

Local Aboriginal Land Council

DARKINJUNG

PLANNING PROPOSAL

LOTS 1-3 DP 1156997

380 MOTORWAY LINK ROAD, WALLARAH

October 2020

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Background & Locality Context

The site includes Lots 1-3 DP 1156997, 380 Motorway Link Road Wallarah and comprises an area of approximately 87 hectares.

The site is located to the south-west of the Motorway Link Road, north-west of the Central Coast & Newcastle rail line, and approximately three kilometres west of Blue Haven. The site adjoins Crown Land and other land owned or claimed by Darkinjung Local Aboriginal Land Council (Darkinjung).

The site slopes to the south and has gentle undulating topography and drains into Wallarah Creek.

The site is accessed from the Motorway Link Road. Activities on land on the opposite side of the Motorway Link Road to the north are operated to manufacture bricks and tiles by Boral Montoro. The Charmhaven Sewerage Treatment Plant is located to the south east.

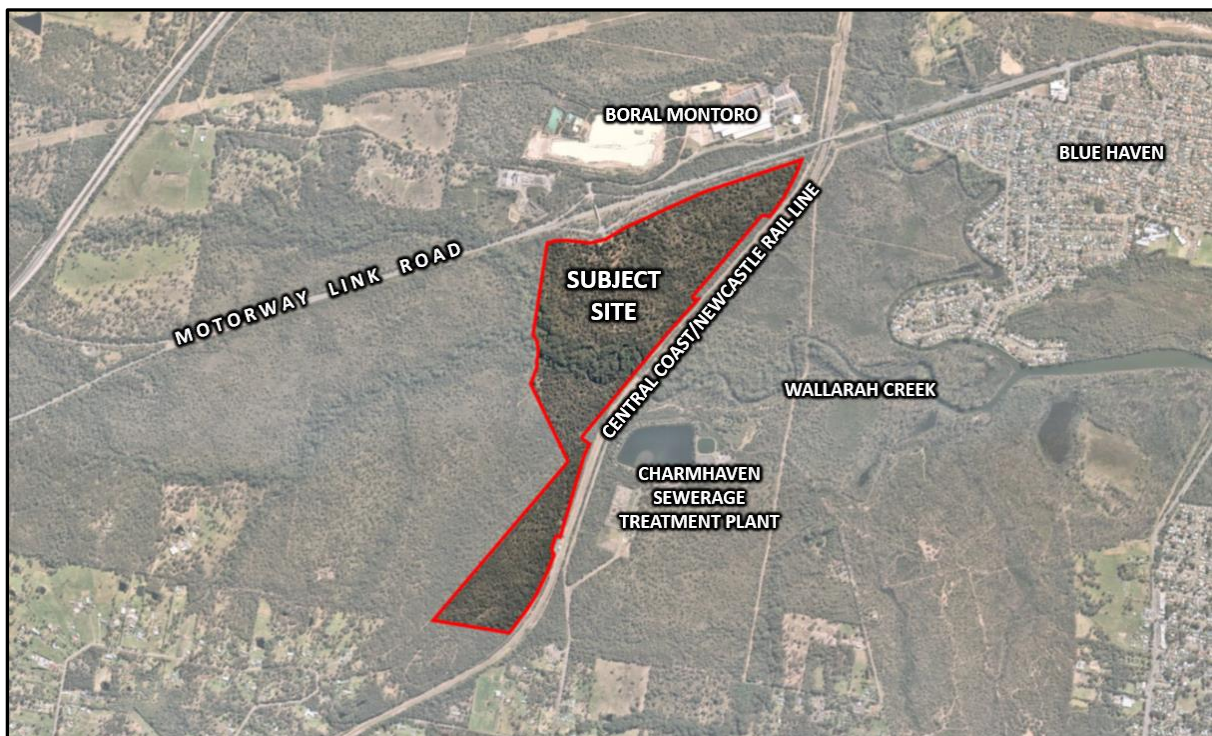


Figure 1: Contextual Locality Plan.

Appointment of Alternate Planning Proposal Authority

On 24 August 2020, Central Coast Council (Council) resolved not to retain the role of the Planning Proposal Authority (PPA) for the planning proposal.

Under section 3.32(d) of the *Environmental Planning and Assessment Act 1979*, the Secretary of the Department of Planning, Industry and Environment (Department) considered Council to not have carried out its obligations in a satisfactory manner as it does not seek to retain the role of PPA in relation to this planning proposal. As a result of Council's resolution, the Secretary was self-appointed as the PPA.

On 2 October 2020, documentation and transfer of information from Council was received by the Department. The planning proposal has been updated to reflect the appointment of an alternate PPA.

Part 1 – Objectives of the Planning Proposal

The *State Environmental Planning Policy (Aboriginal Land) 2019* provides for the preparation and publication of development delivery plans (or interim development delivery plans) that apply to certain land owned by Local Aboriginal Land Councils.

The *Interim Darkinjung Development Delivery Plan* (IDDDP) is a strategic document that identifies the first stage of the Darkinjung development pipeline. The IDDDP is intended the consideration of the IDDDP will support economic and social opportunities for Darkinjung and its community.

The site is identified as one of four sites included in the IDDDP. The planning proposal has broader economic benefits and social and environmental outcomes for Darkinjung and is strategically located near the M1 Pacific Motorway interchanges to support freight and logistics connections and broader economic outcomes identified in the *Central Coast Regional Plan 2036*.

The objective of the planning proposal is to rezone areas of the subject site (Lots 1-3 DP 1156997, 380 Motorway Link Road Wallarah) identified as having capacity for future development potential from RU6 Transition to IN1 General Industrial and E2 Environmental Conservation.

The intended outcome of the planning proposal is to enable future industrial development on part of the subject site and protection of environmentally significant areas.

Part 2 – Explanation of the Provisions

The outcome will be facilitated by an amendment to the *Wyong Local Environmental Plan 2013* or Central Coast LEP, which ever instrument is in effect at the time in which the planning proposal is gazetted.

The northern most portion of the site is proposed for industrial land uses (approximately 42 hectares), while the remainder of the site will be retained for environmental conservation purposes. Minimum lot size requirements are being addressed through controls within the development control plan relevant to the site.

The proposed amendment to the local environmental plan involves the following:

- amending the Land Zoning Map to apply an IN1 General Industrial and E2 Environmental Conservation zoning to the subject land;
- amending the Lot Size Map to remove minimum lot size requirements for those areas zoned IN1 General Industrial and apply a minimum lot size of 40 hectares to the subject land where the E2 Environmental Conservation zone applies; and
- identifying the entire site as an urban release area subject to the requirements of Part 6 of *Wyong Local Environmental Plan 2013*.

The following table identifies the proposed amendments:

Table 1: Explanation of Map and Instrument Amendments.

EXISTING PROVISION	PROPOSED AMENDMENT
Land Zoning Map: <ul style="list-style-type: none">• LZN_012• LZN_013	<ul style="list-style-type: none">• Rezone parts of Lot 1-3 from RU6 Transition to E2 Environmental Conservation and IN1 General Industrial.

Lot Size Map: <ul style="list-style-type: none"> • LSZ_012 • LSZ_013 	<ul style="list-style-type: none"> • Remove minimum lot size requirements (40ha that apply to RU6 zoned land) from those areas of the site to be zoned IN1 General Industrial. • Retain a minimum lot size of 40 hectares for those areas of the site which are to be zoned E2 Environmental Conservation.
Urban Release Area Map: <ul style="list-style-type: none"> • New Map being URA_012 • New Map being URA_013 	<ul style="list-style-type: none"> • Identify the entire site as an urban release area, subject to the provision of Part 6 of <i>Wyong Local Environmental Plan 2013</i>.

Umwelt on behalf of Darkinjung prepared an assessment of the Wallarah biodiversity corridor that found the existing fragmentation and mixed land use within and around the east-west corridor demonstrate that areas within the corridor currently do not appear to adhere to any minimum width requirements to facilitate its current functionality for local fauna species.

The zone boundary has been amended following consultation with the Council, the Department and the Biodiversity and Conservation Division. The revised zone boundary includes:

- an increase in the setback of the southern industrial boundary from the Wallarah Creek line, increasing the area to be rezoned E2;
- removal of impacts to two identified Plant Community Types; and
- a 10 metre buffer around a third Plant Community Type to be rezoned E2.

The planning proposal generally avoids the reduction of the size of the corridor overall and retains the riparian corridor of Wallarah Creek to allow corridor functionality in an east-west direction. This is considered an appropriate balance between conservation outcomes and facilitating development in the locality given the existing mixed land use and the assessment of habitat requirements for the species considered likely to occur on site.

Map – Existing Zoning

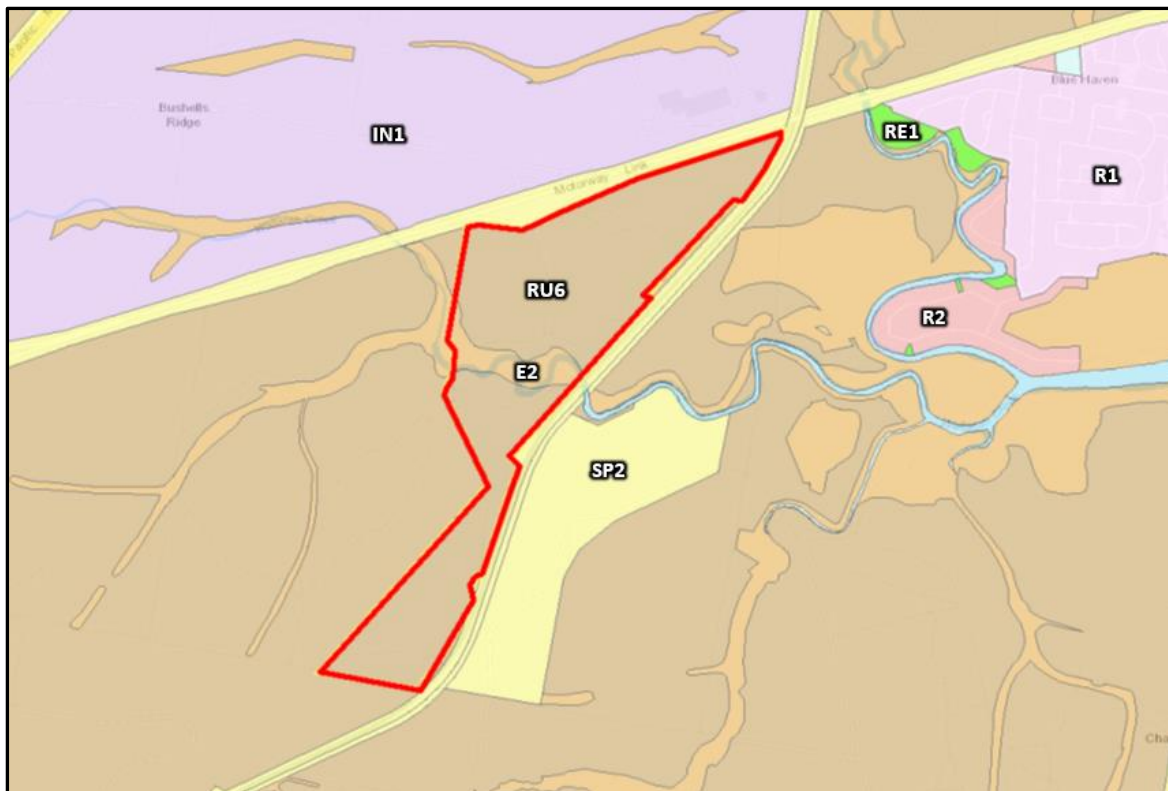


Figure 2: Existing Land Use Zoning showing subject site.

