

Planning and Assessment

IRF20/2119

Gateway determination report

LGA	Central Coast
PPA	Central Coast Council
NAME	285 – 335 Pacific Highway, Lake Munmorah (300 lots, 0 jobs)
NUMBER	PP_2020_CCOAS_004_00
LEP TO BE AMENDED	Wyong LEP 2013 or the draft Central Coast LEP
ADDRESS	285 – 335 Pacific Highway, Lake Munmorah
DESCRIPTION	Lots 1 & 2 DP 626787; Lots 27, 437 & 438 DP 755266; Lot 83 DP 650114 and Lot 12 DP 771284
RECEIVED	11 May 2020
ADEQUATE	22 July 2020
FILE NO.	IRF20/2119
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Description of planning proposal

The site is identified as a future residential development precinct (subject to investigation) in the *North Wyong Shire Structure Plan 2012* and draft Greater Munmorah Structure Plan.

The planning proposal seeks to rezone land from RU6 Transition to R2 Low Density Residential and E2 Environmental Conservation to enable development for residential and environmental conservation purposes.

1.2 Site description

The site has an area of approximately 27.2 hectares (ha) comprising of 7 lots ranging in size from 1,300m² to 8.5ha. The land is characterised by sparse vegetation cover with concentrations of vegetation located in the northwest and southeast corners of the site.

Central Coast Council indicate the site has a significant drainage function and with overland flows directed along to the north-east corner and north-west part of the site and drains to Karignan Creek and Chain Valley Bay to the north.

The lots contain dwellings and ancillary structures and there are two telecommunication facilities located near the front of the site adjacent to the Pacific Highway. A service station is located in the south west corner of the site and Council

has identified other on site uses include a wholesale and retail nursery and commercial dog and cat kennels at 295 and 305 Pacific Highway.

