

## Planning and Assessment

IRF20/2091

### Gateway determination report

<b>LGA</b>	Central Coast
<b>PPA</b>	Central Coast Council
<b>NAME</b>	Planning Proposal 45 Mulloway Road Chain Valley Bay manufactured home estate (190 homes)
<b>NUMBER</b>	PP_2020_CCOAS_002_00
<b>LEP TO BE AMENDED</b>	Wyong LEP 2013
<b>ADDRESS</b>	45 Mulloway Road, Chain Valley Bay
<b>DESCRIPTION</b>	Lot 5 DP 1228880
<b>RECEIVED</b>	11/05/2020
<b>FILE NO.</b>	EF20/21810
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The objective of this planning proposal is to amend *Wyong Local Environmental Plan 2013* for 45 Mulloway Road, Chain Valley Bay to enable construction of a manufactured home estate and to conserve vegetated land to the south of the site.

### 1.2 Site description

The site is located around 1km from the Chain Valley Bay Road intersection with the Pacific Highway and 10.6 hectares in size. It has an existing dwelling to the north of the site with some bushland to the south, which has been identified in the North Wyong Shire Structure Plan as a major external conservation link.



Figure 1 – Subject site

### 1.3 Existing planning controls

The subject is currently zoned E3 Environmental Management under the *Wyong Local Environmental Plan 2013* and has a 40ha minimum lot size and no building height controls.

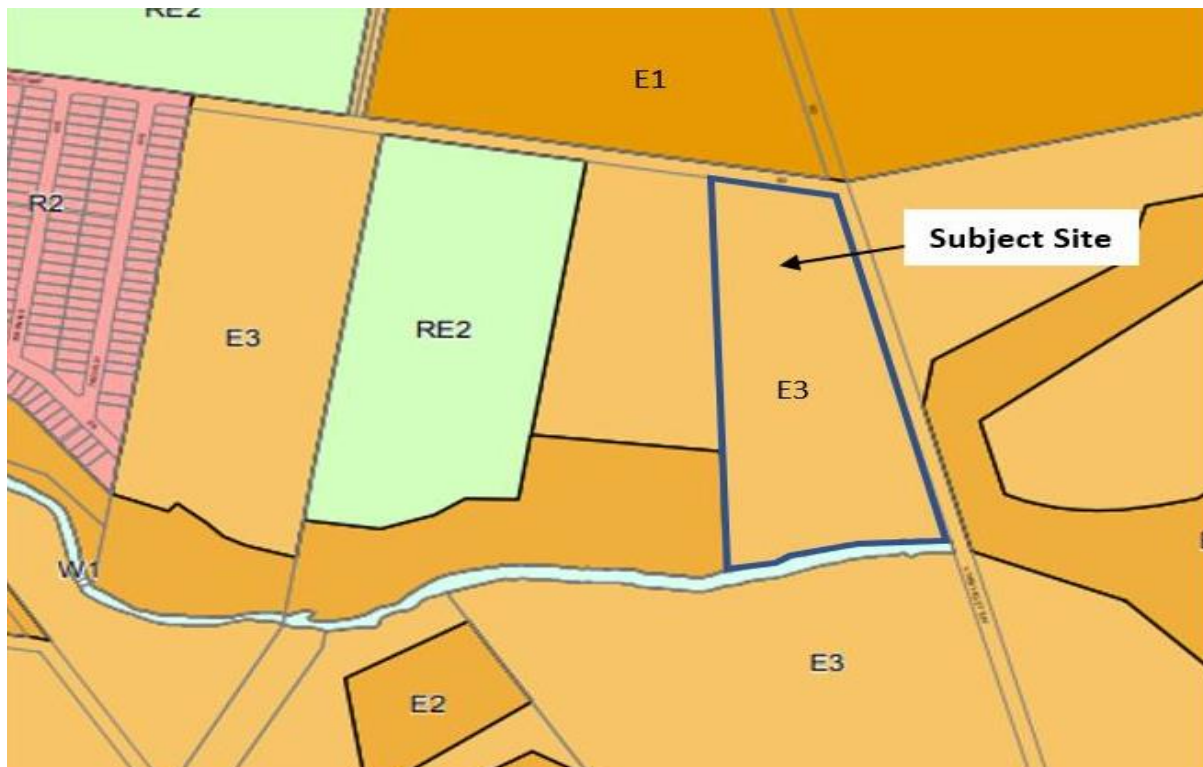


Figure 2 – Existing zoning

### 1.4 Surrounding area

The site adjoins an existing manufactured home estate to the west. The bushland to the north is part of the Lake Macquarie State Conservation Area (E1 National Park zone) and land to the east and south is subject to current planning proposal for residential and conservation purposes.