Map – Existing Lot Size

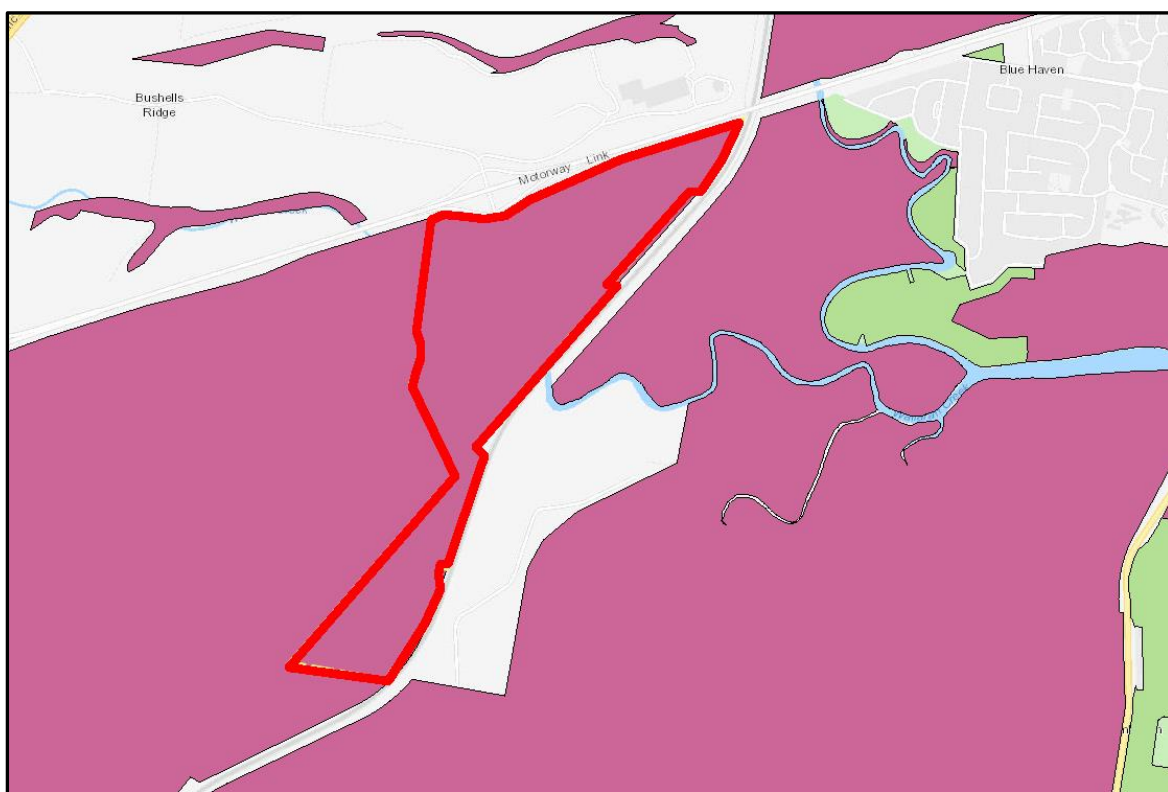


Figure 3: Existing Minimum Lot Size showing 40ha applying to subject site.

Map – Proposed Zoning

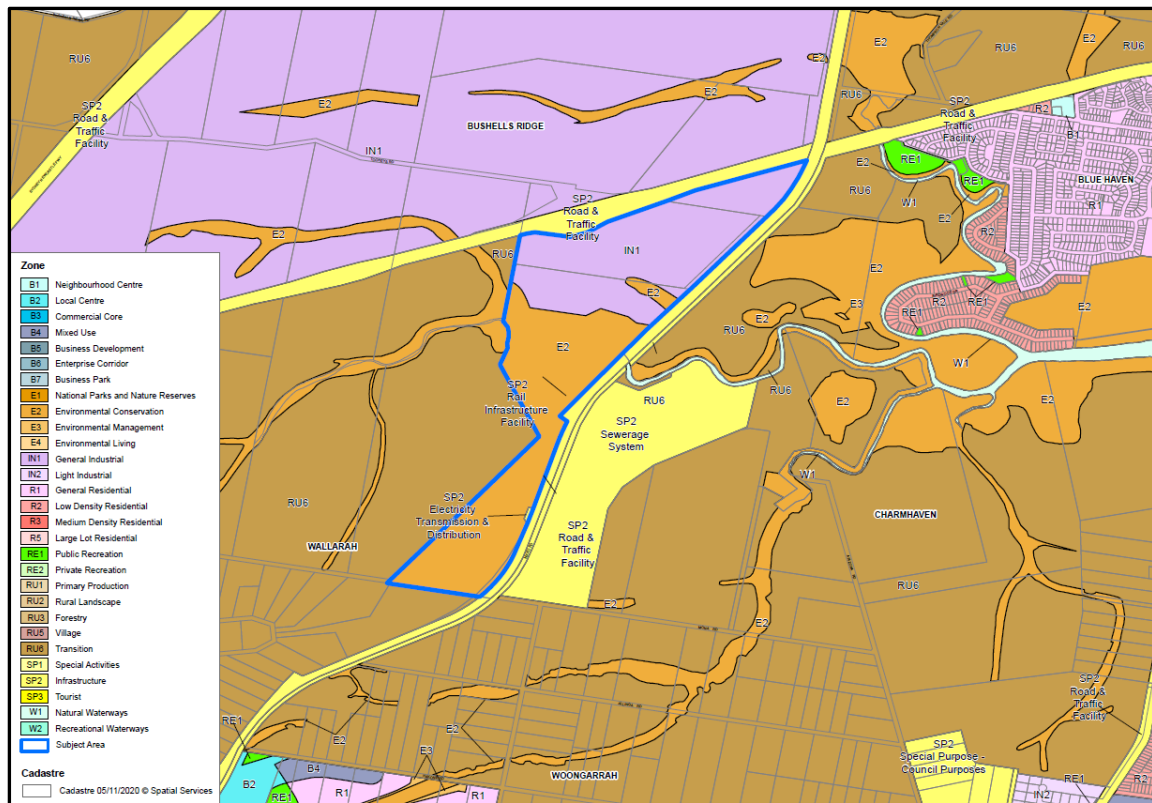


Figure 4: Proposed Land Use Zoning for subject site.

Map – Proposed Lot Size

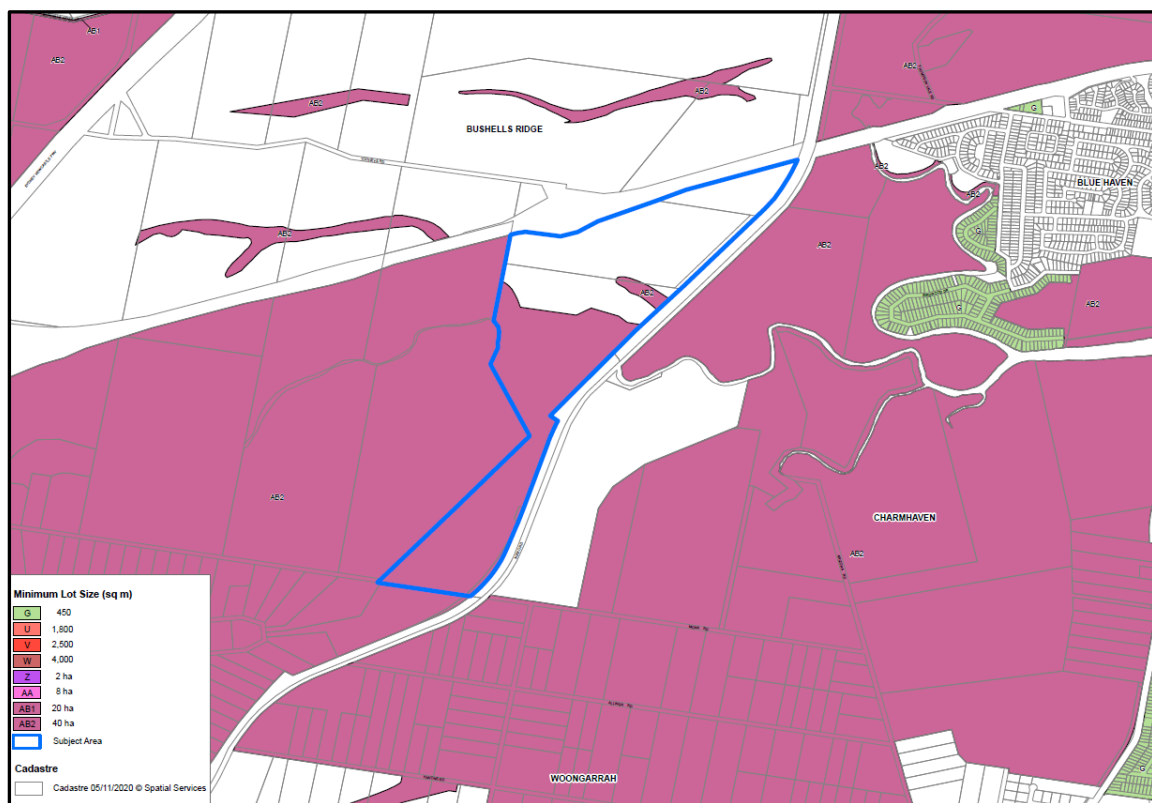


Figure 5: Proposed Minimum Lot Size for the subject site, showing 40ha applying to E2 zone.