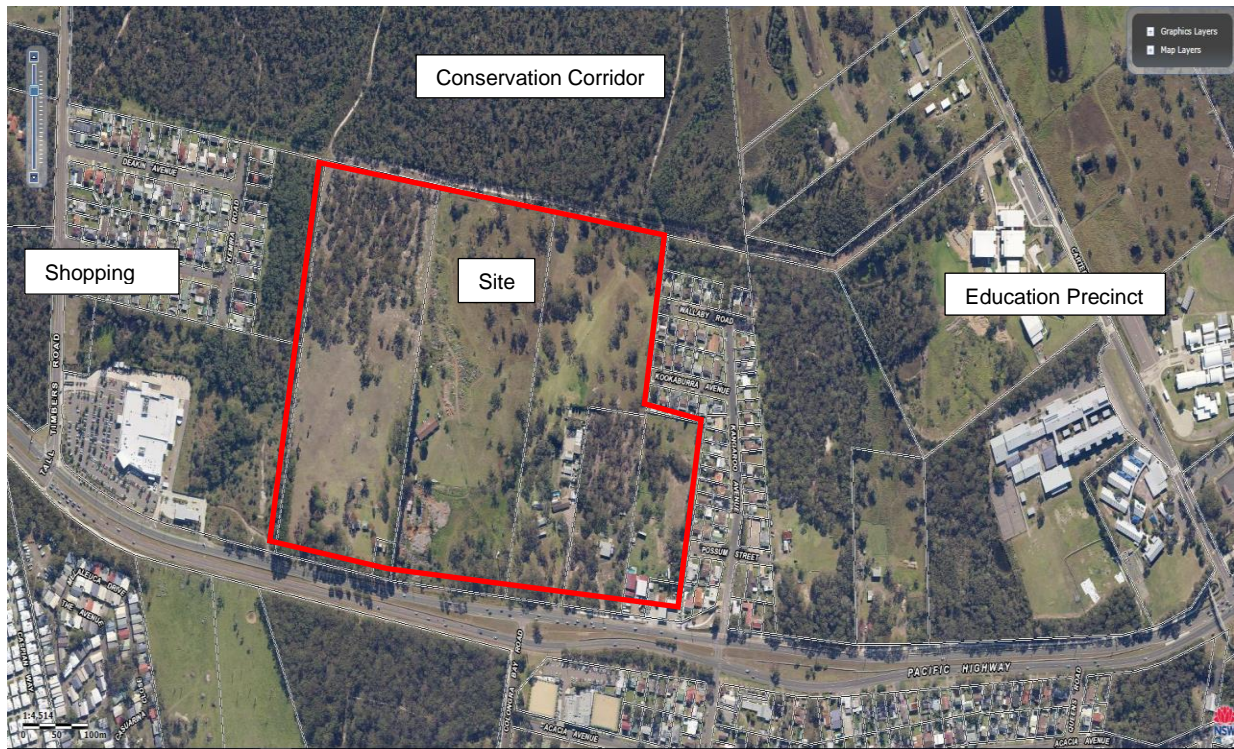


Figure 1 – Site Plan

1.3 Existing planning controls

The site is zoned RU6 Rural Transition under the *Wyong Local Environmental Plan 2013*. A 40ha minimum lot size applies to the RU6 Rural Transition zoned land.

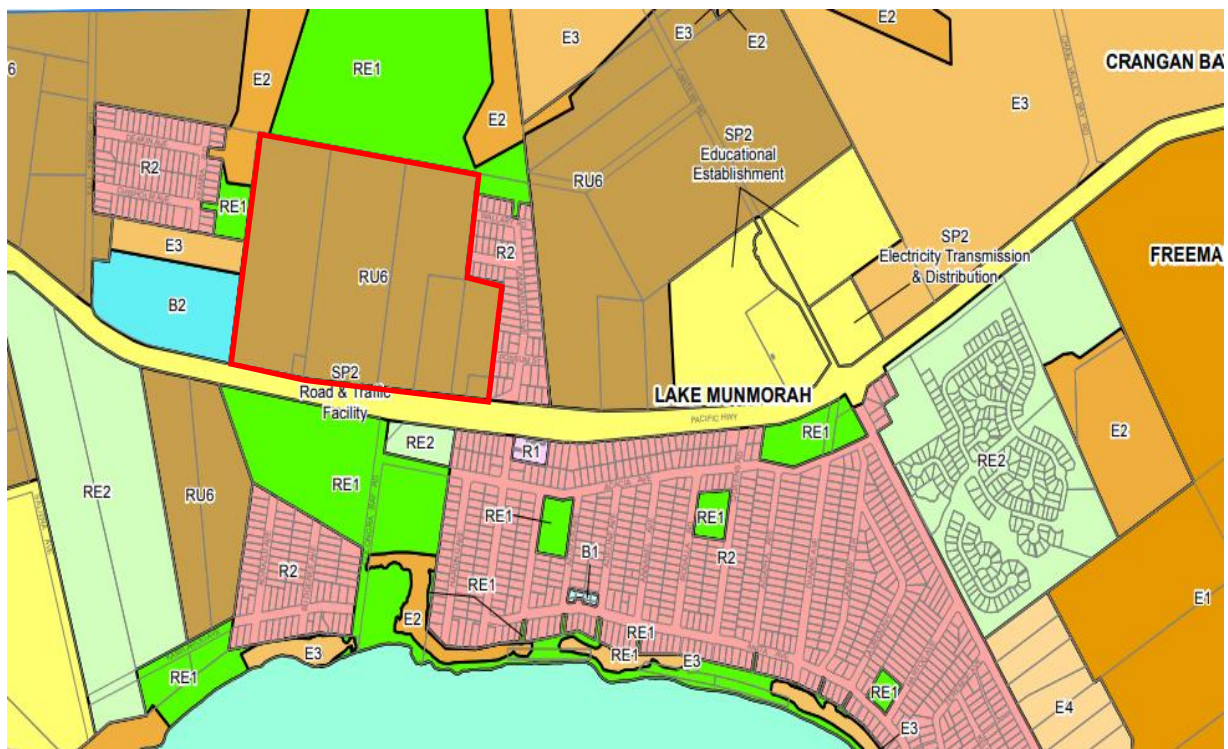


Figure 2 – Zoning Map

1.4 Surrounding area

The site is located on the Pacific Highway in Lake Munmorah.

