

Planning and Assessment

IRF21/4450

Gateway determination report

LGA	Central Coast
PPA	Central Coast Council
NAME	Planning proposal to increase the permitted maximum building height and maximum floor space ratio at The Esplanade, Ettalong Beach
NUMBER	PP-2021-6386
LEP TO BE AMENDED	<i>Gosford Local Environmental Plan 2014</i> or Central Coast Local Environmental Plan (whichever is in effect at the time the LEP amendment is made)
ADDRESS	43-46 The Esplanade, Ettalong Beach
DESCRIPTION	Lots 117-122 in DP 10650
RECEIVED	28 October 2021
FILE NO.	IRF21/4450
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 Site description

The site comprises six lots in multiple ownership with a total area of 3,167.6m². It is on a beachfront location and generally flat and cleared of original vegetation.

The site is bound on its western side by a recently developed five and seven storey mixed use residential/commercial development ('Atlantis').

The site is bounded by The Esplanade on its southern boundary and Picnic Arcade on its eastern boundary. A laneway on the site's northern boundary provides access for parking and waste collection.

The western section of the site is occupied by the two storey Ettalong Beach Motel. A single storey residence occupies the easternmost lot and the two lots between the motel and the residence are undeveloped.

A pedestrian laneway between Atlantis and the motel connects The Esplanade with Ocean View Road.



Figure 1 – Aerial map of site location (site outlined yellow)

1.2 Existing planning controls

The site is zoned B2 Local Centre under *Gosford Local Environmental Plan 2014*. The zone aims to provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area, encourage employment opportunities in accessible locations as well as provide for residential uses as part of mixed use developments.

The B2 Local Centre zone also aims to ensure that village centres, such as Ettalong Beach, are recognised as providing a broad range of services and facilities to serve the local community.



Figure 2 – Land use zone (site outlined orange)

The site has a maximum permissible building height of 11.5 metres and floor space ratio of 1:1.

The applicable controls for the site are lower than the B2 Local Centre zoned land further from the foreshore in order to limit overshadowing of the beach and public open space, allow for view sharing to the water and provide a transition to the lower density residential land to the east.



Figure 3 – Height of buildings (site outlined red)



Figure 4 – Floor space ratio (site outlined red)

1.3 Surrounding area

The site is within the Ettalong Beach local centre and is surrounded by mixed use and residential housing as well as the foreshore area.

The local context comprises developments ranging from low rise residential development to the east, the four storey Ettalong Hotel to the north and the nine storey Mantra Hotel to the west, of varying design styles.

The recently completed 'Atlantis' development was approved under the state significant development provisions of the *Environmental Planning and Assessment Act 1979*.