Map – Urban Release Area Map

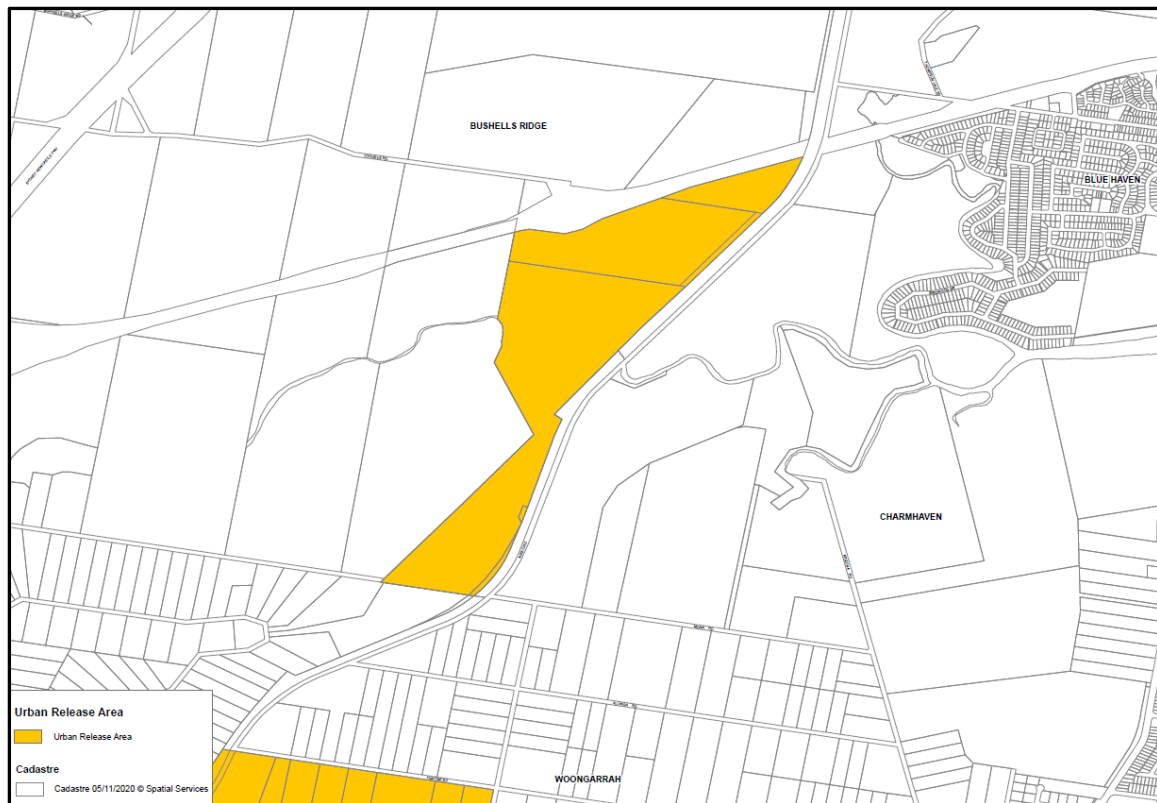


Figure 6: Proposed Urban Release Area Map identifying subject site.

Part 3 – Justification for the Provisions

Section A: Need for the planning proposal

In accordance with the Department of Planning, Industry and Environment's Guide to Preparing Planning Proposals, this section provides a response to the relevant matters.

1. Resulting from a strategic study or report

Direction 6 of the *Central Coast Regional Plan 2036* seeks to strengthen the economic self-determination of Aboriginal communities. The planning proposal will facilitate the development of industrial uses, while protecting the remainder of the site for conservation, delivering an economic benefit to Darkinjung.

The *State Environmental Planning Policy (Aboriginal Land) 2019* enables the making of development delivery plans for land owned by Local Aboriginal Land Councils and maps landholdings that the SEPP applies to. The IDDDP (**Attachment B**) was released in conjunction with the Aboriginal Land SEPP in 2019 to identify an initial stage pipeline of development for Darkinjung comprising of four sites.

The planning proposal relates to one of the four strategic development sites identified in the IDDDP. The IDDDP identifies the broader economic benefits and the social and environmental outcomes that development of the site can deliver for Darkinjung.

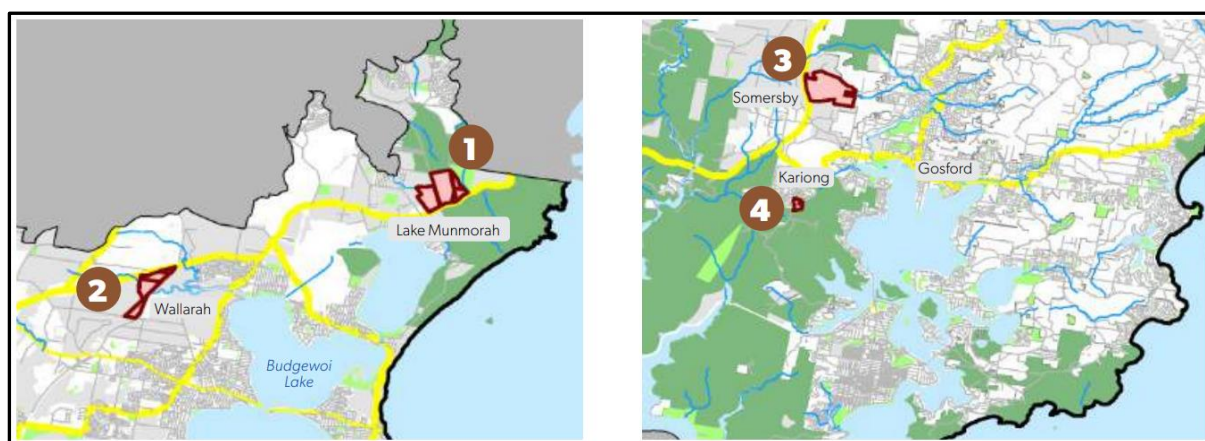


Figure 7: Mapping from IDDDP identifying Wallarah (2) as a future proposal site.

2. Planning proposal as best way to achieve objectives

The proposed industrial development cannot be achieved with the current zoning. A planning proposal to rezone the site is the mechanism by which the intended development can be achieved. The high environmental conservation values of the site need to be recognised and will be conserved through a conservation zone on the southern portion of the site.

Section B: Relationship to strategic planning framework

3. Consistency with applicable regional, sub regional or district plans or strategies

Central Coast Regional Plan 2036

The *Central Coast Regional Plan 2036* provides for the overarching framework for providing for and managing the predicted growth of the Central Coast over the next 20 years.

A full assessment of the planning proposal against the actions of the Regional Plan is contained within the supporting documentation. In summary, two goals and their supporting directions and actions are particularly relevant to the planning proposal:

1. A prosperous Central Coast with more jobs close to home; and
2. Protect the natural environment and manage the use of agricultural and resource lands.

The rezoning of the subject site is considered consistent with these goals on the basis of the following:

- the rezoning will facilitate the provision of local employment opportunities and promote self-containment on the Central Coast. Further, the direct access capability of the site to the major transportation routes of the M1 Pacific Motorway, Pacific Highway and Central Coast & Newcastle rail corridor, has potential to provide for improved regional connections for the movement of goods and services;
- the planning proposal will assist in strengthening the economic self-determination of Aboriginal communities; and
- the rezoning provides for the protection of areas of environmentally significant vegetation.

By delivering on the IDDDP, planning proposal is also part of implementing Action 6.1 in the *Central Coast Regional Plan 2036*. This action sets out the Government will collaborate with Council and the Darkinjung to strategically assess the Land Council's landholdings and identify priority sites to create a pipeline of projects.

North Wyong Shire Structure Plan 2012

The *North Wyong Shire Structure Plan 2012* (NWSSP) identifies land to be strategically located in relation to existing and proposed infrastructure (e.g. major roads, water and sewer) and will also contribute to the formation of a green corridor.

The site is identified in the Structure Plan as being in an area that is strategically located, constrained sites subject to further investigation and offset strategies to define conservation requirements and development potential.

Council undertook preliminary studies for the Central Coast regarding the future supply of employment lands. This analysis indicated there is a need for the short term delivery of suitably zoned, serviced and unconstrained employment lands. It is considered the planning proposal would aid in the delivery of increased employment land supplies and is situated in proximity to state significant road networks and has the ability to deliver larger lot sizes which are undersupplied.

The planning proposal will create an industrial precinct that utilises the existing Tooheys Road interchange taking advantage of existing infrastructure. The subject site will be included in the urban

release area map, therefore must satisfy any infrastructure requirements locally and of the NSW Government prior to consent being granted for any future development.

4. Consistency with Council's community strategic plan, or other local strategic plan

Community Strategic Plan

The proposal is consistent with the following relevant objectives in the Central Coast Community Strategic Plan 2018-2028 ("One Central Coast"):

- **B1** Support reconciliation through the celebration of Aboriginal and Torres Strait Islander cultures.
- **C1** Target economic development in growth areas and major centres and provide incentives to attract businesses to the Central Coast.
- **C3** Facilitate economic development to increase local employment opportunities and provide a range of jobs for all residents.
- **E2** Improve water quality for beaches, lakes and waterways including minimising pollutants and preventing litter entering our waterways.
- **E4** Incorporate renewable energy and energy efficiency in future design and planning and ensure responsible use of water and other resources.
- **F1** Protect our rich environmental heritage by conserving beaches, waterways, bushland, wildlife corridors and inland areas and the diversity of local native species.
- **F2** Promote greening and ensure the wellbeing of communities through the protection of local bushland, urban trees, tree canopies and expansion of the Coastal Open Space System (COSS).
- **G2** Communicate openly and honestly with the community to build a relationship based on transparency, understanding, trust and respect.
- **G3** Engage with the community in meaningful dialogue and demonstrate how community participation is being used to inform decisions.
- **H3** Create parking options and solutions that address the needs of residents, visitors and businesses whilst keeping in mind near future technologies including fully autonomous vehicles.
- **H4** Plan for adequate and sustainable infrastructure to meet future demand for transport, energy, telecommunications and a secure supply of drinking water.
- **I2** Ensure all new developments are well planned with good access to public transport, green space and community facilities and support active transport.
- **I3** Ensure land use planning and development is sustainable and environmentally sound and considers the importance of local habitat, green corridors, energy efficiency and stormwater management.
- **J4** Design long-term, innovative and sustainable transport management options for population growth and expansion.
- **K1** Create a regional network of interconnected shared pathways and cycle ways to maximise access to key destinations and facilities.
- **K2** Design and deliver pathways, walking trails and other pedestrian movement infrastructure to maximise access, inclusion and mobility to meet the needs of all community members.