The principle areas of residential development are located generally south of the Pacific Highway. However, two pockets of residential development are located east and west of the site.

The Lake Munmorah Shopping Centre is located on land zoned B2 Local Centre to the west of the site on Tall Timbers Road. An education precinct containing two primary and two high schools is located east of the site on Carters Road.

Land zoned RE1 Public Recreation is located directly north of the site and is vegetated Crown land and forms part of a larger green corridor and habitat network corridor throughout the northern part of Wyong Shire.

Three planning proposals in the vicinity of the site are progressing in the planning system and all have received Gateway determinations (figure 3). The planning proposals once finalised would enable delivery of:

- 102 dwellings at 15 Mulloway Road;
- 620 dwellings at the Lake Munmorah and Crangan Bay site; and
- 190 manufactured homes at 45 Mulloway Road.

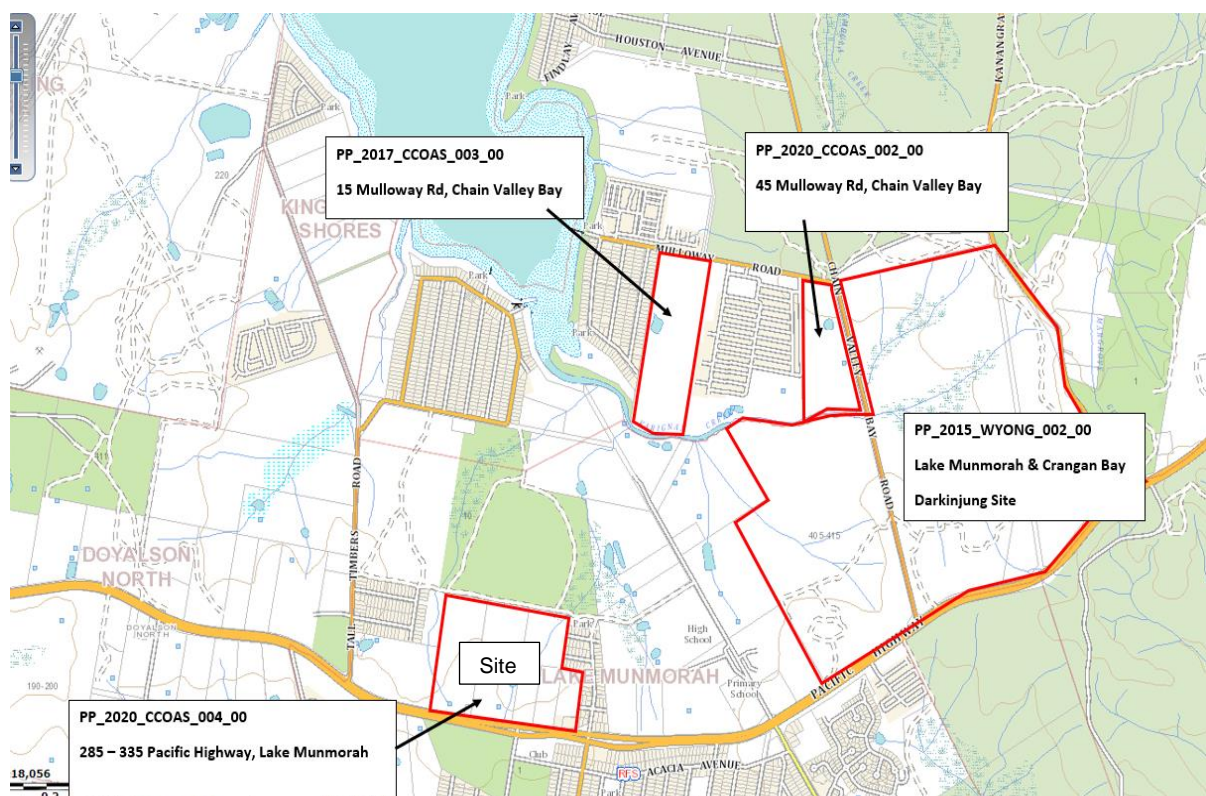


Figure 3 – Surrounding Planning Proposals

Potential future coal extraction would most likely further to the east of the site and Council considers the impediment is capable of being resolved. Central Coast Council proposes to further consult with the Division of Resources and Geoscience, and Subsidence Advisory NSW should a Gateway determination be issued.