Figure 3 – Site context

## **2. PROPOSAL**

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### **2.1 Objectives or intended outcomes**

The objectives of the planning proposal are to enable a manufactured home estate to be constructed and to conserve the important onsite vegetation.

### **2.2 Explanation of provisions**

The planning proposal intends on rezoning part of the subject land from E3 Environmental Management to RE2 Private Recreation, which is consistent with land to the west with an existing manufactured home estate. The minimum lot size will remain as 40ha and there is no proposed building heights control. The southern part of the site is proposed to be zoned E2 Environmental Conservation.

### **2.3 Mapping**

The planning proposal includes a mapping change to the land use zone map. The maps included in the planning proposal may need to be updated prior to public exhibition.

## **3. NEED FOR THE PLANNING PROPOSAL**

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The planning proposal responds to a development application to establish a manufactured home estate on the site. The current zoning for the site does not permit manufactured home estate, as caravan parks are not permissible in the existing E3 Environmental Management zone.

Historically, Central Coast Council's approach has been to zone land RE2 Private Recreation to permits caravan parks and thus manufactured home estates.

Council considered an alternative planning approach to rezone the land to R1 General Residential and R3 Medium Density Residential zones as they both permit manufactured home estates.

However, these alternatives were not progressed as these zones also include other land uses that were not considered appropriate in this locality. Council concluded the RE2 Private Recreation zone is the best approach to enable the proposed manufactured home estate.

The R2 Low Density Residential zone was not considered by Council as caravan parks and manufactured home estates are not permitted in the zone. This merit of R2 Low Density Residential zone should be explored further to determine which zone would better align with the strategic intent for a residential outcome as identified in Council's planning strategies.

The land proposed to be rezoned E2 Environmental Conservation reflects the site being partially nominated as a green corridor and habitat network by the North Wyong Shire Structure Plan. Preservation of this land is also reflected in the draft Greater Lake Munmorah Structure Plan.

## **4. STRATEGIC ASSESSMENT**

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### **4.1 State**

The planning proposal is consistent with the state planning framework.

## **4.2 Regional**

### **4.2.1 Central Coast Regional Plan 2036**

There are various directions and actions from the regional plan that apply to this planning proposal.

Direction 12 – Protect and manage environmental values. The planning proposal responds to the environmental attributes of the site by avoiding significant environmental lands and identifies these lands for being rezoned E2 Environmental Conservation.

Direction 15 – Create a well-planned, compact settlement pattern. The planning proposal is consistent with Actions 15.1 and 15.2 by providing for a compact settlement pattern around existing urban areas and does not encroach on sensitive land uses. The remaining actions under this direction are considerations for the Draft Greater Lake Munmorah Structure Plan.

Direction 17 – Align land use and infrastructure planning. While only a small site, the planning proposal adjoins existing areas serviced with appropriate levels of infrastructure for residential development.

The planning proposal provides for a housing type in demand in this area within reasonable distance to the Lake Munmorah shopping centre, and generally aligns with the staging and sequencing of residential lands being developed in this area. It is consistent with the following directions:

- Direction 19 – Accelerate housing supply and improve housing choice.
- Direction 20 – Grow housing choice in and around local centres
- Direction 21 – Provide housing choice to meet community needs
- Direction 22 - Deliver housing in new release areas that are best suited to building new communities

### **4.2.2 North Wyong Shire Structure Plan 2012**

The *North Wyong Shire Structure Plan 2012* was endorsed by the Department in October 2012 and remains current. The subject site is identified in the structure plan as a proposed residential area and part green corridor.

While the proposed RE2 Private Recreation zone may not necessarily represent a residential outcome, the likely residential outcome of a manufactured home estate will be consistent.

The Structure Plan identified the opportunity to provide a system of corridor and habitat networks in the Structure Plan area, known as the 'green corridor'. The Structure Plan Map illustrates the green corridor, the preferred east-west route for the corridor and several desirable corridor linkages within and adjoining the study area.



