Banksia (41 ecosystem credits);
- pygmy possum (471 species credits);
- large-eared pied bat (554 species credits);

- giant burrowing frog (201 species credits);
- spreading guinea flower (471 species credits);
- southern myotis (47 species credits);
- squirrel glider (356 species credits); and
- red-crowned toadlet (187 species credits).

The BCAR acknowledges that the site is significantly larger than the development footprint. Based on a high-level habitat suitability assessment, including a review of previously recorded threatened species, and in conjunction with previous ecological studies, the remainder of the site will likely generate the required credits to offset the impacts of the proposal if it was to be established as a Biodiversity Stewardship site.

The BCAR concludes that fulfilling offset requirements under the Biodiversity Conservation Act 2016 can be undertaken using one or a combination of the following offset strategies:

- in-perpetuity conservation through the establishment of a Stewardship site achieved and the retirement of credits;
- securing required credits through the open credit market; and/or
- payments to the Biodiversity Conservation Fund.

The planning proposal is consistent with this Direction.

2.3 Heritage Conservation – the site does not contain any items of heritage significance listed in the GLEP 2014.

The Draft Aboriginal Cultural Heritage Assessment Report (ACHAR) (**Attachment E**) supporting the Planning Proposal is incomplete. The draft report has identified two sites of indigenous heritage significance on the site. The proposed E3 boundary has a minimum setback of 20m from the items identified on the site.

Determination of consistency with this 9.1 Direction can occur once the heritage studies are complete. A Gateway condition is proposed to complete the final ACHAR prior to public exhibition.

2.6 Remediation of Contaminated Land – the planning proposal contains a Preliminary Contamination Assessment, which found that the site has building materials relating to a former scout camp and illegally dumped waste materials concentrated in the north-western corner of the site.

The Preliminary Contamination Assessment concluded no further assessment in the areas proposed for residential land use is recommended. It is considered that the contamination is minor, and the land is suitable in its contaminated state to have the planning proposal proceed.

The planning proposal is consistent with this Direction.

4.4 Planning for Bushfire Protection – this Direction aims to protect life, property and the environment from bushfire hazards by discouraging the establishment of incompatible land uses in bushfire prone areas. The site is heavily constrained by Category 1 bushfire prone land, which represents the highest combustibility and likelihood of forming a fully developed fire (Figure 9).

Umwelt prepared a Bushfire Briefing Note (**Attachment F**), which concluded that provided the proposed development, APZ areas, access and water supply facilities within the subject site are constructed and maintained, the proposed development could satisfy the requirements of *Planning for Bushfire Protection 2019*. These requirements are yet to be updated for this Ministerial Direction, where reference is still made that the planning proposal must have regard to *Planning for Bushfire Protection 2006*.

The proposal affects land mapped as bushfire prone and consultation with RFS needs to occur before consistency with this Direction can be determined.