Local Strategic Planning Statement

The Central Coast Local Strategic Planning Statement (LSPS) provides a land use vision that will guide the future growth and development across the region to 2036 and beyond.

The planning proposal is consistent with planning for sustainable growth in the Central Coast, through strengthening the economic self-determination of Aboriginal communities and encouraging Aboriginal people to gain economic benefit from their land to support broader regional development, biodiversity and social outcomes.

Wyong Shire Settlement Strategy 2013

Council previously found the planning proposal to be generally consistent with the considerations of the *Wyong Shire Settlement Strategy 2013*, which was conditionally endorsed by the Department

The Department agrees with Council's view of the planning proposal being consistent with the *Wyong Shire Settlement Strategy 2013* as the planning proposal will support and encourage opportunities for employment generating industries, as outlined in the Planning for Economy and Employment section of the *Wyong Shire Settlement Strategy 2013*.

5. Consistency with applicable State Environmental Planning Policies

An assessment has been undertaken to determine the level of consistency the proposal has with relevant State Environmental Planning Policies (SEPPs). The planning proposal is considered to be consistent with all relevant SEPPs as outlined in the table below.

Table 2: Assessment against relevant SEPPs.

SEPPs	Relevance	Implications
SEPP Koala Habitat Protection 2019	Aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.	Koalas were not identified within the subject site. The conservation of the southern portion of the site through an E2 Environmental Conservation zoning will protect vegetation within this area that may be utilised by koalas in the future.
SEPP 55 – Remediation of Land	Aims to establish planning controls and provisions for the remediation of contaminated land. On 17 April 2020 the SEPP was amended to omit Clause 6 Contamination and remediation to be considered in zoning or rezoning. The SEPP is no longer applicable, however an assessment against this clause has been undertaken.	A preliminary site investigation was undertaken on the site (Attachment E). It was determined due to a past history of illegal dumping on the site that contamination poses a low-medium risk. It is considered the level of investigation is adequate for the rezoning. Further investigation will be required at development application stage.
SEPP (Coastal Management) 2018	Aims to promote an integrated and coordinated approach to land	The subject site is located within the Coastal Zone.

	use planning in the coastal zone, in a manner consistent with objects of the <i>Coastal Management Act 2016</i> .	It is considered that the subject proposal achieves the management objectives and protects the environmental assets by way of the E2 Environmental Conservation zone.
SEPP (Mining, Petroleum & Extractive Industries) 2007	Aims to provide for the proper management and development of mineral, petroleum and extractive material resources.	<p>Under clause 7 of the <i>State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007</i> mining development may be carried out only with development consent on land where development for the purposes of agricultural or industry may be carried out.</p> <p>The proposed IN1 General Industrial zone will enable this to occur only with development consent.</p> <p>Geological Survey of NSW, Division of Resources and Geoscience does not object to the planning proposal.</p>
SEPP (Aboriginal Land) 2019	Aims to provide for development delivery plans for areas of land owned by Local Aboriginal Land Councils to be considered when development applications are considered and to declare specified development carried out on the land owned by Local Aboriginal Land Councils to be regionally significant development.	The subject site is included in the Land Application Map of the SEPP and therefore an applicable development delivery plan will be considered.

6. Consistency with applicable section 9.1 Ministerial directions

The proposal has been assessed against relevant section 9.1 Ministerial directions. The assessment is provided below.

Table 3: Assessment Against Ministerial Directions.

Ministerial Direction	Relevance	Implication
1.1 Business & Industrial Zones	Aims to encourage employment growth in suitable locations, protect employment land in business and industrial zones and	The planning proposal is consistent with the direction. The planning proposal gives effect to the objectives of the direction and

	to support the viability of identified centres.	<p>is in accordance with a strategy approved by the Secretary of the Department.</p> <p>The subject site has been identified in the <i>North Wyong Shire Structure Plan 2013</i> as 'strategically located and constrained land located in relation to existing and proposed infrastructure'.</p> <p>The planning proposal aims to rezone the northern section of the site for industrial uses and the southern portion for environmental conservation purposes. The delivery of employment lands in proximity to existing major roads is good utilisation of core infrastructure.</p>
1.2 Rural Zones	Aims to protect the agricultural production value of rural land.	<p>It has been agreed by the Secretary's delegate as part of Gateway determination the inconsistency with this direction is of minor significance.</p> <p>The RU6 Transition zone is classified as a rural zone in accordance with the direction.</p>
1.3 Mining, Petroleum Production and Extractive Industries	Aims to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	<p>The majority of the subject site is currently zoned RU6 Transition, which has been applied as an interim holding zone until such time that further planning investigations are undertaken.</p> <p>Under clause 7 of the <i>State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007</i> mining development may be carried out only with development consent on land where development for the purposes of agricultural or industry may be carried out.</p> <p>The proposed IN1 General Industrial zone will enable this to</p>

		<p>occur only with development consent.</p> <p>The proposed rezoning identifies and protects environmental values of Wallarah Creek and maintains a development setback to avoid and minimise the impact on the biodiversity corridor running in an east-west direction.</p> <p>Geological Survey of NSW, Division of Resources and Geoscience does not object to the planning proposal.</p>
1.5 Rural Lands	<p>Aims to protect the agricultural production value of rural land; and facilitate the orderly and economic development of rural lands for rural and related purposes.</p>	<p>The planning proposal is consistent with the requirements of the direction.</p> <p>The site has not previously been used for rural uses, where it contains constraints that are an impediment to utilising the area for agricultural production.</p> <p>The planning proposal aligns with the <i>Central Coast Regional Plan 2036</i> by providing jobs closer to homes, as well as protecting the natural environment through a proposed conservation zone.</p> <p>The proposed rezoning identifies and protects environmental values of Wallarah Creek and maintains a development setback to avoid and minimise the impact on the biodiversity corridor running in an east-west direction.</p> <p>Council conducted further investigative studies to determine that the site would not sustain agricultural activities and would be better suited as industrial and conservation zoned lands.</p>
2.1 Environmental Protection Zones	<p>Aims to protect and conserve environmentally sensitive areas.</p>	<p>The planning proposal is consistent with the requirements of the direction.</p>

		<p>A Biodiversity Certification Assessment Report (Attachment C) has been prepared.</p> <p>The planning proposal seeks to avoid and minimise the potential impacts on ecological values through site selection and project design.</p> <p>The proposed zones are supported by the Biodiversity and Conservation Division.</p>
2.2 Coastal Management	Aims to protect and manage coastal areas of NSW.	<p>The site does not fall within a Coastal Vulnerability Area and has not been identified as a current or future coastal hazard in <i>Wyang LEP/DCP 2013</i>.</p> <p>Part of the site is within a Coastal Environmental Area, particularly surrounding the Wallarah Creek line dissecting the site. This area of the site falls within the proposed E2 Environmental Conservation zone.</p> <p>It is considered these measures ensure consistency with this direction.</p>
2.3 Heritage Conservation	Aims to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	<p>Darkinjung prepared an initial Aboriginal Due Diligence Assessment of the site, including a review of relevant environmental and archaeological contextual information and a targeted inspection of part of the Darkinjung land holdings.</p> <p>The Aboriginal Due Diligence Assessment identified varying levels of archaeological sensitivity in the assessment area, primarily linked to the nature of landforms and the extent of disturbance.</p> <p>Key recommendations included the requirement to undertake further assessment and</p>

		<p>consultation in the form of an ACHA. Darkinjung prepared an ACHA, identifying two culturally sensitive sites in the southern portion of the site. This area is proposed to be zoned E2 Environmental Conservation.</p> <p>The planning proposal is consistent with the direction.</p>
3.4 Integrating Land Use & Transport	Aims to locate development in the most appropriate location to encourage sustainable transport.	<p>The planning proposal is consistent with the direction.</p> <p>The planning proposal can connect to public transport networks and benefits from proximity to the M1 Motorway.</p>
4.1 Acid Sulfate Soils	Aims to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	<p>The planning proposal is consistent with the direction.</p> <p>A preliminary site investigation (Attachment E) has been undertaken in relation to the probability of acid sulfate soils occurring in the area identified for industrial rezoning.</p> <p>It has been determined that acid sulfate soils do not pose a risk within the identified industrial footprint.</p>
4.3 Flood Prone Land	Aims to ensure that development of flood prone land is consistent with the NSW Government Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	<p>The planning proposal is consistent with the direction.</p> <p>A Stormwater Management Strategy (Attachment F) has been undertaken to inform the planning proposal. All areas proposed to be zoned IN1 General Industrial will be able to be developed in accordance with minimum freeboard requirements and achieve safe access and egress in flood events.</p>
4.4 Planning for Bushfire Protection	Aims to encourage the sound management of bush fire prone areas and to ensure a planning	The planning proposal is consistent with the direction.

	proposal addresses Planning for Bushfire Protection 2019.	<p>The subject site is mapped as being bushfire prone land. A Bushfire Protection Assessment (Attachment D) has determined the bushfire affectation would not prohibit the industrial development.</p> <p>Darkinjung prepared a concept plan showing an indicative bushfire perimeter road on 8 December 2020.</p> <p>NSW Rural Fire Service considered all remaining issues can be resolved through the development application process.</p>
5.10 Implementation of Regional Plans	The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.	<p>The planning proposal is consistent with the direction.</p> <p>The proposal is consistent with the <i>Central Coast Regional Plan 2036</i> and aims to achieve the economic self-determination of Darkinjung.</p>
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 the State Environmental Planning Policy (Aboriginal Land) 2019 when planning proposals are prepared by a planning proposal authority.	The planning proposal is consistent with this direction as the planning proposal considers the IDDDP.
6.1 Approval and Referral Requirements	Ensure that LEP provisions encourage the efficient and appropriate assessment of development.	<p>The planning proposal is consistent with the direction.</p> <p>No additional local provisions are proposed.</p>
6.2 Reserving Land for Public Purposes	The objective of this direction is to facilitate the provision of public services by reserving land for public purposes or remove reservations of land where the land is no longer required for acquisition.	<p>The planning proposal is consistent with the direction.</p> <p>No additional local provisions are proposed.</p>

Section C: Environmental, Social and Economic Impact

7. Likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal

The proposed industrial zone footprint covers an area of approximately 42 hectares and is surrounded by an assortment of intact native vegetation, rural landholdings and the Pacific Motorway to the west.