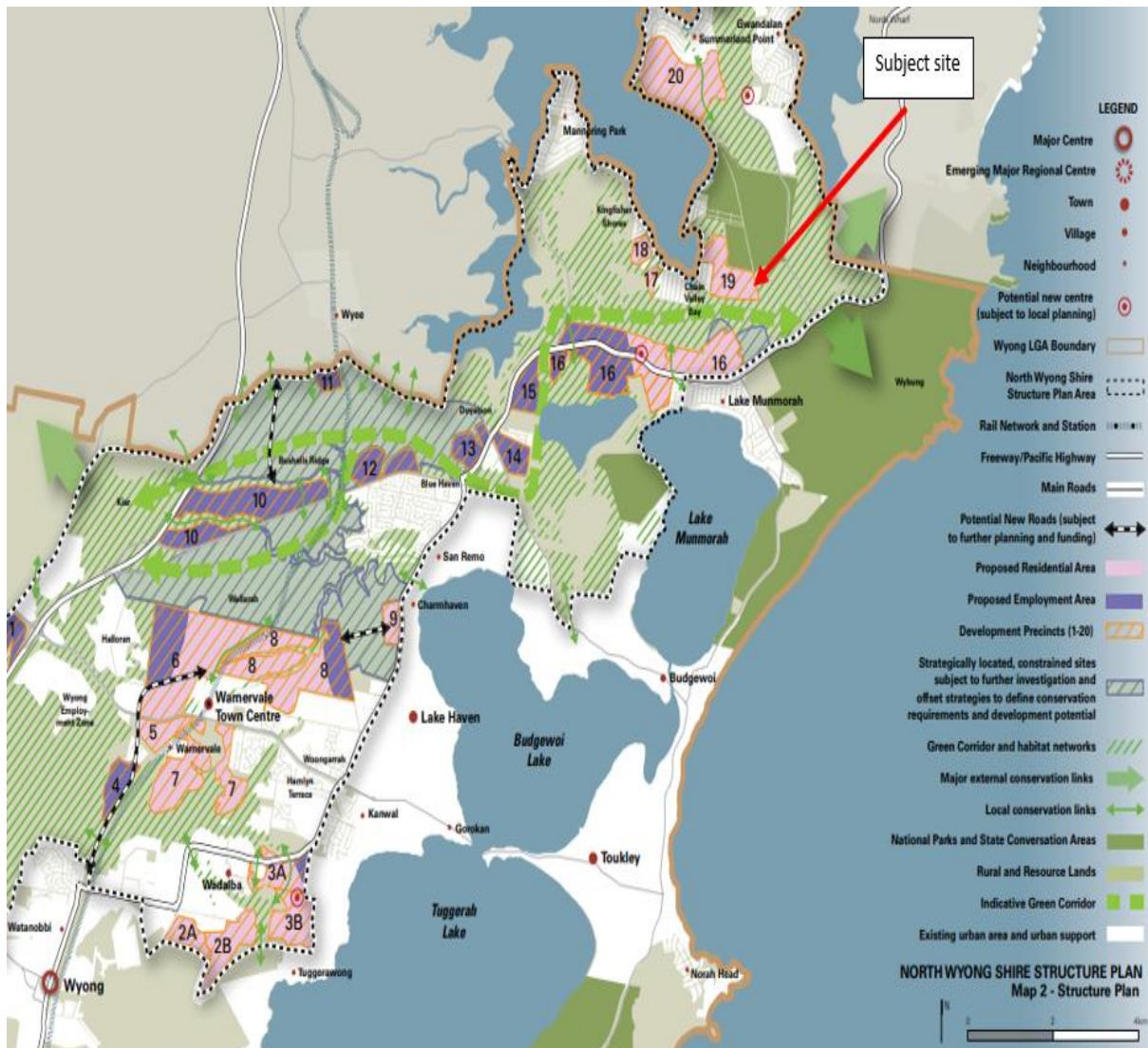


Figure 4 - North Wyong Shire Structure Plan

### 4.3 Local

#### 4.3.1 Local Strategic Planning Statement

The draft Central Coast Local Strategic Planning Statement was on public exhibition at the time the planning proposal was being prepared. The planning proposal is generally consistent with the draft local strategic planning statement. The planning proposal should be updated to consider the final local strategic planning statement published on the ePlanning website prior to public exhibition.