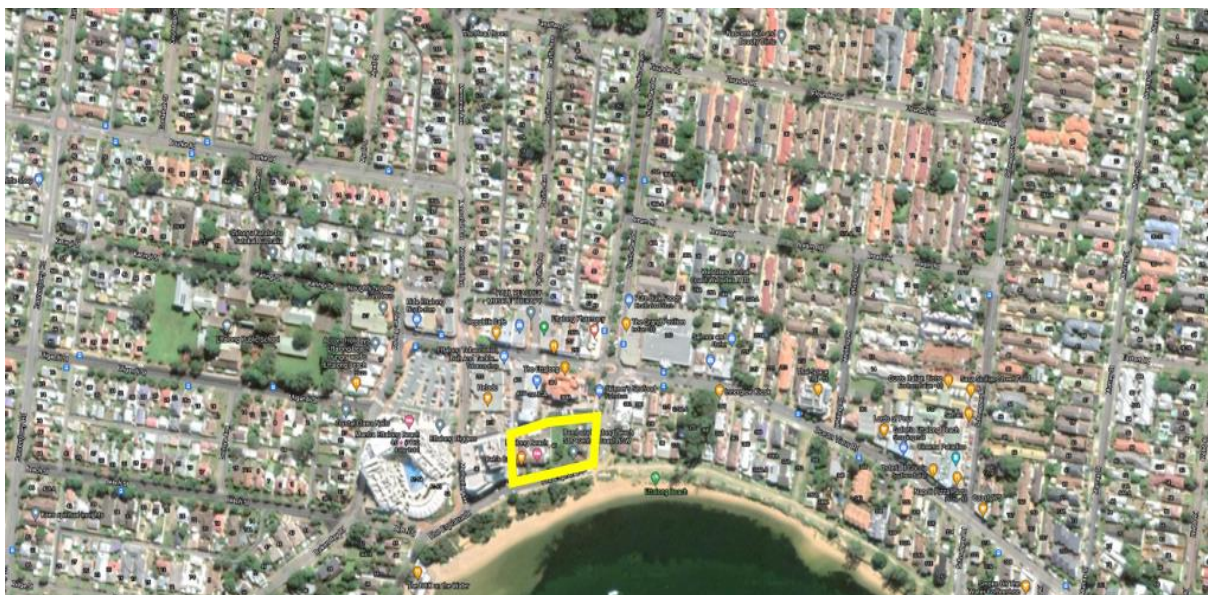


Figure 5 – Local context (site outlined yellow)

2. PLANNING PROPOSAL

2.1 Description of planning proposal

The planning proposal seeks to increase the site's maximum permissible building height and the maximum permissible floor space ratio under *Gosford Local Environmental Plan 2014* or Central Coast Local Environmental Plan.

A local 'bonus' provision will be inserted into the *Gosford Local Environmental Plan 2014* or Central Coast Local Environmental Plan to facilitate the increase in building height and floor space ratio following amalgamation of all allotments within the site.

Council advised the *Gosford Development Control Plan 2013* or *Central Coast Development Control Plan* will be amended to achieve relevant urban design objectives, including minimising overshadowing and impacts on local character, provision of basement car parking, and overall design excellence.

A voluntary planning agreement to realise appropriate public benefit of agreed public domain improvements (e.g. contribution towards upgrading of the adjacent foreshore reserve) is intended to be exhibited with the planning proposal.

2.2 Objectives or intended outcomes

The planning proposal intends to provide retail/commercial and residential uses that complement the current local land uses and have the potential to create employment and improve housing choice in the locality.

The planning proposal objectives are clear and do not require amendment prior to community consultation.

2.3 Explanation of provisions

The planning proposal seeks to amend *Gosford Local Environmental Plan 2014* or Central Coast Local Environmental Plan (whichever is in effect at the time) by inserting a local provision to allow an increased

- maximum building height from 11.5m (approximately three stories) to 17m (approximately five stories); and
- floor space ratio from 1:1 to 1.75:1.

The proposed maximum building height and floor space ratio will be allowed if future development has:

- a footprint that covers all the lots;
- basement car parking with two-way traffic flow; and
- design and form in accordance with a development control plan that applies good urban design practice, improves quality and amenity of the public domain, and minimises overshadowing of public places and residential premises.

Relationship to surrounding planning provisions

The applicable controls for the site are lower than the surrounding B2 Local Centre zoned land in order to limit overshadowing of the beach and public open space, allow for view sharing to the water and provide a transition to the lower density residential land to the east.

Despite this, the actual built form of the surrounding area has been developed demonstrates a higher intensity of development on the waterfront locations. This includes the four storey Ettalong Hotel and the nine storey Mantra Hotel nearby.

	Planning proposal	Atlantis site	Mantra site
<i>Height of Building</i>			
LEP control	11.5 meters	11.5 meters	34.3 meters
Built form* / proposed	17 meters	23.25 meters	34.3 meters
<i>Floor Space Ratio</i>			
LEP control	1:1	1:1	1.5:1
Built form* / proposed	1.75:1	2.2:1	2.68:1

* Estimate based on planning approvals and calculations

2.4 Mapping

Gosford Local Environmental Plan 2014

The Height of Building and Floor Space Ratio maps (HOB_ 016C and FSR_ 016C) under *Gosford Local Environmental Plan 2014* are proposed to be amended to show the 'bonus' height of building of 17m and 'bonus' floor space ratio of 1.75:1.