3. NEED FOR THE PLANNING PROPOSAL

Central Coast Council has identified the need for the planning proposal is supported by both state and local strategic documents, which identify the site as a future residential development precinct.

The site is identified in the *North Wyong Shire Structure Plan 2012* as part of Development Precinct 16 Lake Munmorah (a proposed employment and residential area). Council's draft Greater Lake Munmorah Structure Plan identifies the site in Precinct 8 – Northern Lake Munmorah for future residential land release.

The planning proposal has demonstrated strategic need to rezone land to deliver outcomes envisaged in state and local strategic planning documents.

4. STRATEGIC ASSESSMENT

4.1 State

The planning proposal is consistent with the state planning framework.

4.2 Regional

4.2.1 Central Coast Regional Plan 2036

The planning proposal is generally consistent with the following directions and actions in the *Central Coast Regional Plan 2036*:

- Direction 12 – Protect and manage environmental values.
 - Action 12.1 Identify terrestrial and aquatic biodiversity values and protect areas of high environmental value to sustain the lifestyle, economic success and environmental health of the region.
 - Action 12.2 Identify and strengthen biodiversity corridors as places for priority biodiversity offsets
- The site is in the vicinity of a proposed biodiversity corridor. As acknowledged in the planning proposal, the consistency with this direction will require further investigative studies and consultation with relevant public authorities.
- Direction 15 – Create a well-planned, compact settlement pattern.
 - 15.1 Create a well-planned, functional and compact settlement pattern around existing urban and employment areas, the Warnervale-Wadalba release area, the Northern and Southern Growth Corridors, existing rural villages and sites included in an endorsed local strategy.
 - 15.2 Ensure the settlement pattern responds to settlement planning principles and does not encroach on sensitive land uses
- Direction 19 – Accelerate housing supply and improve housing choice.
 - Action 19.1 Release land for housing and employment in the North Wyong Shire Structure Plan area to align with the delivery of local and State infrastructure
- Direction 21 – Provide housing choice to meet community needs
 - Action 21.1 Provide greater housing choice by delivering diverse housing, lot types and sizes, including small-lot housing in infill and greenfield housing locations.

- Direction 22 - Deliver housing in new release areas that are best suited to building new communities
 - Action 22.1 Coordinate infrastructure delivery to support the North Wyong Structure Plan release areas.

4.2.2 North Wyong Shire Structure Plan 2012

The *North Wyong Shire Structure Plan 2012* identifies the site in Precinct 16 Lake Munmorah, which is proposed for residential and employment purposes. The land is categorised as a long-term release area in the staging plan meaning the land will not be zoned before 15 years due to the potential for future coal extraction.

The Structure Plan estimates a yield of 15 dwellings per hectare for residential precincts, and the proposal is consistent with a yield of approximately 15.7 dwellings per hectare over the site.

The Structure Plan identifies land could be accelerated in the staging plan if satisfactory arrangements are in place to forward fund infrastructure. Central Coats Council proposes to map the site as an urban release area and the proposal must satisfy infrastructure requirements of the NSW Government prior to consent being granted for any future development.

The site also forms part of the 'Green Corridor and Habitat Network' due to the location of a local conservation link for wildlife that runs in a north-south direction in the south-western corner of the site. This links to the major external conservation link directly north of the site (figure 5).

The Structure Plan envisaged the boundary of both development and conservation areas would be determined through detailed local planning investigation. The proposed E2 Environmental Conservation and R2 Low Density Residential zone boundaries and corridor widths would need to be established in consultation with the Biodiversity and Conservation Division.



Figure 5 - Extract NWSSP and Site

4.3 Local

4.3.1 Local Strategic Planning Statement

The planning proposal was prepared before Central Coast Council had exhibited the draft Central Coast Local Strategic Planning Statement (LSPS). Following the conclusion of exhibition, Council resolved to adopt the LSPS on 29 June 2020.