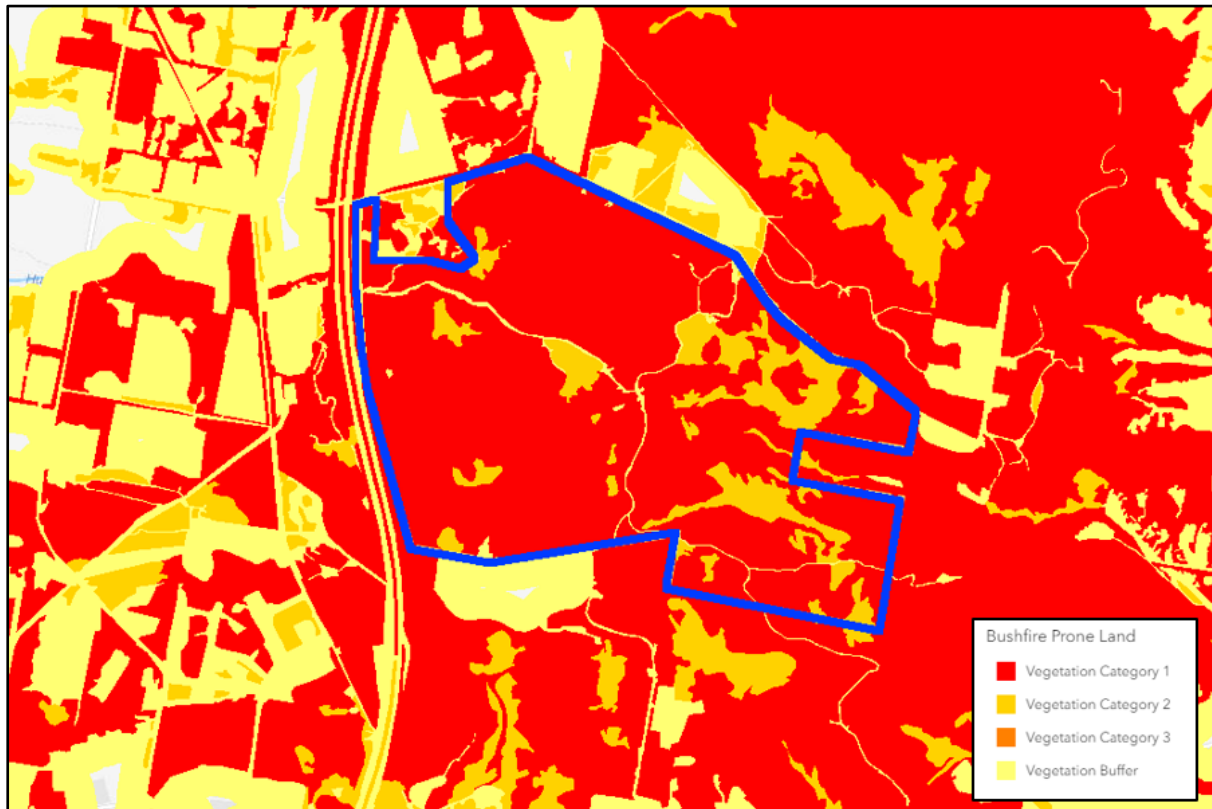


Figure 9: Bushfire Prone Land Map.

5.10 Implementation of Regional Plans – the objective of this Direction is to give effect to relevant directions and actions in the Central Coast Regional Plan 2036. The proposal is consistent with the Regional Plan as discussed in section 4.2 above.

5.11 Development of Aboriginal Land Council land – the objective of this Direction is to provide for the consideration of development delivery plans prepared under SEPP Aboriginal Land 2019. The proposal is identified and consistent with the Interim Darkinjung Development Delivery Plan (IDDDP) which was made by the then Minister for Planning in February 2019. The IDDDP requires that a planning proposal is prepared for the Somersby rural residential proposal.

The planning proposal is consistent with this Direction.

6.3 Site Specific Provisions – the objective of this Direction is to discourage unnecessarily restrictive site specific planning controls. Important ecology is located on the proposed E3 land, including Scribbly Gums and Coastal Upland Swamp.

The site specific LEP provisions will allow flexible subdivision of the E3 land and limit development in the rear portion of each lot to further conserve important ecology and provide a buffer to the E2 land.

The planning controls will limit development in the rear portion of each lot to allow the erection of one ancillary outbuilding only on each lot, and only where it can be demonstrated that important ecological communities are protected.

The planning proposal is generally consistent with this Direction. A condition is included in the Gateway for consultation with Council to resolve the details and wording of the proposed local provisions.

The planning proposal is consistent with all other Directions or they do not apply.

4.5 State environmental planning policies (SEPPs)

SEPP (Aboriginal Land) 2019

The site is identified under SEPP Aboriginal Land 2019 (ALSEPP). Under the ALSEPP any applicable development delivery plan must be considered during the preparation of a planning proposal. While not a Development Delivery Plan for the purposes of the ALSEPP, the proposal is consistent with the IDDDP and is mapped in the ALSEPP.

SEPP 44 Koala Habitat Protection

Surveying results from the BCAR found no evidence of koala habitat within the development footprint.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The proposal will contribute positively towards the fulfilment of the Darkinjung 2016-2019 Community Land and Business Plan. This Plan outlines an aim of pursuing innovative economic opportunities in connection with Darkinjung land in order to:

- strengthen Aboriginal Culture and Heritage;
- manage, preserve and protect the land and environment;
- generate social returns on investments for the Darkinjung community; and
- promote the Central Coast Aboriginal community.

5.2 Environmental

The proposal provides a positive environmental outcome by preserving heavily vegetated land through rezoning from a rural land use zone to environmental conservation. The proposal also secures part of the proposed Biodiversity Corridor in the eastern part of the site.

Important ecology located on the proposed E3 land includes Scribbly Gums and Coastal Upland Swamp. Local provisions are proposed to apply to the land zoned E3. The objectives of the local provisions are to ensure that subdivision size and design conserves and protects the environmental, conservation and biodiversity values while allowing flexibility in the minimum size and arrangement of lots to facilitate improved environmental outcomes. By allowing flexibility in the subdivision of the E3 land, it ensures that future lots can accommodate on-site wastewater disposal and APZs while protecting significant trees. The proposed LEP clause

intends to make provisions for the retention of a vegetated buffer at the rear of any future rural residential lot within the E3 zone.

The Bushfire Briefing Note concluded that the proposal can satisfy the aims, objectives and performance requirements of the *Planning for Bushfire Protection 2019* document. Further consultation is required with the NSW Rural Fire Service before finalisation of the planning controls can be completed.