The proponent has chosen to undertake a Biodiversity Certification Assessment Report (BCAR) for the subject site. The submitted BCAR (**Attachment C**) states the planning proposal will result in clearing of vegetation that contains threatened species and threatened species habitat. Two Plant Community Types (PCTs) and five species-credit species are considered to require offsetting in accordance with the Biodiversity Assessment Method (BAM). This is summarised below.

Table 4: Threatened species and habitat observations.

PCT/THREATENED SPECIES	TOTAL AREA (ha)	CREDITS REQUIRED
PCT1636 Scribbly Gum – Red Bloodwood – <i>Angophora inopina</i> healthy woodlands on lowlands of the Central Coast (good condition)	41.4	1,114
PCT1649 Smooth-barked Apple – Red Mahogany – Swamp Mahogany – <i>Melaleuca sieberi</i> healthy swamp woodland of coastal lowlands (good condition).	1.4	43
Bynoe's wattle <i>Acacia bynoeana</i>	0.6	18
Charmhaven apple <i>Angophora inopina</i>	41.4	636
Wallum froglet <i>Crinia tinnula</i>	1.4	32
Squirrel glider <i>Petaurus norfolcensis</i>	42.8	1,316
Black-eyed Susan <i>Tetratheca juncea</i>	42.8	1,316

The BCAR has outlined measures to avoid and minimise impacts to the habitat and species proposed to be impacted upon. A number of offset sites have been proposed to ensure the planning proposal achieves an overall avoidance and minimisation of direct impacts on ecological outcomes through the conservation of the southern portion of the site and the offsetting of proposed clearing impacts.

While the proposed offsets have not been subject to detailed ecological surveys, preliminary assessment (as addendum to the BCAR) have determined the likely suitability of other Darkinjung landholdings for offset purposes.

Offsets proposed are intended to serve as an offset for a number of other sites identified for development within the IDDDP.

8. Likely environmental effects as a result of the planning proposal and how are they proposed to be managed

Darkinjung has prepared a Corridor Assessment Report (Umwelt 2020) (**Attachment L**) to address the maintenance of a corridor through the area and corridor impacts, based on literature review, consideration of species using the corridor and having regard to corridor mapping data prepared by Council in conjunction with the Biodiversity Conservation Division.

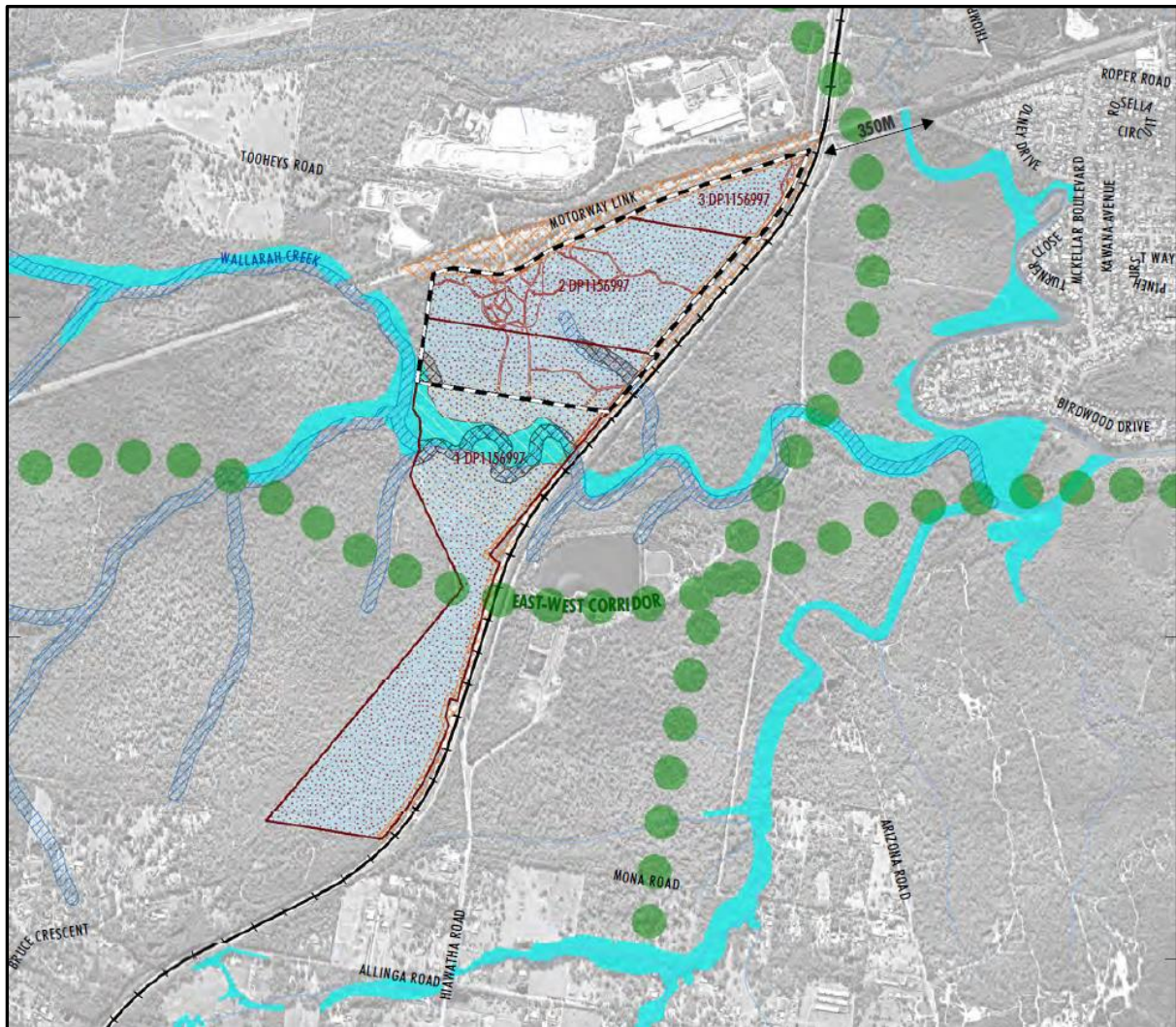


Figure 8: Biodiversity Constraints considered to inform Impact Avoidance and Mitigation Measures (source: Umwelt 2020).

The report shows threatened fauna species predicted or known to occur on the site and in the locality have a moderate to high dispersal ability and do not require large expanses of intact vegetation to persist. The existing fragmentation and mixed land use within and around the east-west corridor demonstrate that areas within the corridor currently do not appear to adhere to any minimum width requirements to facilitate its current functionality for local fauna species.

The planning proposal generally avoids the reduction of the size of the corridor overall and retained the riparian corridor, as well as placing the site so that it mirrors existing development and is adjacent to roadways.

The retention of the riparian corridor of Wallarah Creek allows corridor functionality in an east-west direction and is considered an appropriate balance between conservation outcomes and facilitating development in the locality given the existing mixed land use and the assessment of habitat requirements for the species considered likely to occur on site.

BUSHFIRE

The site is classified as bushfire prone land.

A Bushfire Protection Assessment (**Attachment D**) was prepared by Ecological Australia in May 2018. The bushfire assessment has adequately demonstrated the site is capable of accommodating future development and associated land use with the appropriate bushfire protection measures and bushfire planning requirements as prescribed by section 9.1 Ministerial direction 4.4 Planning for Bushfire Protection.

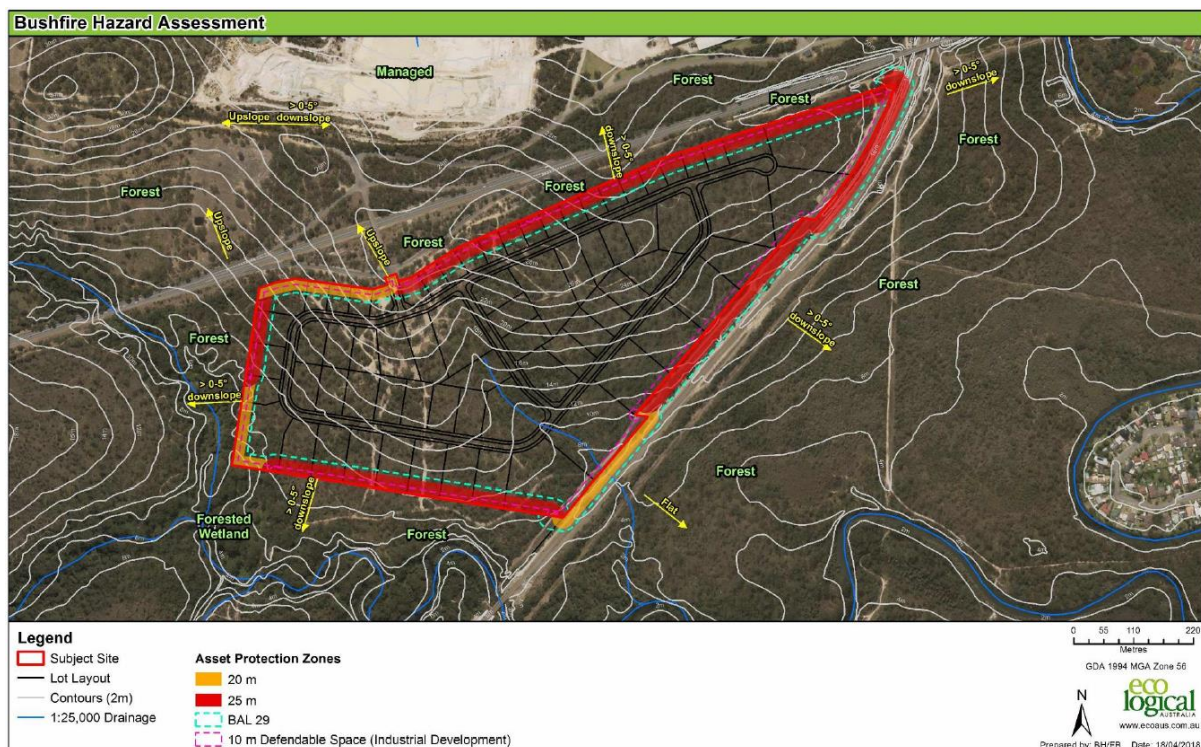


Figure 9: Bushfire Hazard Assessment (Ecological, May 2018)

Aboriginal and Non-Indigenous Cultural Heritage Items

No items of non-Indigenous heritage significance are known to exist on the site.