Given the LSPS was recently adopted, it is recommended the planning proposal be updated to include an assessment for consistency with the LSPS before proceeding to community consultation.

4.3.2 Central Coast Community Strategic Plan (CSP) – One Central Coast

Council has identified the planning proposal is consistent with the five themes of its CSP and has provided an assessment in supporting documents against the relevant objectives in its CSP.

4.3.3 Wyong Shire Settlement Strategy 2013

The *Wyong Shire Settlement Strategy 2013* reaffirms the strategic intent of the *North Wyong Shire Structure Plan 2012* for the precinct. The planning proposal is generally consistent with the Settlement Strategy, with the land use component conditionally endorsed by the former Director General of the Department on 17 September 2013.

4.3.4 draft Greater Lake Munmorah Structure Plan

The site is within the draft Greater Lake Munmorah Structure Plan, which concluded public exhibition on 26 May 2020 and is yet to be adopted by Council.

The draft Structure Plan identifies the site as a short term development site due to revised surface development restrictions being reduced by Subsidence Advisory NSW, minimal vegetation clearing required, no land use conflicts with current development patterns and landowner willingness to develop.

The draft Structure Plan identifies the site is located in Precinct 8 Northern Lake Munmorah (figure 6) and a low-density residential land use is proposed with a proposed green corridor located on the western boundary and riparian corridor through the site.

A residential outcome would therefore be consistent with the intent of the draft Structure plan and zoning the land to R2 Low Density Residential and E2 Environmental Conservation zone will establish the appropriate zone boundaries for the biodiversity corridor links.



Figure 93: Precinct 8 - Northern Lake Munmorah

Figure 6 - Extract of Draft Greater Lake Munmorah Structure Plan

4.4 Section 9.1 Ministerial Directions

1.2 Rural Zones

The planning proposal is inconsistent with the direction as it rezones RU6 Transition land to a residential zone. The inconsistency may be justified by the *North Wyong Shire Structure Plan 2012* and the *Wyong Shire Settlement Strategy 2013*, which identify the land for future residential land release.

It is recommended the Secretary's delegate agree the inconsistency is justified in accordance with the terms of the direction.

1.3 Mining, Petroleum Production and Extractive Industries

The planning proposal will affect land that is subject to a consolidated coal lease and consultation with the Division of Resources and Geoscience and the relevant leaseholder should occur before consistency with this direction can be determined.

2.3 Heritage Conservation

Council has advised only three of the lots conducted an AHIMS search and no items were identified. Central Coast Council should expand the AIHMS search to cover the entire site and include an updated assessment once investigation of Aboriginal cultural heritage has been undertaken in consultation with Heritage NSW, Darkinjung Local Aboriginal Land Council and Guringai Tribal Link.

Council should include an updated assessment of consistency with this direction once investigation of Aboriginal cultural heritage has been undertaken in consultation with Heritage NSW, Darkinjung Local Aboriginal Land Council and Guringai Tribal Link.

2.6 Remediation of Contaminated Land

Council has advised a BP Service Station operates at 335 Pacific Highway and a nursery at 295 Pacific Highway are potentially contaminating activities.

A Phase 1 Contaminated site investigation identified fill material, litter including discarded mechanical parts, oil slick and hydrocarbon odour and septic tank leaks were present.

Council proposes further detailed investigations for the potential contaminant sources and should be satisfied that information is sufficient to address land contamination on the site.

Further information on land contamination is required before consistency with the direction can be determined.

3.4 Integrating Land Use & Transport

The planning proposal site is located on the Pacific Highway and requires consultation with Transport for NSW before consistency with the direction can be determined.

4.2 Mine Subsidence and Unstable Land

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

Central Coast Council flood mapping indicates the site is not located on flood prone land. However, a Council initiated flood study for the Lake Macquarie catchment is expected to be completed by the end of 2020. Council identifies areas of concerns being located in the north-west and north-east of the site where detention basins are proposed rather than residential development.