The Biodiversity Briefing Note (**Attachment G**) acknowledges the proposed development footprint will impact on threatened species habitat and endangered ecological communities, but enough offset opportunities are available through a variety of mechanisms to meet the biodiversity credit requirements in accordance with the Biodiversity Offsets Scheme.

Important connectivity and movement habitat are unlikely to be substantially impacted by the development footprint, with 83% of the site to be conserved through the E2 zone.

The Draft Aboriginal Cultural Heritage Assessment Report (ACHAR) is incomplete. Further information is required to identify all items of heritage significance on the site before assessment of suitable setbacks from identified items can occur.

The site has the potential to be impacted by noise from the M1 Pacific Motorway, the RSPCA facility, the motorcycle track and the possible construction of a driver training facility. A detailed noise assessment is proposed at subdivision DA stage.

5.3 Economic

Darkinjung will benefit financially from any future development and/or disposal process for the land. This will assist in providing services for members and the regional Aboriginal community more broadly. The proposal outcomes will enhance the economic and social welfare for Darkinjung.

5.4 Infrastructure

A Preliminary Stormwater and Servicing Report (**Attachment H**) advises Reeves Street currently has capacity and access to electrical and communications infrastructure.

The site does not have access to gas, potable water or sewer mains infrastructure.

A preliminary onsite wastewater disposal assessment has been undertaken, where it was found that the existing site limitations can be overcome. The site is suitable for the onsite application of treated domestic wastewater.

Stormwater management of the future individual lots is proposed onsite, where the Report concluded that development of the lots is not expected to have a significant impact on the downstream flow regime and onsite detention measures are deemed unnecessary.

The Report recommended that the site has capacity to accommodate the proposed rezoning, with further investigations only required to support the detailed design of the subdivision application.

6. CONSULTATION

6.1 Community

It is proposed that the Hunter & Central Coast Regional Planning Panel, as the planning proposal authority, exhibit the planning proposal for 28 days.

This is considered adequate.

6.2 Agencies

Darkinjung has an ongoing process of consultation with representatives from Central Coast Council and the Department of Planning, Industry and Environment. Further consultation is required with the following Government agencies:

- NSW Rural Fire Service (bushfire);
- NSW Environment, Energy & Science (biodiversity and Aboriginal heritage); and
- Central Coast Council (local planning provisions); and
- Division of Resources and Geoscience (permissibility of extractive industry); and

The Gateway determination has been conditioned accordingly.

7. TIME FRAME

Darkinjung has proposed a timeframe of 5-8 months for completing the LEP. It is recommended the planning proposal be given a 12-month timeframe to allow for the compliance with gateway conditions, and given the importance of this project to the Darkinjung and the associated program of Aboriginal land planning reform.

8. LOCAL PLAN-MAKING AUTHORITY

It is recommended that the Hunter and Central Coast Regional Planning Panel is the planning proposal authority.

9. CONCLUSION

It is considered that the planning proposal should proceed subject to the following conditions below because:

- the site is listed in the Interim Darkinjung Development Delivery Plan;
- the proposal provides for positive environmental outcomes by preserving the majority of the site as environmental conservation;
- the proposal will formalise and protect important biodiversity corridor linkages;
- the proposal enables appropriate development outcomes and will generate social and economic benefits for Darkinjung; and
- the proposal has strategic merit and aligns with the Central Coast Regional Plan 2036, specifically Direction 6 to strengthen the economic self-determination of Aboriginal communities.

10. RECOMMENDATION

It is recommended that the delegate of the Minister issue a Gateway determination with the following conditions:

1. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:

- NSW Rural Fire Service (bushfire);
- NSW Environment, Energy & Science (biodiversity and Aboriginal heritage);
- Central Coast Council (local provisions);
- Division of Resources and Geoscience (permissibility of extractive industry).

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

2. Prior to community consultation the planning proposal is to be amended with the following information:

- a finalised Aboriginal Cultural Heritage Report which considers heritage items within close proximity to the site as well as on the subject land;
- having regard to consultation and comments received from public authorities as specified in condition 1;

3. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:

- (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
- (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

5. Prior to submission of the planning proposal under section 3.36 of the *Environmental Planning and Assessment Act, 1979*, the final LEP maps must be

prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2017.

6. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.



20.5.20

Wayne Garnsey
Team Leader, Western



21.5.20

Damien Pfeiffer
Director Regions, Western
Local and Regional Planning

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Attachments

Attachment	Title
A	Planning proposal
B	Preliminary Contamination Assessment
C	Constraints Mapping and Structure Plan
D	BCAR
E	Draft Cultural Heritage Report
F	Bushfire Briefing Note
G	Biodiversity Briefing Note
H	Preliminary Stormwater and Servicing Report