An Aboriginal Cultural Heritage Assessment Report has been prepared in consultation with registered Aboriginal parties. The recommendations relating to cultural heritage within the assessment were considered appropriate and would ensure the long term care and preservation of the sensitive cultural sites located in proximity to the area proposed for rezoning.

Contaminated Land and Acid Sulfate Soils

Douglas and Partners undertook a Preliminary Site Investigation (**Attachment E**) dated September 2017, to determine the likelihood of acid sulfate soils and contaminants occurring on the site.

The proposed development footprint in the industrial zone does not pose a risk in terms of acid sulfate soils, as none are identified within the area.

A desktop assessment and site walkover were undertaken to determine whether contaminants would pose a risk. It was considered there is a low-medium potential for contamination, given the past site activities and the existing site conditions. Some potential contamination sources were identified as fragments of potential asbestos material, fly-tipped material and imported filling material.

Flooding and Drainage

The site is located within the Wallarah Creek catchment. The proposed development footprint is marginally affected by flood inundation waters during the 1% AEP storm event and subsequently the Flood Planning Area along the southern and eastern boundaries.

As a result, flood related development controls will apply to all development proposed within these areas. The greatest area of affectation is around the Wallarah Creek riparian area to the south of the proposed industrial zoning, however continually rising land to the north provides access to onsite flood-free land.

Mine Subsidence

The site is not within a Mine Subsidence District.

Noise and Vibration

The site is located within proximity to the Newcastle & Central Coast rail corridor. Acoustic Assessment (**Attachment G**) prepared by Spectrum Acoustics determined the rail corridor will not negatively impact upon the proposed industrial zoning. It is considered that there is an adequate buffer between existing residential development at Blue Haven.

Consultation has been undertaken with Transport for NSW. There are no outstanding concerns with the planning proposal.

Legislative requirements will apply at the development application stage.

9. Has the planning proposal adequately addressed any social and economic impacts?

Social Impacts

The Social Impact Assessment (**Attachment H**) prepared by AIGIS Group (November 2017) has determined that the planning proposal is unlikely to result in material social impacts to the immediate community. Any impacts related to the subsequent development of the site would be largely mitigated due to location and topography.

The report has identified the positive socioeconomic benefits that will be experienced by Darkinjung. The proposed rezoning would initiate a process that may reasonably be anticipated to significantly increase Darkinjung's capacity to deliver its statutory obligations and provide additional benefit to stakeholders.

Economic Impacts

Barr Property and Planning prepared an Economic Impact Assessment (September 2019) (**Attachment I**) related to the proposed industrial and conservation rezoning of the site. The report

has outlined that the proposed rezoning will result in positive regional impacts through delivering increased industrial land supply on the Central Coast.

A 2015 estimate for job delivery per hectare of developable employment lands for the former Wyong local government area was 29 jobs per hectare. At this rate the proposal could potentially deliver 1,247 jobs to the local economy.

Consideration of viable alternative developments has demonstrated that the proposal is a feasible and viable development for the site and will assist in achieving the economic self-determination for the Darkinjung people, while retaining jobs within the Central Coast.

The potential economic impacts of the planning proposal have been considered and based on the presently available information; it is concluded that the proposal is likely to return a significant net benefit to the Central Coast.

NATURAL RESOURCES

Mineral Resources

The proposed future development of the site occurs on land that has been identified as containing a state significant clay mineral deposit by Division of Resources and Geoscience, Geological Survey of New South Wales (GSNSW).

The majority of the clay resource is mapped as being contained within the proposed IN1 General Industrial zone, with a smaller section contained within the proposed E2 Environmental Conservation zone.

Under clause 7 of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* mining development may be carried out only with development consent on land where development for the purposes of agricultural or industry may be carried out.

The proposed IN1 General Industrial zone will enable this to occur only with development consent.

Site constraints within the E2 Environmental Conservation area, such as the riparian corridor, Wallarah Creek, EEC and Aboriginal Cultural Heritage, would constrain the extraction of the resource from this portion of the site.

Geological Survey of NSW, Division of Resources and Geoscience does not object to the planning proposal.

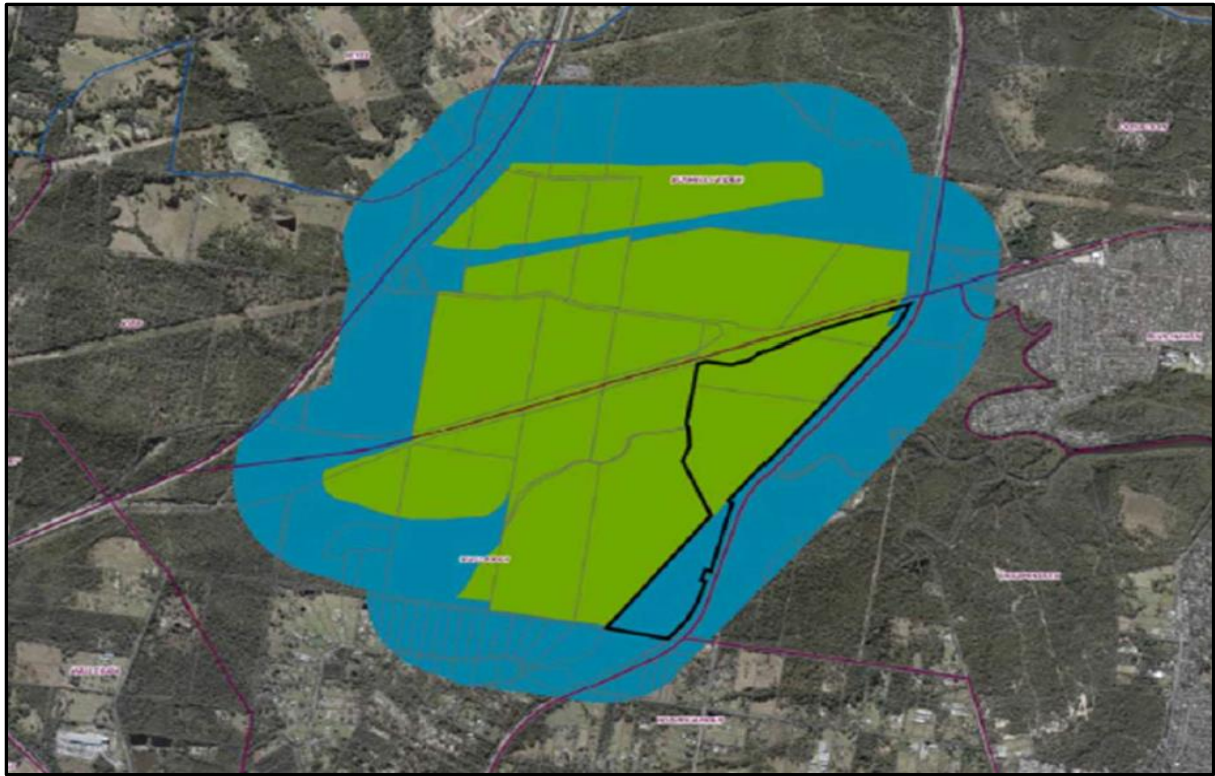


Figure 10: Mineral Resource Deposits – green showing resource and blue showing buffer (source: Central Coast Council, 2016).

Section D: State and Commonwealth Interests

10. Is there adequate public infrastructure for the planning proposal?

The site is proposed to be mapped as urban release area, which will require that satisfactory arrangements are to be made for the provision of designated State public infrastructure before the subdivision of land. The following is an assessment of the adequacy of specific public infrastructure.

Traffic

Intersect Traffic have prepared a Traffic Impact Assessment (April 2018) (**Attachment J**) for the site based on an assumption of a 72 lot industrial subdivision.

Existing traffic volumes on the state and local road network are within the technical mid-block road capacities determined by Austroads and Transport for NSW. Therefore, the local road network has capacity to cater for additional traffic potentially generated by the proposed industrial rezoning.

The local road network currently has sufficient spare capacity to cater for the traffic potentially generated by the proposal without adversely impacting on the two-way mid-block traffic volumes on the state and local road network.

The site is proposed to be accessed through a new public road/Motorway Link overpass/Tooheys Road intersection. Sidra modelling shows that the give-way controlled intersections currently operate satisfactorily during both the AM and PM peak periods and would continue to do so post-development, including 5-15 year traffic growth to 2031. Average delays, levels of service and 95% back of queue lengths all remain at acceptable levels based on the Transport for NSW assessment criteria.

There are no road safety issues on the local road network that could not be overcome through normal road upgrading conditions for the proposal. Road safety is not a constraint to the approval of the planning proposal. Transport for NSW considers all matters can be resolved following rezoning as part of the development application process. Further assessment will be undertaken at the development assessment stage when the subdivision pattern is formalised.

Water

Council conducted a preliminary water and wastewater study to support the planning proposal. The site is currently not serviced by water supply and is not included in water supply strategies for the area. Depending on the timing of development in adjoining areas, supply could be achieved through extensions of infrastructure.

Council's Development Servicing Plan will apply, noting that trunk water main construction would be eligible to offset water supply contributions payable.