The Development Incentives Map (CL1_ 016CA) will also be amended to reference the 'bonus' local provision.

Central Coast Local Environmental Plan

Should the planning proposal amend the *Central Coast Local Environmental Plan* no mapping amendments will be required as a local provision will be formulated as an exception to existing height of building and floor space ratio controls.

2.5 Local Planning Panel

On 10 June 2021, the local planning panel advised Council of its support for the planning proposal considering it to have strategic and site-specific merit. The panel recommended the site be developed as one consolidated lot with standards relating to minimum allotment size, minimum frontage and site consolidation included in the local environmental plan.

The panel also suggested the proposed height of building and floor space ratio controls rely on detailed urban design controls to be developed in a future development control plan, which should preferably be exhibited with the planning proposal.

Among others, the design controls should address issues, such as overshadowing of the beach, public open space and bushland in the area, view sharing to the water from other B2 Local Centre zoned land in the centre, building separation and setbacks.

The panel further expressed support for the intention to prepare a planning agreement together with the planning proposal and for the consideration of public benefits (e.g. affordable housing, through-site links and public realm improvements along The Esplanade and Picnic Parade).

The Department is satisfied Council has addressed the matters raised by the local planning panel.

3. NEED FOR THE PLANNING PROPOSAL

Council considers the planning proposal to be consistent with Planning Priority 2 in the Central Coast Local Strategic Planning Statement that aims to “prioritise sustainable development in our Regional City Centre and existing centres”. Although, Council acknowledges the planning proposal is not the result of a strategic study.

Council cited the outcome of several studies to support the planning proposal. The architectural design report indicates the proposed planning controls can be achieved with design standards for streetscape, solar access and amenity, while the proposed increase in residential density will not have unacceptable traffic implications on the surrounding road network according to the traffic study.

Initial site investigations have not identified contamination issues and the economic assessment recommends additional retail/commercial development at the Ettalong Beach to address demand for services.

It is considered to amend controls through a clause in the LEP which ties the additional height/FSR to criteria rather than seek to vary development standards under clause 4.6. This will provide certainty for the landowner and the community on proposed outcomes for the site.

4. STRATEGIC ASSESSMENT

4.1 Local

4.1.1 Central Coast Community Strategic Plan – One Central Coast

The planning proposal is consistent with the key focus areas and strategies contained in the community strategic plan. In particular, the focus on a growing and competitive region through local centre revitalisation, as well as achieving a balanced and sustainable development by provide a range of housing options to meet the diverse and changing needs of the community.

4.1.2 Central Coast Local Strategic Planning Statement

The planning proposal is consistent with the local strategic planning statement’s planning priorities on:

- prioritising sustainable development in existing centres;
- future planning that enables the development of active and liveable centres;
- providing for the housing needs of the growing region; and
- facilitating economic development to increase local employment opportunities for the community.

4.2 Regional

4.2.1 Central Coast Regional Plan 2036

The planning proposal gives effect to the *Central Coast Regional Plan 2036* as it will:

- support commercial and retail development (Direction 3);
- encourage business and infrastructure investment and enable an attractive mixed-use development that responds to the character and role of Ettalong Beach (Action 16.2);
- reinforce Ettalong Beach as a place that is inclusive, well-designed and offers attractive lifestyles (Direction 18); and

- grow housing choice in and around a local centre (Direction 20).

4.2.2 draft Central Coast Regional Plan 2041

The draft Central Coast Regional Plan has a strong focus on creating a 15 minute region made up of mixed-use neighbourhoods in various contexts, emphasis on infill approaches, prioritisation of walking, cycling and public transport in urban areas and town centres and reinforcing the importance of equity so that people have greater choice in where and how they live, how they travel and where and how they work.