#### 4.3.2 Draft Greater Lake Munmorah Structure Plan

The site is in the draft greater lake munmorah structure plan, which was on public exhibition till 26 May 2020 and will soon be considered by Central Coast Council.

The draft structure plan recognises the importance of manufactured home estates in the area, being a product in demand and therefore providing for a sort-after housing alternative. The draft structure plan also recognises a low-density proposals on land to the south, east and west of the site that may result in 600 lots to the south of the site and 100 lots to the west. A residential outcome would therefore be consistent with the intent of the draft structure plan.

The draft structure plan also identifies part of the site as a green corridor, and the proposal reflects this by proposing the E2 Environmental Conservation zone.

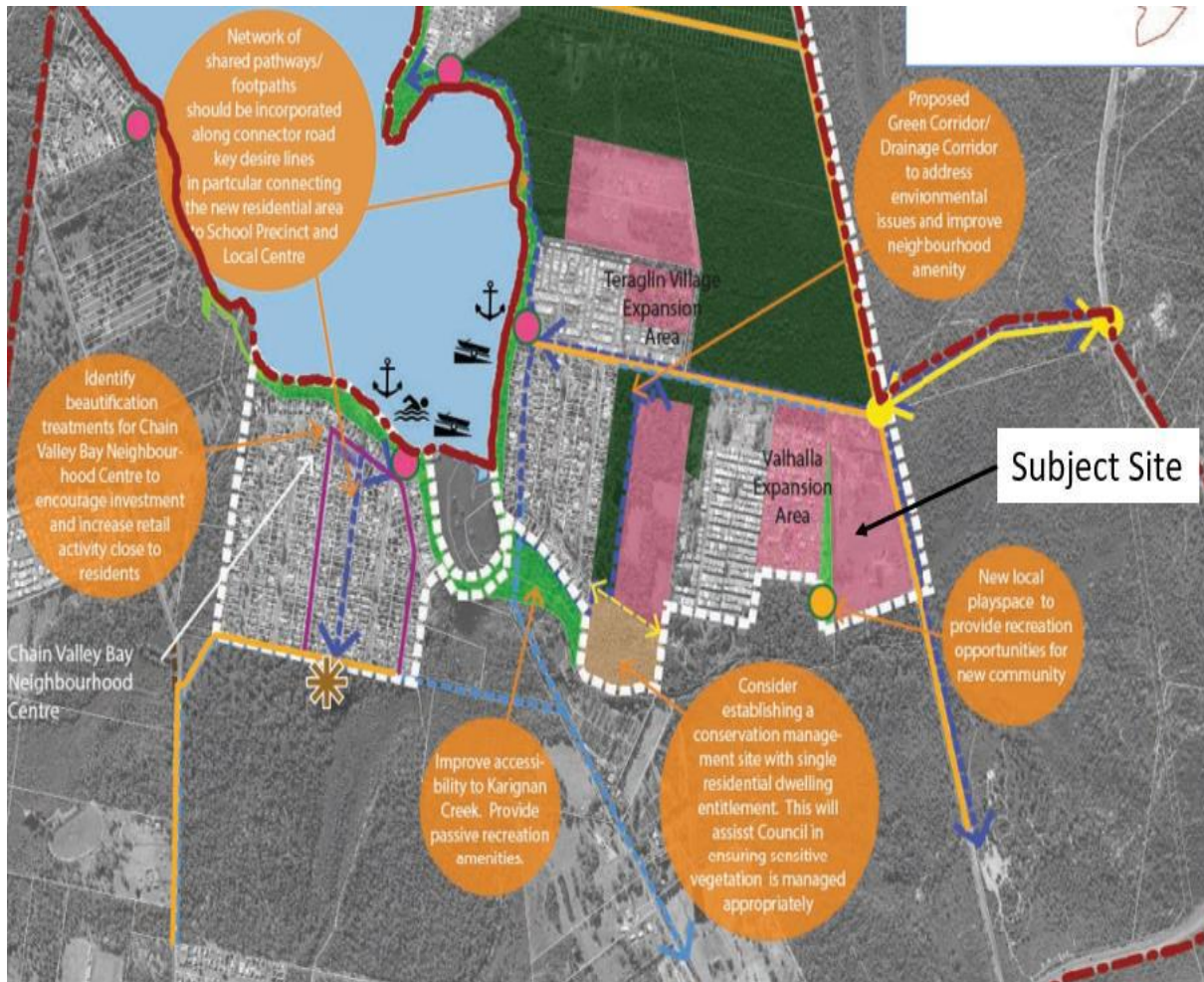


Figure 5 – Draft Greater Lake Munmorah Structure Plan map extract

#### 4.4 Section 9.1 Ministerial directions

The following Ministerial directions apply to the site and have been assessed for their consistency.