A stormwater report to support the rezoning identified the site as located within the upper reaches of the Karignan Creek catchment that drains into Lake Macquarie. Natural water courses run through the eastern half of the development and along the western boundary, which may subject the site to overland flows and flooding. The overland flow paths are proposed to be incorporated into conservation and drainage corridors within the proposal area.

Flood levels throughout the rezoning site should be based on the 1% AEP water levels plus 500 mm freeboard with the western catchment requiring only minimal filling to flood proof the lots whereas the eastern catchment some earthworks and lot filling would be required.

Post development modelling indicates no significant impacts to creek flows expected downstream of the proposed rezoning site.

Council should be satisfied the information is sufficient to address flooding, overland flow, and stormwater management has been provided in consultation with the Biodiversity and Conservation Division for flood matters. This consultation is required before consistency with the direction can be determined.

4.4 Planning for Bushfire Protection

The planning proposal will affect land that is mapped as bushfire prone and consultation with the NSW Rural Fire Service should occur before consistency with this direction can be determined.

4.5 State environmental planning policies (SEPPs)

SEPP (Koala Habitat Protection) 2019

Central Coast Council has advised no assessment was undertaken in regards to potential koala habitat on the site. The planning proposal should be updated prior to public exhibition to include assessment against the *State Environmental Planning Policy (Koala Habitat Protection) 2019*.

SEPP (Coastal Management) 2018

The north west corner of the site is mapped as coastal wetlands and proximity area for coastal wetlands and would could potentially be classified as designated development if a development application proposed to locate develop the area.

Council has advised no development is proposed in this area other than drainage works and is consistent with the SEPP.

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. The Division of Resource and Geoscience and Subsidence Advisory NSW should be consulted to confirm consistency with the SEPP.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

A Social Impact Assessment has been provided to support the planning proposal and identifies the proposed development would include the provision of a playground, picnic area, cycle paths and accessible footpaths which would be required as part of a future conditional development consent.

The planning proposal will result in the creation of 300 residential lots and will assist in supporting the housing needs of a growing population and improve local housing diversity. Given the potential for population growth, Central Coast Council should consult with the Central Coast Local Health District and the NSW Department of Education to ensure there is adequate health and education infrastructure in the locality.

5.2 Environmental

The site is identified in the *North Wyong Shire Structure Plan 2012* and Draft Greater Lake Munmorah Structure Plan to provide a local conservation link that runs in a north-south direction on the site and connects to the major regional biodiversity link directly north of the site. Central Coast Council proposes to consult with the Biodiversity and Conservation Division in relation to the local green corridor and should ensure the corridor width is appropriate maintain a viable habitat linkage.

A Biodiversity Review Report (BRR) to support the proposal identified a threatened flora species, *Angophora inopina*, was observed within the northern section of the site. The BRR identified 2 endangered ecological communities, Freshwater Wetland

on Coastal Floodplain and Swamp Sclerophyll Forest on Coastal Floodplain present on the site and generally located within the proposed E2 drainage corridor (figure 7).

The BRR indicated no threatened fauna species were observed within the subject site during preliminary surveys. Council has advised the site has habitat for multiple threatened species, which have not been surveyed during the appropriate seasons. Due to proximity of Lake Macquarie and Lake Munmorah multiple species and migratory species are listed on the NSW BioNet Atlas as identified within a 10km radius of the site.

Council considers the rezoning is supportable for an ecological perspective as the site contains large areas of cleared land with minimal areas of endangered ecological communities. However, it notes the site is highlighted on the Biodiversity Values Map and a biodiversity development assessment report (BDAR) is required.

The supporting studies provided do not include all the lots on the site and should be updated to include all lots in the assessment before community consultation.

The site is also identified as bushfire prone land and a preliminary bushfire report has been prepared indicating asset protection zones be provided along the western and northern boundaries of the site and either side of a proposed drainage line within the site. Given there is the potential for a biodiversity habitat link on the western side of the site, the APZ may need to be revised following consultation with BCD. The proposal should also be referred to NSW Rural Fire Service post Gateway.