The planning proposal and site context contributes to the delivery of these aims by facilitating mixed uses in an existing local centre, creating employment and improving housing choice.

The planning proposal gives effect to the following draft plan objectives:

- Objective 3: Create a 15-minute region made up of mixed, multi-modal, inclusive and vibrant local communities.

The planning proposal seeks to increase availability of housing in a local centre with a 15 minute walk to the everyday services listed in the draft plan. This will support such local everyday services to succeed and flourish.

- Objective 4: Plan for “Nimble Neighbourhoods”, diverse housing and sequenced development.

The planning proposal seeks to meet the optimum density target in the draft plan of 50-75 dwellings per hectare. This will support public transport type/technology and level of services/frequency to successfully achieve a mode shift from individual car use to public transport that is envisioned to achieve the objectives of the draft plan.

The draft plan also identifies a focus for more housing typologies from one to four stories that promote density that maintains human-scale built form. The planning proposal will likely represent five stories of mixed use that is justified in this case by the surrounding built form and the outcomes from that will be considered as part of Division 4 of the Coastal Management SEPP.

- Objective 7: Plan for businesses and services at the heart of healthy, prosperous and innovative communities.

The planning proposal, and associated development control plan, seeks to meet strategy 7.1 for strategic mixed use and/or housing-led intensification in and around centres and main streets that strengthen and supports existing uses, while also supporting local character and heritage assets

The site is within the Narara district and gives effects to the following draft district planning priorities:

- Woy Woy Peninsula – The planning proposal demonstrates an ability to protect the scenic quality of the area, avoid areas of environmental hazard and will increase housing choices.
- 15-minute district – The planning proposal contributes to the creation of a 15-minute neighbourhood by consolidating development within an existing urban area and offering mixed land uses that promote 15 minute walking between homes and everyday services.

- Green infrastructure and quality open spaces – The planning proposal is in proximity to high quality open space and will enable green-oriented development within an existing centre.

4.3 State environmental planning policies (SEPPs)

State Environmental Planning Policy No 55 – Remediation of Land

Council advised that although previous and existing land uses on the site (i.e. residential and commercial) are not potentially contaminating activities, the motel was built prior to 1978, therefore hazardous building materials are potentially present within the structure.

The site contamination investigation report declares the site appears to be generally compatible with the proposed mixed use development. This conclusion was conditioned on the conduct of a hazardous building material survey prior to demolition of any structure on the site, contamination sampling as part of an intrusive soil investigation to assess the potential for soil contamination and detailed groundwater assessment after confirmation of the proposed development.

These matters require consideration at the development application stage. The planning proposal is considered consistent with the SEPP.

State Environmental Planning Policy (Coastal Management) 2018

The site is within the coastal environment area under the SEPP and clause 13 will apply in assessing future development applications within the allotment. The clause prohibits granting consent to development that will cause adverse impact on the ecological and coastal environment and processes.

In relation to the provisions of the SEPP, Council advised the site:

- is not affected by overland flooding in the 1% AEP event (*Brisbane Water Foreshore Floodplain Risk Management Study and Plan 2015*); and
- is located landward and not subject to immediate coastal hazards as per the *Gosford Coastal Zone Management Plan* (Gosford CZMP).

The site is also mapped in the Coastal Use Area under the Coastal Management SEPP. Under the SEPP, development consent must not be granted to development unless the consent authority:

- has considered whether the proposed development is likely to cause an adverse impact on access, overshadowing of the foreshore, visual amenity and scenic qualities of the coast;
- is satisfied if the impact cannot be avoided – the development is designed, sited and will be managed to minimise that impact; and
- has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

The intention of the local clause is to ensure positive design outcomes that are unlikely to be met if the lots were developed independently. This is also more in line with the Coastal Use Area requirements under the Coastal Management SEPP.