##### 2.1 Environment Protection Zones

The planning proposal may be consistent with this Ministerial direction as the area proposed to be rezoned for urban uses is mostly cleared and the remainder of the site is proposed an E2 Environmental Conservation zone.

In this case, the site and the adjoining planning proposal to the south will combine to provide an appropriate biodiversity corridor for this area. The final boundary for the proposed E2 Environmental Conservation zone should be considered holistically in relation to both planning proposals.

The level of details provided on the significance of the vegetation does not enable a thorough consideration against the suitability of this land for an E2 Environmental Conservation zone.

##### 3.1 Residential Zones

The planning proposal is not consistent with this Ministerial direction as the site has been identified as future residential and the proposal it is only considering a caravan



park or manufactured home estates. To be consistent with this direction, the planning proposal should enable 'a variety and choice of housing types'.

Central Coast Council should consider if the R2 Low Density Residential zone may be more appropriate for the site with an additional permitted use for manufactured home estates. This will potentially enable a residential outcome over the site if the proposal is no longer progressed, if this is considered appropriate by Council.

#### 4.2 Mine subsidence and Unstable Land

As the site is located within a mine subsidence district, consultation with Subsidence Advisory NSW will be required in order to assess consistency with this direction.

#### 4.3 Flood Prone Land

While there is no flood mapping for this area, Central Coast Council advise the draft flood mapping for lake macquarie identifies that the limit of the possible maximum flood (PMF) generally aligns with land prosed as E2 Environmental Conservation zoning.

The final zone boundary should align with the PMF which is above the 1% flood standard.

#### 4.4 Planning for Bushfire Protection

The planning proposal includes a bushfire report as the land is identified as Bushfire Prone. Consultation is required to determine consistency with this direction.

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

#### State Environmental Planning Policy 36 – Manufactured Home Estates

The planning proposal aims to enable a manufactured home estate on the site. Clause 9 of the state environmental planning policy outlines matters to be considered by councils, including the cumulative impact of manufactured home estates in the locality. While this provision is required to be considered when a development application is lodged, it is worth considering the requirement now as the site adjoins another manufactured home estate for expansion and is close to other manufactured home estates with an existing estimated 500 homes.

#### State Environmental Planning Policy 55 – Remediation of land

A Phase 1 contamination report has been prepared. Central Coast Council conclude that the land can be remediated to a suitable condition for residential use and Section 9.1 Ministerial direction 2.6 have been satisfied.

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#### State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

The subject site is covered by a Consolidated Coal Lease and has been subject to underground mining. Both Division of Resource and Geoscience and Subsidence Advisory NSW have provided conditional support for the proposal. It is recommended they are also be consulted during exhibition of the planning proposal.

## 5. SITE-SPECIFIC ASSESSMENT

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### 5.1 Social

While normally a development application matter, SEPP 36 requires the consideration of the cumulative impacts of other manufactured home estates in the locality. As there are already three other manufactured home estates close by with an estimated 500 homes, it is appropriate to consider these impacts as part of the planning proposal. It is noted the area has been identified in the relevant strategic plans as a future residential area.

The planning proposal includes a social impact analysis in relation to the proposed 190 homes. It does not identify any significant issues and reaffirms the need for housing diversity in the form of manufactured home estates.

### 5.2 Environmental

The locality is identified in strategy documents as containing a biodiversity corridor linking east and west (see [Figure 4](#)). The subject site and the adjoining planning proposal to the south will combine to provide an appropriate biodiversity corridor for this area consistent with the strategy.

The final boundary for the proposed E2 Environmental Conservation zone should be considered holistically in relation to both planning proposals.

The level of details provided on the significance of the vegetation does not enable a thorough consideration against the suitability of this land for an E2 Environmental Conservation zone.