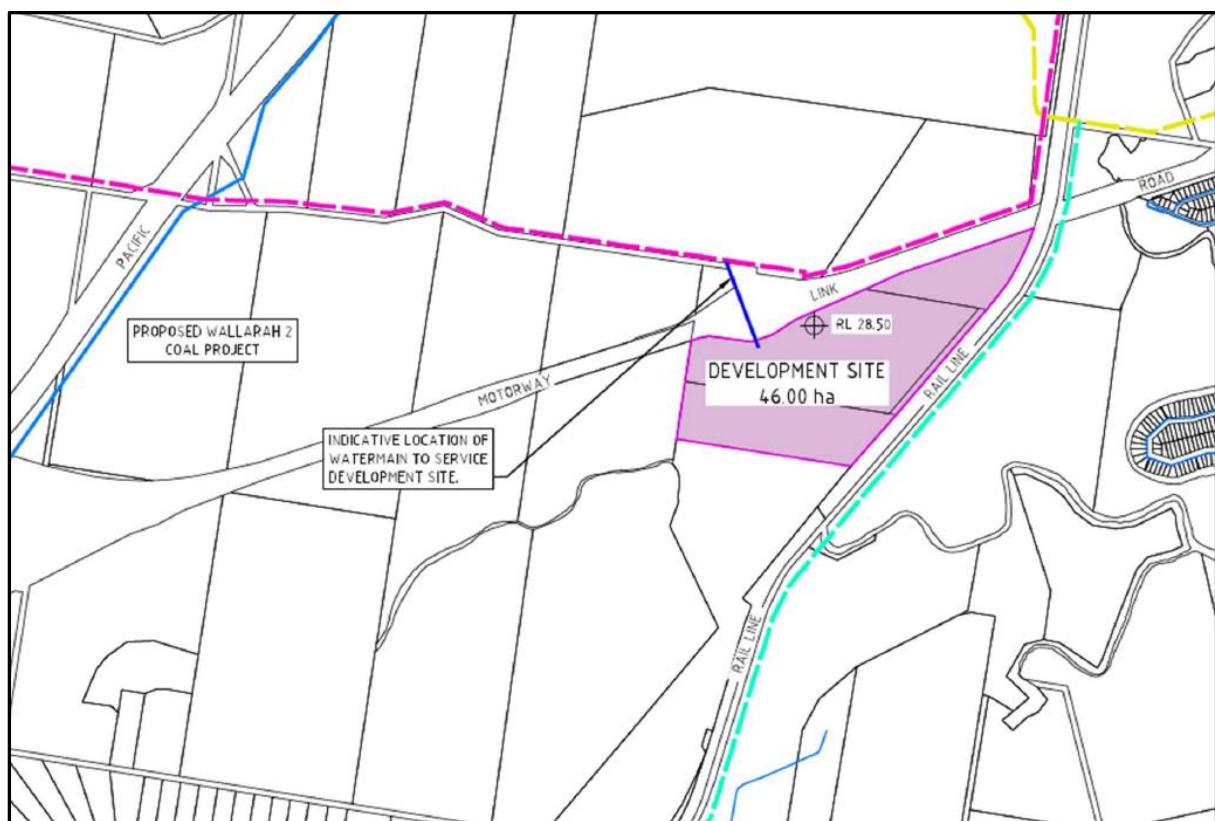


Figure 11: Indicative location of water main to service development (source: Central Coast Council)

Sewer

Development of the site for industrial purposes will require the construction of a new sewerage pumping station and rising main the Charmhaven Sewerage Treatment Plant (including rail crossing).

The servicing strategy will be required to consider servicing options and compare the new present costs of all options, considering both capital and ongoing operations costs.

Council states that spare inlets exist at Charmhaven Sewerage Treatment Plant for additional rising main connections (225mm diameter and greater), and sewerage pumping station construction costs may be eligible to offset sewerage contributions payable.

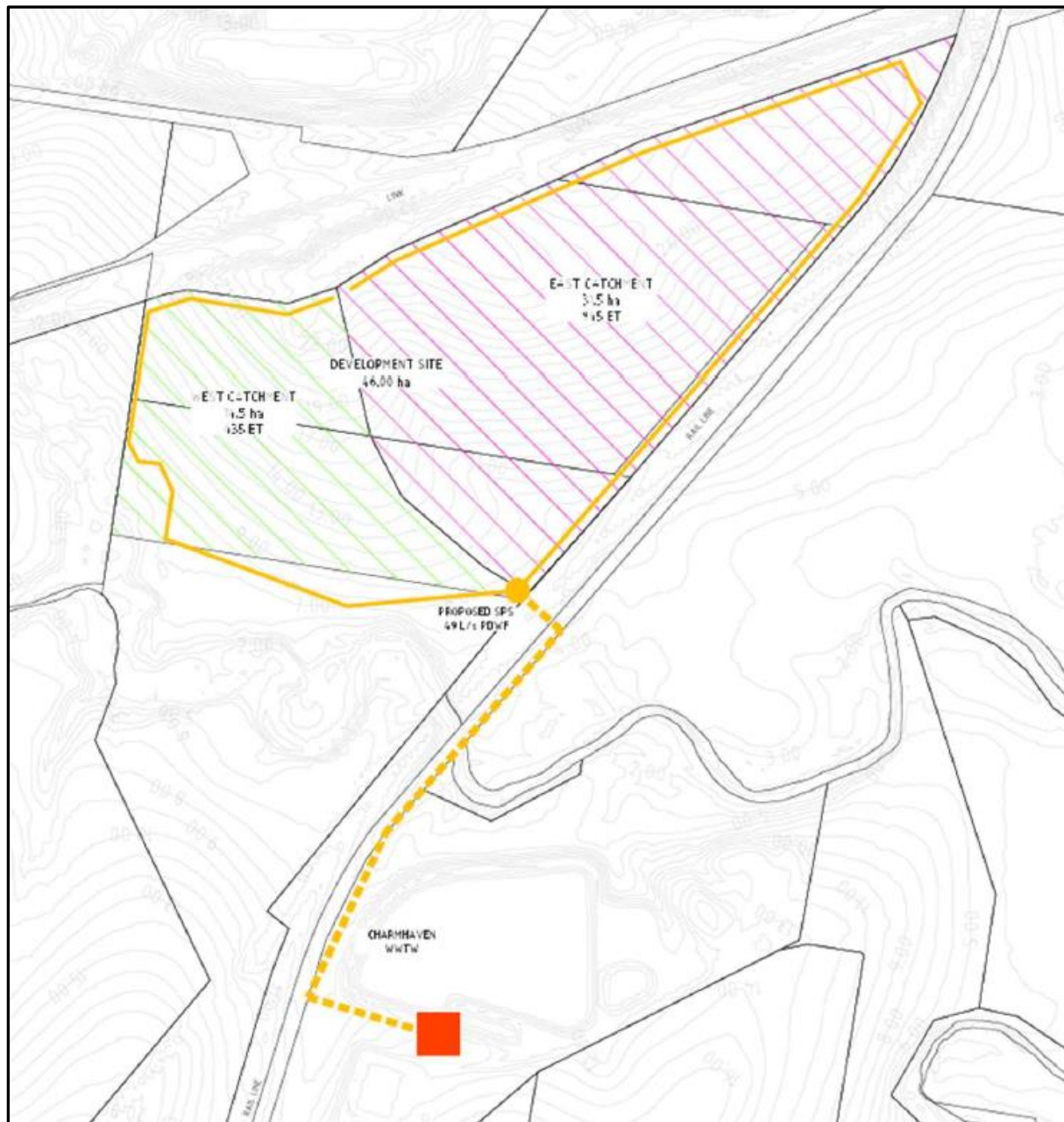


Figure 12: Indicative location of sewer infrastructure (source: Central Coast Council)

Electricity and Gas

Council states that high pressure gas mains are located along the Newcastle & Central Coast rail corridor which adjoins the site. Electricity supply is also located within this easement. Any future development of the site will need to establish suitable buffer distances to the gas pipeline.

As part of the conditions of the Gateway determination, Council consulted with Ausgrid who had no objections to the proposal, and Jemena who did not provide a response.

Internet/NBN

Internet and NBN is available to the area.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Consultation with the agencies listed below is a requirement in accordance with the Gateway Determination.

Table 5 includes a summary of agency responses and how these views have been addressed. This table has been updated to include current agency names and their response. Appendix 1 includes detailed responses from each agency.

Table 5: Agency Consultation

Agency	Issue(s)	Response
Ausgrid	Electricity supply	No objections to the proposal.
NSW DPIE – Water	Wallarah Creek riparian corridors	<p>Advice was provided in relation to riparian corridor protection management, including preference that all riparian corridors to be zoned E2 Environmental Conservation, as per LEP Practice Note PN09-002.</p> <p>DPIE Water also recommended that asset protection zones are located wholly within the urban development land and not in riparian corridors.</p> <p>DPIE Water also provided a number of recommendations relating to management of stormwater and groundwater for the future development.</p> <p>Recommendations from DPIE Water have been incorporated into the Stormwater and Flooding Assessment as prepared by Northrop (Attachment K). Their Recommendations have also been incorporated into the site specific Development Control Plan where appropriate.</p>
NSW DPIE – Biodiversity and Conservation Division (formerly	Proposed biocertification	The former OEH provided a response on 22 May 2018 containing recommendations in relation to biodiversity, Aboriginal cultural heritage and flooding and flood risk.

Office of Environment and Heritage)	<p>Section 9.1 Direction 2.1 Environmental Protection Zones</p> <p>Section 9.1 Direction 4.3 Flood Prone Land</p>	<p>In response to recommendations relating to biodiversity, Darkinjung prepared a BCAR (Umwelt 2020) and addendum materials that discussed impacts upon the regional biodiversity corridor. Darkinjung is seeking to offset any impacts by establishing an offset over the southern portion of the Wallarah site (proposed E2 Environmental Conservation zoned land) and possibly including other offset sites which are part of a broader rezoning strategy of the Darkinjung LALC or contributing to the Biodiversity Trust.</p> <p>Discussion with Biodiversity Conservation Division has occurred throughout 2020 in relation to the proposed zones.</p> <p>On the 12 October 2020, Biodiversity Conservation Division provided correspondence that they supported the revised proposed zones. The revised layout for Wallarah includes:</p> <ul style="list-style-type: none"> • An increase in the setback of the southern boundary from the creek line, increasing the area proposed to be rezoned E2. • Removal of impacts to PCT 1649 and the two areas of PCT 1649 proposed to be rezoned as E2. • A 10 metre buffer around PCT 1640 proposed to be rezoned as E2. <p>Darkinjung has prepared a flood study which addresses flood risk management. It is considered that the proposal is consistent with relevant section 9.1 Ministerial direction.</p>
Heritage NSW (formerly Office of Environment and Heritage)	Section 9.1 Direction 2.3 Heritage Conservation	<p>Darkinjung prepared an Aboriginal Cultural Heritage Assessment (ACHA) in response to initial comments from the former OEH on 22 May 2018, recommending that all potential areas, objects, places or landscapes of heritage significance to Aboriginal culture and people are clearly identified.</p> <p>On 11 August 2020, Heritage NSW provided advice on the ACHA. It recommended an ACHA should be undertaken over the full extent of the site to inform the planning proposal. The Aboriginal Cultural Heritage Assessment prepared only applies to land proposed to be zoned IN1. It does not apply to land proposed to be zoned to E2 Environmental Conservation.</p>

		<p>On 5 November 2020, Heritage NSW reiterated that recommendations provided in August 2020 remain relevant.</p> <p>Undertaking an ACHA over the full extent of the site is not considered necessary to support the planning proposal. Undertaking an ACHA over the full extent of the site is not going to result in any changes to planning controls, as the proposed rezoning of land to E2 provide a high level of protection. An ACHA has been undertaken for the area proposed to be zoned industrial.</p>
Darkinjung Local Aboriginal Land Council	Aboriginal Cultural Heritage	Darkinjung is the landowner and stakeholder. Consultation with Darkinjung has been ongoing with Central Coast Council and DPIE.
Wannangini Pty Ltd (former Guringai Tribal Link Corporation)	Aboriginal Cultural Heritage	Guringai Tribal Link Aboriginal Corporation (GTLAC) agreed that should the planning proposal proceed, the recommendations and mechanisms proposed to be implemented to protect the known cultural sites (as set out by Umwelt) are satisfactory.
Jemena	The Colongra Gas Transmission and Storage Pipeline operated by Jemena is located 1.7km to the west of the site.	<p>No comment received. Central Coast Council advises a letter was sent out, but no comment was received by the agency.</p> <p>As the Gas Transmission Pipeline does not pass through the site or within close proximity, it is considered that adequate consultation has occurred with the agency.</p>
NSW DPIE – Crown Lands (formerly Department of Industry - Lands)	Native Title Claims	<p>No comment received. Council advises a letter was sent out, but no comment was received from the agency.</p> <p>It is considered that adequate consultation has occurred with the agency.</p>
NSW DPIE – Division of Resources and Geoscience (GSNSW)	<p>State significant clay resource</p> <p>Wallarah 2 Coal proposal (SSD_4974)</p>	No objections to the planning proposal.
NSW Rural Fire Service	<p>Bushfire</p> <p>Section 9.1 Direction 4.4 Planning for Bushfire Protection</p>	Darkinjung prepared a concept plan for an Indicative Bushfire Perimeter Road to meet the requirements of <i>Planning for Bushfire Protection 2019</i> .