Council further advised the planning proposal complies with chapter 6.2 Coastal Frontage of the *Gosford Development Control Plan 2013* and the minimum floor level of the proposed development satisfies floodplain development requirements.

Council advised the *Gosford Development Control Plan 2013* or Central Coast Development Control Plan will be amended to achieve relevant urban design

objectives, including minimising overshadowing and impacts on local character, provision of basement car parking, and overall design excellence.

The beach area on the southern side of The Esplanade (fronting the site) is being stabilised with established dune vegetation.

The planning proposal is consistent with the SEPP.

State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development

The SEPP applies to the planning proposal as shop top housing is an existing permissible use in the B2 Local Centre zone.

Concept plans and a design quality statement were submitted with the planning proposal; outlining the key points related to compliance with the design quality principles in schedule 1 of the SEPP and in consideration of existing surrounding development.

Council advised that detailed assessment of compliance with the SEPP will be undertaken at the development application stage.

The planning proposal is consistent with the SEPP.

4.4 Section 9.1 Ministerial directions

Direction 1.1 Business and Industrial Zones

This direction applies to the planning proposal as the site is an existing business zone. The planning proposal intends to amend planning controls to increase the maximum allowable building height and floor space ratio on the site. The proposal will not amend the existing business zone nor reduce the total potential floor space area for employment uses and related public services.

The planning proposal is consistent with the direction.

Direction 2.2 Coastal Protection

The site is within the coastal environment area under the Coastal Management SEPP and the direction applies.

Development controls for the coastal environmental area aim to protect the processes and values of coastal waters, estuaries, coastal lakes and lagoons and the natural features on the adjoining land, including beaches, dunes, foreshores, headlands and rock platforms.

Consistency with the direction will be assessed following consultation with the Biodiversity Conservation Division.

Direction 2.3 Heritage Conservation

Council advised the site is not located in close proximity to any known items of heritage significance. It is not likely that there are any items of indigenous heritage significance based on the long term use of the site for residential and commercial purposes.

The planning proposal is consistent with the direction.

Direction 2.6 Remediation of Contaminated Land

Council advised that previous and existing land uses on the site include residential and commercial (motel) which are not potentially contaminating activities. However, stockpiles of building rubble and fill, including asbestos containing material (ACM), were observed during a site inspection.

The existing motel was built prior to 1978 and it is considered that hazardous building materials are present within the structure. Samples collected to test for acid sulfate soil encountered fill material including possible ACM below the ground surface.

Council has indicated conditions are recommended at the development application stage to address:

- preparation of a pre-demolition hazardous building material survey;
- all demolition work to be completed by a licensed asbestos demolition contractor and a clearance certificate provided post-demolition; and
- a stage 2 contaminated site assessment to be prepared post-demolition and a stage 3 remediation action plan.

The above recommended conditions for a development application are taken as the planning proposal authorities satisfaction of itself of part 4(b) and 4(c) of the direction.

Direction 3.1 Residential Zones

The direction applies as shop top housing is permissible on the site. Council advised the planning proposal seeks to provide a variety of apartment sizes with access to existing infrastructure and services.

The planning proposal is consistent with the direction.

Direction 3.4 Integrating Land Use and Transport

The direction applies as the planning proposal will alter the development controls on the site. The planning proposal has adequately integrated land use and transport as it seeks to redevelop existing urban land in an established commercial precinct. The site is located close to a range of services and transport connections including a regular bus service and a ferry service to the north of the site.

A traffic and transport study submitted with the planning proposal assessed that:

- the site is benefitted by good accessibility to local transport services and connectivity to local retail centre;
- existing intersections in the vicinity of the site have been shown to be operating with excellent levels of service and minimal delays;
- the parking provision for the residential apartment component will be consistent with the development control plan criteria;
- commercial parking shortfall of 7 spaces is considered to be acceptable as the development will only have 3 commercial units and the site has convenient access (walking distances) to ready transport services; and
- projected traffic generation outcome will only be some 8mvph more than a development outcome that is subject to existing local environmental plan controls.