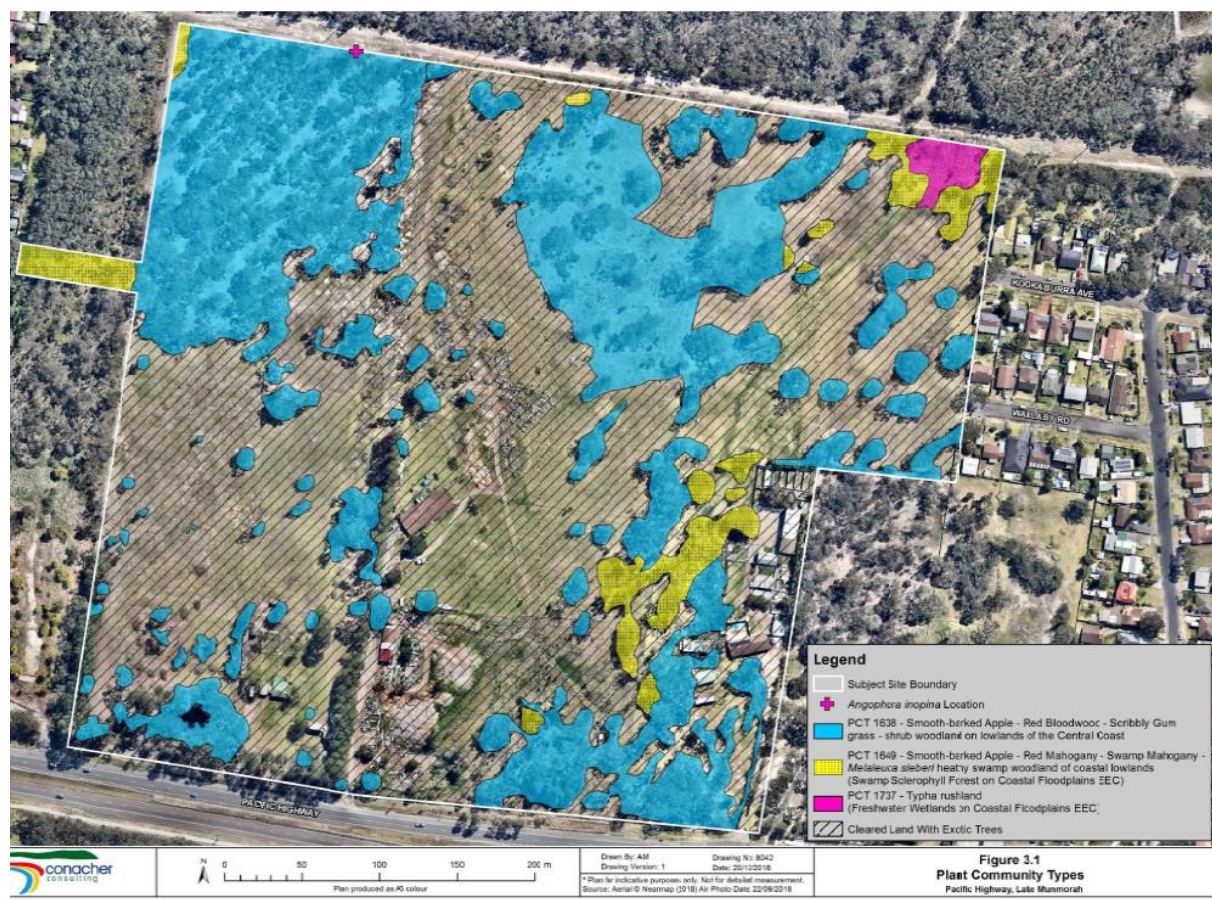


Figure 7 – Location of EECs

5.3 Economic

The site is overlain with Consolidated Coal Lease CCL719 granted in July 1989 and held by Centennial Mannering Pty Ltd (figure 8). The lease covers 1,817 hectares of land in the local area and expires on 22 September 2020. It is recommended Central Coast Council consult with the Division of Resources and Geoscience.