		NSW Rural Fire Service considered all remaining issues able to be resolved through the development application process.
Transport for NSW (formerly Roads and Maritime Services)	Pacific Highway Access/integration Section 9.1 Direction 3.4 Integrating Land Use and Transport Rail impacts	The Traffic Impact Assessment was updated to respond to initial comments from Transport for NSW received on 4 June 2018. This revised Traffic Impact Assessment was publicly exhibited. Transport for NSW has advised all matters can be resolved following rezoning, as part of the development application process.
Sydney Trains	Rail impacts	No objections to the proposal. Sydney Trains raised the comments relevant to future development assessment.

Part 4 – Mapping

Mapping is provided in *Part 2 – Explanation of Provisions* showing the current land zoning and minimum lot size applying to the subject site. Part 2 also provides the proposed amendments for the planning proposal, including identifying the entire site as an urban release area.

Part 5 – Community Consultation

Central Coast Council made the planning proposal available for **28 days** for community consultation, in accordance with the Gateway determination.

The planning proposal was made available at the following locations:

- Wyong Office: 2 Hely Street, Wyong;
- Gosford Office: 49 Mann Street, Gosford; and
- Council's website: haveyoursaycentralcoast.com.au

Council also provided notification of the exhibition of the planning proposal to adjoining landholders prior to its commencement.

Submissions Summary

The planning proposal was exhibited by Council between 31 January and 28 February 2020, where 77 submissions were received during the exhibition period.

All 77 submissions raised concerns about the planning proposal inadequately protecting the environment, including destruction of habitat of threatened species from the proposed rezoning of land to industrial. Eleven of the submissions also raised issues that protection of threatened species habitat is now more important given the loss of habitat and species from the recent bushfires.

One submission raised concerns with the community consultation process, differences between the preliminary and final Aboriginal cultural heritage reports and loss of habitat from bushfire asset protection zones.

One submission raised that the site is unsuitable for industrial development given the proximity of the development footprint to Wallarah Creek and that Darkinjung may have other sites better suited to development opportunities.

Table 6 below provides a summary of the above issues raised during public exhibition, as well as responses to these submissions and if any changes were made to the plan.

Table 6: Submissions Summary.

Issue #	Issue Raised	PPA Response	Changes Made to Plan
1	<p>Objection to planning proposal as:</p> <ul style="list-style-type: none"> it fails to protect the environment; result in the destruction of habitat for threatened species; and result in the destruction of potential koala habitat. <p>Many of the objections relating to impacts on the environment also cited increased pressure on habitat and threatened species due recent bushfires and climate change.</p>	<p>The planning proposal will result in the rezoning of RU6 Transition land to 42ha of IN2 General Industrial and 45ha E2 Environmental Conservation. The E2 zone will facilitate enhanced protection of the environment that is currently not provided for under the RU6 Transition Zone.</p> <p>The <i>Addendum to Biodiversity Certification Assessment Report</i> (January 2020), <i>Biodiversity Certification Assessment Report</i> (2018) and <i>Interim Ecological Inventory Report</i> (2012) prepared in support of the planning proposal identified the location of vegetation communities, endangered ecological communities, threatened flora and fauna specie. Following completion of field surveys, the most appropriate development footprint was identified that avoided and minimised direct impacts.</p>	<p>The proposed zoning was revised further to consider comments from Biodiversity and Conservation Division.</p> <p>The changes resulted in:</p> <ul style="list-style-type: none"> An increase in the setback of the southern boundary from the creek line, increasing the area proposed to be rezoned E2; Removal of impacts to PCT 1649 and the two areas of PCT 1649 proposed to be rezoned as E2; and A 10 metre buffer around PCT 1640 proposed to be rezoned as E2.
2	<p>Lack of community consultation, online submissions closed early, advertised date was 5pm 28 Feb.</p> <p>Concerns that community consultation did not cover potential impacts such as increased traffic, noise intrusiveness, air quality, or impacts on surrounding amenity or the character of the area,</p>	<p>The planning proposal was exhibited for a period of 28 days between 31/1/20 – 28/2/20 consistent with the Gateway determination.</p> <p>A Traffic Impact Assessment report was undertaken.</p> <p>Further community consultation will occur if a development application is lodged.</p>	<p>No changes made to the planning proposal.</p>

	by any subsequent development allowed by an industrial zoning.		
3	If developed the Bushfire Asset Protection Zones required will impact on or totally remove remnant wildlife corridors.	Bushfire assets protection zones are proposed to occur within the proposed zones.	No changes made to the planning proposal.
4	Agency response from Wannangini (former Guringai Tribal Link Aboriginal Corporation) was not published in Agency response document list.	<p>Wannangini is not a Local Aboriginal Land Council, or an agency. Wannangini is an Aboriginally owned 'cultural education and cultural heritage management' organisation that is registered as a Pty Ltd company.</p> <p>A submission by Wannangini was considered by Central Coast Council during the exhibition period.</p> <p>The Aboriginal Due Diligence Assessment 2017 by GML Heritage was prepared in consultation with Darkinjung LALC and representatives from Guringai.</p>	No changes made to the planning proposal.
5	Contradiction in the results between the two Aboriginal cultural heritage and Archaeological Surveys by GML Heritage (2017) and Umwelt (2019). Considers that the Aboriginal Due Diligence Assessment 2017 by GML Heritage, and Aboriginal representatives (Darkinjung LALC, Guringai) identified two locations of cultural significance in the development footprint but that the Aboriginal Cultural Heritage 2019	A due diligence archaeological inspection and assessment of the project area was undertaken by GML Heritage in 2017. GML Heritage (2017) identified varying levels of archaeological sensitivity within the assessment area, primarily linked to the nature of landforms and the extent of disturbance. In particular, two potential archaeological deposit areas and one culturally modified tree were observed as having further archaeological potential or cultural significance.	No changes made to the planning proposal.

	<p>reduced the significance of these sites.</p> <p>Umwelt prepared an Aboriginal Cultural Heritage Assessment (ACHA) for the proposed rezoning in 2020. This report also fulfilled a key recommendation of the 2017 assessment to undertake further assessment and consultation in the form of an ACHA to inform any considerations of the development of the assessment area, including impact to the abovementioned areas of archaeological or cultural sensitivity.</p> <p>The 2020 Umwelt ACHR Two culturally sensitive sites were observed during the survey, both located outside of the curtilage of the current rezoning footprint.</p>	
6	<p>The site proposed is an unsuitable location for an industrial estate, especially given its location above the headwaters of Wallarah Creek.</p> <p>Land surrounding Wallarah Creek is proposed to be zoned to E2 Environmental Conservation. The proposed zones were revised to increase in the setback of the southern boundary from the creek line, increasing the area to be rezoned E2.</p>	No changes made to the planning proposal.
7	<p>Between Darkinjung Land Council, Council and the State Government, surely there are development opportunities that allow Darkinjung to meet their economic goals, without bulldozing healthy and thriving ecosystems.</p> <p>The Interim Darkinjung Development Delivery Plan was prepared following a land audit and strategic assessment of land holdings.</p> <p>Darkinjung completed an audit of this land to identify sites that align with its Community Land and Business Plan 2016-2019.</p> <p>The Department completed a strategic assessment of Darkinjung sites against a</p>	No changes made to the planning proposal.

criteria to determine the sites for inclusion in this Interim Delivery Plan.

Part 6 – Project Timeline

Central Coast Council's original project timeline is outlined below:

Action	Period	Start Date	End Date
Anticipated commencement date (date of Gateway Determination)	Completed	Completed	Completed
Anticipated timeframe for the completion of required technical information	N/A	Ongoing	31 March 2019
Timeframe for preparation of revised planning proposal and Development Control Plan. Preparation exhibition material	21 days	1 Dec 2019	29 Jan 2020
Commencement and completion dates for public exhibition	28 days	31 Jan 2020	28 Feb 2020
Dates for public hearing (if required)	N/A	N/A	N/A
Timeframe for consideration of submissions	21 days	28 Feb 2020	30 March 2020
Timeframe for consideration of a proposal post exhibition	60 days	31 March 2020	29 May 2020
Date of submission to the Department to finalise LEP	4 weeks	29 May 2020	30 June 2020
Anticipated date RPA will make the plan (if delegated)	N/A	N/A	N/A

Following the appointment of an alternate PPA, the steps to finalisation are:

ACTION	PERIOD	START DATE	END DATE
Transfer of Information from Council to DPIE	N/A	2/10/2020	Completed
Request a Gateway Alteration	N/A	2/11/2020	20/11/2020
Resolve Outstanding Agency Comments	N/A	2/11/2020	18/11/2020
Prepare a Submissions Report	N/A	2/11/2020	Completed
Prepare Required Mapping	N/A	2/11/2020	Completed
Update Planning Proposal	N/A	3/10/2020	Completed
Update Development Control Plan	N/A	9/11/2020	Completed
Request to Local Plan-Making Authority to Finalise LEP	4 Weeks	16/11/2020	14/12/2020