The study concludes the eventual development outcome will continue to maintain existing intersections' levels of service and there will be no adverse impact to the local traffic operations.

The surrounding roads are classified as local roads. Maitland Bay Drive is a State Road that is located 600 meters the north of the site.

The planning proposal is consistent with the direction.

Direction 4.1 Acid Sulfate Soils

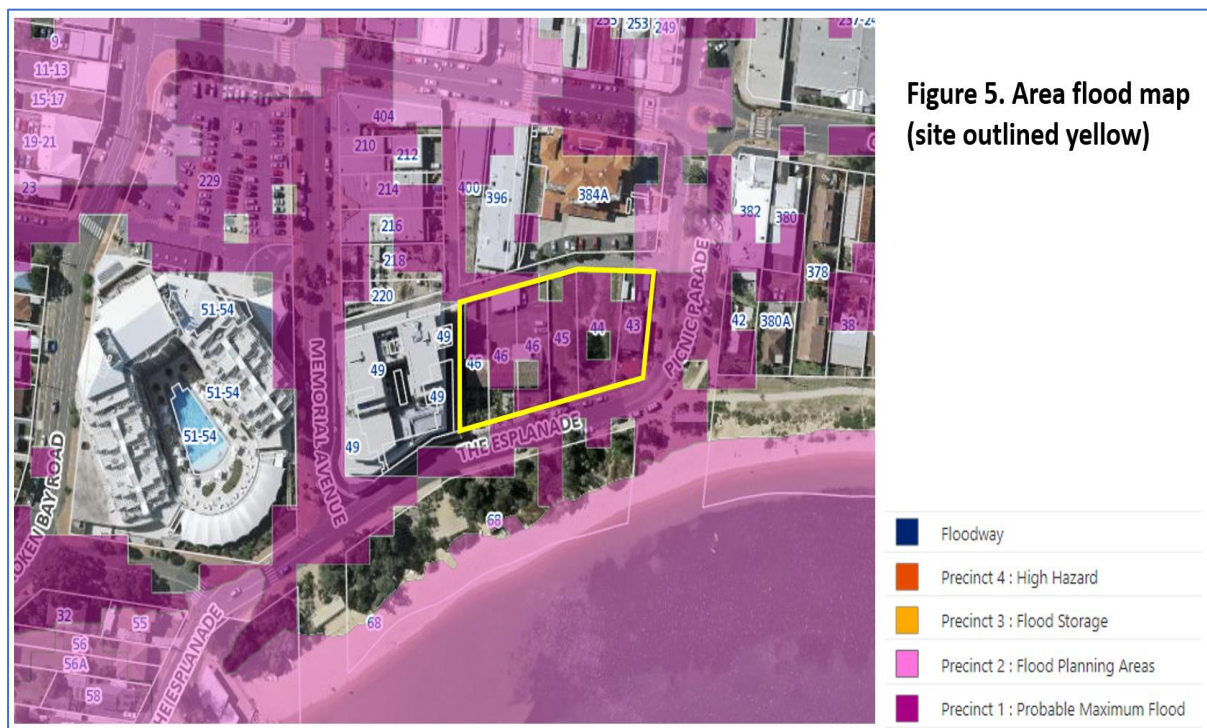
The site is classified as class 3 in the acid sulfate soils map and considered inconsistent with the direction.

Acid sulfate soil screening and testing on the site was discussed in a preliminary site investigation report submitted with the planning proposal. The report concluded that the soils samples collected to the depths of the investigation are not acid sulfate soil and do not require corresponding management.

On this basis, the inconsistency with the direction is of minor significance.

Direction 4.3 Flooding

Council advised the *Brisbane Water Foreshore Floodplain Risk Management Study and Plan 2015* does not show the site as being affected by the current 1% annual exceedance probability flooding event map. Council indicated that the minimum floor level of four meters in the development proposed for the planning proposal satisfies floodplain development requirements.