Figure 8 – Consolidated Coal Lease (Source: Minview - Resources & Geoscience)

5.4 Infrastructure

Traffic and Transport

A Preliminary Traffic Assessment Report prepared to support the proposal concludes the adjacent road network is operating within its technical capacity and has scope to cater for additional traffic generated by the new development.

The concept plan identifies (figure 6) through-site connections to the existing residential developments to the west and east of the site. A proposed link road from Tall Timbers Road to Carters Road as proposed in the draft Greater Lake Munmorah Structure Plan would also allow a redistribution of traffic from the site that would further improve the performance of the Pacific Highway / Tall Timbers Road intersection.

A number of planning proposals are progressing (figure 3) through the planning system, which when finalised will provide approximately 1,200 dwellings proximate to the Pacific Highway between Tall Timbers Road and Kanangra Road. Central Coast Council should consider the cumulative growth and traffic implications for the likely future housing in the area and minimise direct access arrangements into the site from the Pacific Highway in consultation with Transport for NSW.

Sewer and Water

Council has identified there are sewer capacity constraints in servicing Precinct 16, which includes the subject site. Capacity upgrades to a sewer pump station and additional sewer lines have been identified by Council.

There is capacity within the water network to cater for the residential development proposed. Council notes the reticulated network could be improved with better connectivity between existing networks and may need augmentation or replacement of the reticulation main.

A sewer and water servicing strategy will be required to detail the sewer and water requirements.

Services

Council has identified the site is suitably located to be serviced by electricity and the NBN network is available in the locality and should consult with the relevant providers.

6. CONSULTATION

6.1 Community

Central Coast Council proposes to exhibit the planning proposal for a minimum of 28 days. This is considered appropriate.

6.2 Agencies

Council proposes to undertake consultation with these agencies, and this is supported:

- Ausgrid
- Central Coast Local Health District
- Darkinjung Local Aboriginal Land Council
- Department of Planning, Industry and Environment
- Water NSW
- Guringai Tribal Link
- Jemena
- Subsidence Advisory NSW
- NSW Department of Education
- Division of Resources and Geoscience
- NSW Rural Fire Service
- Biodiversity and Conservation Division
- Transport for NSW
- TransGrid

In addition, the following agencies should be consulted:

- Heritage NSW

7. TIME FRAME

Council has requested a 12-month timeframe to make the plan. Given supporting studies should be updated to include an assessment against all lots associated with the planning proposal, an 18 month timeframe is considered appropriate.

8. LOCAL PLAN-MAKING AUTHORITY

The planning proposal seeks to rezone land that is supported by state and local strategic planning documents. It is considered Central Coast Council should be granted delegation to make the plan.

9. RECOMMENDATION


It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 1.2 Rural Zones is justified.
2. note that the consistency with the following section 9.1 Ministerial directions are unresolved and will require justification:
 - a. 1.3 Mining, Petroleum Production and Extractive Industries,
 - b. 2.3 Heritage Conservation,
 - c. 2.6 Remediation of Contaminated Land,
 - d. 3.4 Integrating Land Use & Transport,
 - e. 4.2 Mine Subsidence and Unstable Land,
 - f. 4.3 Flood Prone Land, and
 - g. 4.4 Planning for Bushfire Protection.

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 should be updated to:
 - (a) include an assessment for consistency with Central Coast Local Strategic Planning Statement; and
 - (b) include an assessment against the *State Environmental Planning Policy (Koala Habitat Protection) 2019*;
 - (c) confirm the width of the proposed E2 Environmental Conservation zone to align with biodiversity corridors for the area;
 - (d) update all supporting studies to include all lots in the site to provide information sufficient to address:
 - i. Aboriginal cultural heritage,
 - ii. land contamination,
 - iii. traffic and transport including cumulative impacts,
 - iv. flooding, overland flow, and stormwater management.
 - v. bushfire

- vi. biodiversity impacts
- (e) updated to include draft 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:
 - Darkinjung Local Aboriginal Land Council
 - Guringai Tribal Link
 - Heritage NSW
 - Subsidence NSW
 - Division of Resources and Geoscience
 - NSW Rural Fire Service
 - Biodiversity and Conservation Division
 - Transport for NSW
 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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14/09/2020
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