The planning proposal notes the vegetated southern end of the site is highlighted on the biodiversity values map published by the NSW Office of Environment and Heritage.

Koala feed trees Scribbly Gum (*Eucalyptus Haemastoma*) and Swamp Mahogany (*Eucalyptus robusta*) make up the only eucalypt trees on site and comprise more than 15% of trees within the Coastal Woodland and Riparian Forest communities respectively.

The site is identified in the koala development application map and consideration needs to be given to the *State Environmental Planning Policy (Koala Habitat Protection) 2019*. Further target koala survey incorporating scat searches will be undertaken during future target owl surveys, to provide a final conclusion on if the site comprises core koala habitat under the definitions of the SEPP.

### 5.3 Economic

The planning proposal will enable further residential development with a focus on affordability and housing diversity, which will have positive economic impacts. The planning proposal includes the assessment of the location and level of services and amenities available, which is also a consideration on economic impacts in relation to the need for government spending to service future development.

### 5.4 Infrastructure

The planning proposal for an additional 190 dwellings will increase demand for local services. There is appropriate utility infrastructure to service the site, and retail and community facilities are located within a reasonable distance. The key issue for this site is transport.



The planning proposal will impact on the intersection capacity of the Pacific Highway and Chain Valley Road. The planning proposal acknowledges this intersection is already at capacity and requires a significant upgrade.

The planning proposal notes that Transport for NSW “*will not support the creation of additional lots requiring access to this intersection until the intersection has been upgraded.*”

The planning proposal also notes that there are several planning proposals within the vicinity of this site that are concurrently being considered and all parties are to contribute to the completion of the required works through agreement with Transport for NSW. The planning proposal may also require local road improvements.

Clause 7.9 of the *Wyong Local Environmental Plan 2013* requires that:

*Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required -*

*(e) suitable vehicular access.*

Council advise an agreement with Transport for NSW to contribute to the upgrade of the intersection is required for a development application to progress.

## **6. CONSULTATION**

### **6.1 Community**

Central Coast Council does not identify any timeframe for public consultation. The proposal is classified as a low impact proposal, hence a 28 day exhibition period is required.

### **6.2 Agencies**

Central Coast Council does not identify any agencies for consultation.

To satisfy Section 9.1 Ministerial directions, consultation with NSW Rural Fire Service and Subsidence Advisory NSW will be required. As there is an intersection capacity issue with the Pacific Highway, Transport for NSW is also required to be consulted. Consultation with the Biodiversity Conservation Division is also required.

## **7. TIME FRAME**

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Central Coast Council has suggested a 12-month timeframe. It is considered 18 months is reasonable given the proposed Gateway determination conditions and consultation associated with the proposal.

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

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Central Coast Council has requested to be the local plan-making authority this is supported given the relatively minor nature of the proposal and its considered consistency with local and regional strategies.

## 10. RECOMMENDATION

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It is recommended that the delegate of the Secretary:

1. note that the consistency with section 9.1 Ministerial directions are unresolved and will require justification.

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

1. The planning proposal is to be updated prior to public exhibition to:
  - (a) include an assessment against clause 9 and schedule of 2 of *State Environmental planning Policy No 36 – Manufactured Home Estates*;
  - (b) confirm the width of the proposed E2 Environmental Conservation zone with a splayed design response to better align with the position of environmental zones on adjoining land, which together will form an appropriate biodiversity corridor for the area;
  - (c) update the assessment against the *State Environmental Planning Policy (Koala Habitat Protection) 2019*;
  - (d) identify any offsetting that would be required in response to any proposed clearing of vegetation on the site;
  - (e) identify the appropriate mechanism for satisfactory arrangements certification to be made for the provision of any designated State public infrastructure;
  - (f) update the assessment against the Central Coast Local Strategic Planning Statement; and
  - (g) include appropriate minimum lot size and building heights LEP maps.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities:
  - (a) Transport for NSW;
  - (b) NSW Rural Fire Service;
  - (c) Subsidence Advisory NSW;
  - (d) Biodiversity Conservation Division;
  - (e) Darkinjung Local Aboriginal Land Council; and
  - (f) Guringai Tribal Link.
4. The time frame for completing the LEP is to be 18 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should be the local plan-making authority.



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28/07/2020  
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