Consistency with the direction will be assessed following consultation with the Biodiversity and Conservation Division.

Direction 5.10 Implementation of Regional Plans

The planning proposal gives effect to the *Central Coast Regional Plan 2036* and is consistent with the direction.

Direction 6.3 Site Specific Provisions

The planning proposal seeks to insert a local provision to allow an increased maximum building height from 11.5m to 17m and floor space ratio from 1:1 to 1.75:1 for lots 117-122, DP 10650, subject to site consolidation and minimum site frontage.

In this case, the site specific provision is justifiable as the intention is to ensure positive design outcomes that are unlikely to be met if the lots were developed independently. This is also more in line with the Coastal Use Area requirements under the Coastal Management SEPP.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The planning proposal will increase local residential densities and support local businesses and various services in the Ettalong Beach local centre.

5.2 Environmental

The site is within a cleared and developed urban area.

Council advised the site is not subject to immediate coastal hazards, although the beach area on the southern side of the road fronting the site is being stabilised with established dune vegetation.

5.3 Economic

The economic assessment submitted with the planning proposal encouraged retail/commercial development within Ettalong Beach centre to address current demand due to the limited options for the supply of quality medium to high density residential and retail/commercial space in the area.

The proposed mixed use development is not expected to result in any adverse local social or economic impacts.

5.4 Infrastructure

A range of services are available close to the site, with transport connections including a regular bus service with connections to Woy Woy railway station and Erina Fair and a ferry service to Palm Beach in the Northern Beaches of Sydney. The shared pathway on the south side of The Esplanade links Ettalong Beach with Umina Beach to the south.

Council indicated all required services are currently available or can be suitably upgraded to accommodate an intensification of residential development of the site.

6. CONSULTATION

6.1 Community

Council proposes the planning proposal be placed on public exhibition for 28 days. The level of community consultation proposed is considered appropriate for this planning proposal.

6.2 Public authorities

Council proposes consultation with Transport for NSW, the Biodiversity and Conservation Division, Department of Primary Industries (Fisheries) given the site is within 40m of a waterway.

Consultation with the Department of Primary Industries (Fisheries) is not necessary as part of the planning proposal given that this will occur as part of any future development application in accordance with the *Water Management Act 2000*.

Consultation with Transport for NSW is not necessary as part of the planning proposal as the site is in an established urban area with surrounding local road network, along with the access to public transport options.

Consultation with the Biodiversity Conservation Division should be undertaken to consider consistent with section 9.1 Ministerial directions 2.2 Coastal Protection and 4.3 Flooding.

7. TIME FRAME

Council's project timeline is proposing approximately 11 months completion timeframe for the planning proposal.

The Local Environmental Plan Making Guidelines identifies administrative categories of planning proposals. This planning proposal has been assessed as 'standard', which has a benchmark timeframe of 225 working days from Gateway determination to finalisation.

As per the Guidelines, the Gateway determination should be conditioned for completing the local environmental plan by 1 December 2022.

8. LOCAL PLAN-MAKING AUTHORITY

Council's resolution has requested to be the local plan-making authority. It is recommended that Council be given the Minister's plan making delegations.

9. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree the inconsistency with section 9.1 Ministerial directions 4.1 Acid Sulfate Soils and 6.3 Site Specific Provisions are minor and justified; and
2. note the consistency with section 9.1 Ministerial directions 2.2 Coastal Protection and 4.3 Flooding is unresolved and will need to be determined following consultation with the relevant public authority.

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

1. The planning proposal is to be updated prior to community consultation to discuss the proposed voluntary planning agreement in part 3 of the planning proposal.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the Biodiversity Conservation Division.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.
5. The time frame for completing the local environmental plan is to by 1 December 2022.



07/12/2021
William Oxley
Manager
Central Coast and Hunter



23/12/21
Dan Simpkins
Director
Central Coast and Hunter Region