

## Public exhibition of Lake Munmorah planning proposal PP\_2015\_WYONG\_002\_01

**Purpose:** To seek the approval of the Executive Director, Local and Regional Planning to publicly exhibit PP\_2015\_WYONG\_002\_01.

**Analysis:** Exhibition is a significant milestone for the planning proposal as it had a Gateway determination made on 19 February 2015 for the matter to proceed. The proposal will enable use of the land for a mix of low-density and medium-density housing, provision of public recreation space and formalisation of a regional biodiversity corridor through the site. It also gives effect to the *State Environmental Planning Policy (Aboriginal Land) 2019* and the *Interim Darkinjung Development Delivery Plan (IDDDP)* to support social outcomes and economic self-determination for the local Aboriginal community.

Matters raised from selected agencies required to be consulted under the Gateway determination have been addressed while further targeted agency consultation will continue to be progressed during public exhibition.

### Recommendation

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That the Executive Director, Local and Regional Planning:

1. **note** the updated version of the Lake Munmorah planning proposal (**Attachment A**);
2. **note** the draft site-specific development control plan to be exhibited with the planning proposal (**Attachment B**); and
3. **approve** the public exhibition of the planning proposal, development control plan and associated supporting studies for 28 days.

### Executive Director approval

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**Approved**

**Monica Gibson**

**Executive Director, Local and Regional Planning**

**Date: 28/2/2022**

## Key reason

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### **The planning proposal is considered suitable for public exhibition**

The planning proposal seeks to rezone land for residential and environmental protection purposes and apply development standards at 405-415 Pacific Highway, Lake Munmorah; 2 Kanangra Drive, Crangan Bay; and 425 Pacific Highway, Crangan Bay.

The planning proposal received a Gateway determination on 19 February 2015 (**Attachment A – Gateway determination**).

On 17 December 2021, the Gateway determination was altered to extend completion to December 2022 and update the conditions to reflect the strategic planning framework that provides additional justification for the planning proposal (**Attachment B – Alteration of Gateway determination**).

### **Matters raised by public authorities have been adequately addressed**

The Alteration of Gateway determination required consultation with the Biodiversity Conservation Division, Transport for NSW and NSW Rural Fire Service.

#### Biodiversity Conservation Division

An updated biodiversity assessment report was prepared in October 2021 and referred to Biodiversity Conservation Division (BCD). A response from BCD was received in November 2021 with 12 recommendations. Most recommendations can be noted or resolved at the development application stage.

BCD have recommended an updated assessment be undertaken for the removal of 32.4 hectares of important swift parrot habitat. This can be undertaken after exhibition, but completed prior to finalisation of the planning proposal.

The certification pathway nominated by Darkinjung (i.e. stand-alone biodiversity certification assessment report or strategic conservation plan) is likely to impact on the final development footprint. This is due to the greater flexibility offered by a strategic conservation plan in identifying offsets and justifying biodiversity impacts.

The Department has resolved proposed zoning for a regionally significant biodiversity corridor. Darkinjung were seeking a 200m wide corridor, while the BCD were seeking a 400m wide corridor. The parties have agreed to a 300m wide corridor to protect endangered ecological communities in the area.

Darkinjung sought amendments to the development outcomes on site following resolution of the biodiversity corridor. Until this was resolved, Darkinjung were unable to complete updated a flooding report. BCD did not provide any recommendations in relation to flooding in their advice dated November 2021.

#### NSW Rural Fire Service

An updated strategic bushfire study was prepared in November 2021 and referred to the NSW Rural Fire Service (NSW RFS). A response from the NSW RFS was received in December 2021 raising no objections to the proposal, subject to design compliance with *Planning for Bushfire Protection 2019* at the future subdivision and development stages.

#### Transport for NSW

The planning proposal was referred to Transport for NSW (TfNSW) for comment in April 2021. To date, no formal response has been received. The planning proposal will be referred to TfNSW at the commencement of public exhibition in accordance with the Gateway alteration.

TfNSW is also doing traffic modelling and intersection design for Chain Valley Bay Road / Pacific Highway to inform a future State voluntary planning agreement as the site is proposed to be mapped as an urban release area under the local environmental plan.

There are currently three planning proposals that will rely on the upgrade of the intersection at Chain Valley Bay Road and Pacific Highway, being this planning proposal, 15 Mulloway Road and 45 Mulloway Road. TfNSW have advised the Department these planning proposals should not be finalised until the apportionment costs have been determined and agreed to by each developer.

#### Central Coast Council

Darkinjung are also discussing with Central Coast Council a voluntary planning agreement (VPA) for local infrastructure. These negotiations are ongoing and a draft VPA has not yet been prepared. It is proposed the planning proposal proceed to public exhibition to enable it to progress while the VPA preparation between Council and the proponent continues. Alternatively, if an agreement is not reached, Council's *Northern Districts Development Contributions Plan 2013* will apply.

#### **A site-specific development control plan will supplement existing controls**

There is limited need for a site-specific development control plan for the site as the *Wyong Development Control Plan 2013* (and draft Central Coast DCP 2018) provide comprehensive development controls for subdivision of land.

However, a site-specific plan will apply as a supplement to existing development controls to provide an indicative structure plan to guide future subdivision and connections within and to the site.

It is proposed to exhibit the draft DCP for 28 days under section 3.45 of *Environmental Planning and Assessment Act 1979*.

#### **Communications Strategy**

Exhibition of the planning proposal will be managed via the Planning Portal where the planning proposal, development control plan and accompanying documentation will be made available. Submission regarding the exhibition can also be submitted via the Planning Portal. A media release is planned for the first day of public exhibition.

The following studies will be published alongside the planning proposal and draft DCP:

- Aboriginal Cultural Heritage Assessment, August 2020;
- Acoustic Assessment, November 2017;
- Biodiversity Assessment Report, October 2021;
- Biodiversity Corridor Assessment, June 2020;
- Land Capability Assessment, November 2017;
- Open Space and Recreation Analysis, August 2018;

- Preliminary Site Investigation (Contamination and Slope Stability), September 2017;
- Social Impact Assessment, April 2017;
- Stormwater, Flooding and Servicing Report, November 2021;
- Strategic Bushfire Study, November 2021;
- Structure Plan Report, February 2020;
- Traffic Impact Assessment, April 2018; and
- Visual Impact Assessment, August 2018.

## Background

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### Interim Darkinjung Development Delivery Plan

The *State Environmental Planning Policy (Aboriginal Land) 2019* came into force on 6 February 2019 and enables the making of Development Delivery Plans (DDPs) for land owned by Local Aboriginal Land Councils (LALCs). LALCs have the opportunity for the Regional Planning Panel to determine whether a planning proposal should proceed to Gateway.

### The planning proposal authority has changed over time in response to the complexity of the proposal

In August 2020, Central Coast Council resolved not to retain the role of Planning Proposal Authority (PPA). The Secretary subsequently directed the appointment of the Hunter and Central Coast Planning Panel (Panel) as the planning proposal authority.

On 30 March 2021, the Panel considered the Lake Munmorah planning proposal documentation and determined the documents did not sufficiently address the Gateway determination. The Panel advised a revised package of planning proposal documents addressing the Gateway determination was needed prior to progressing to public exhibition.

On 6 August 2021, Darkinjung Local Aboriginal Land Council have requested that an alternative planning proposal authority be appointed to overcome further process delays experienced with the Panel.

The Minister recently announced an intention to establish a new strategic planning panel staffed with Indigenous representatives to assess and approve planning proposals subject to the *State Environmental Planning Policy (Aboriginal Land) 2019*.

The appointment of an alternate PPA is not required prior to public exhibition.

## Attachments

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Attachment	Title
A	Draft Lake Munmorah planning proposal
B	Draft Development Control Plan
C	Gateway determination
D	Alteration of Gateway determination
E	Briefing Note – Alteration of Gateway determination

## Departmental approval and contact

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Approver	Position	Date approved
Dan Simpkins	Director, Central Coast and Hunter Region	25/2/22
Contact name	Position	Phone number
William Oxley	Manager, Local and Regional Planning	9585 6970