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Plan finalisation report – PP-2022-3770

Deferred lands planning proposal

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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1 Introduction

1.1 Overview

1.1.1 Central Coast Local Environmental Plan 2022 (Amendment No. 8)

The proposed amendment implements primarily conservation zones as well as associated planning controls to land identified as a ‘deferred matter’ under the Central Coast Local Environmental Plan 2022.

Land identified as deferred matters (referred to as deferred lands) under the Central Coast LEP 2022 are subject to provisions under the Interim Development Order 122 – Gosford (IDO 122) and Gosford Planning Scheme Ordinance (GPSO). The deferred lands had been considered when legacy instruments from the former Wyong and Gosford councils were consolidated into the Central Coast Local Environmental Plan 2022; however they were ‘deferred’ to allow further examination of the methodology used to translate environment protection zones. This has informed the current planning proposal (**Attachment A**), which seeks to apply environmental protection zones to land identified as deferred lands in accordance with *LEP Practice Note PN 09-002 – Environmental Protection Zones* (**Attachment B**).

1.1.2 Site description

The deferred lands consist of approximately 3,438 lots within the southern portion of the Central Coast Local Government Area (LGA) and east of the M1 Motorway (**Figure 1**).

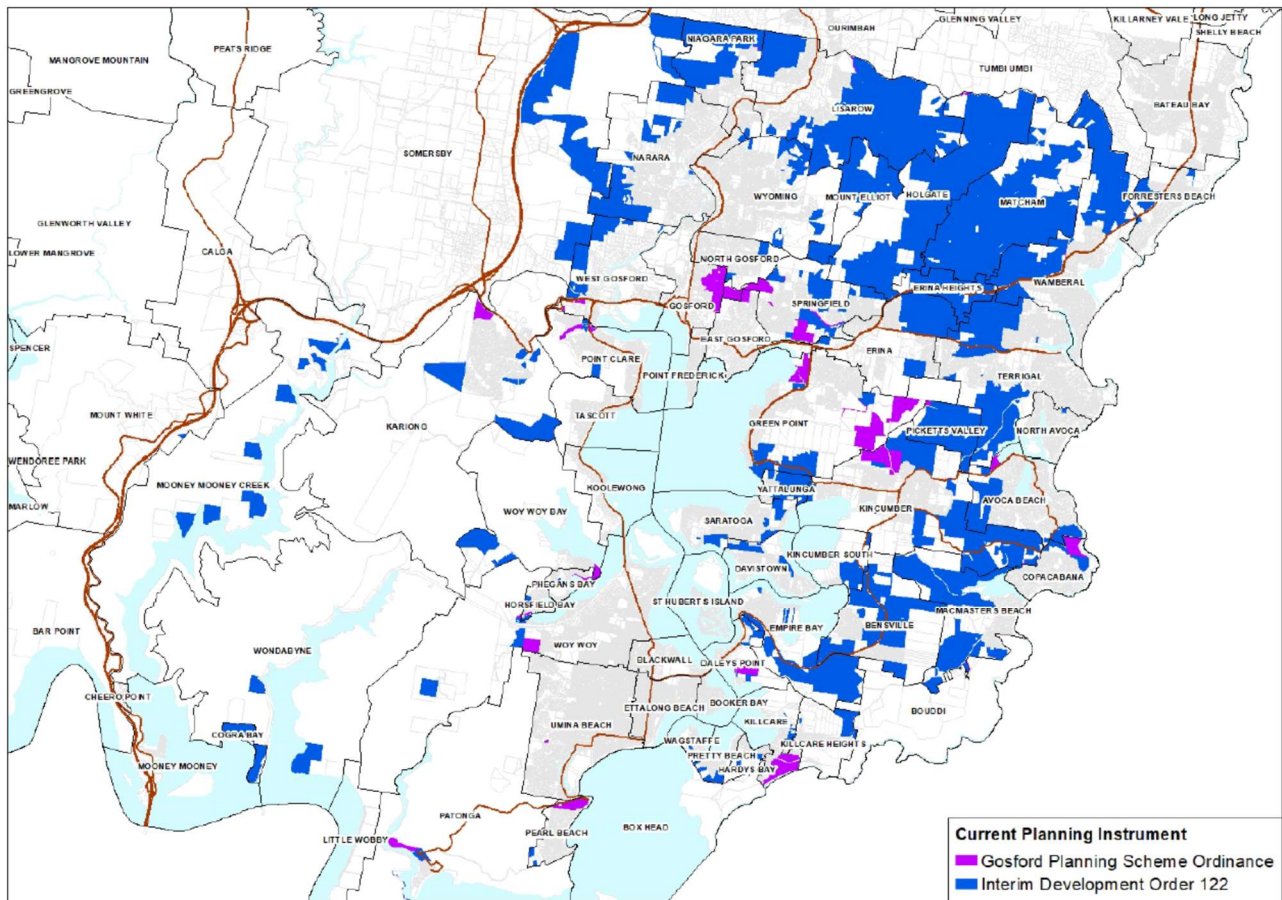


Figure 1 – Subject sites (planning proposal)

More specifically, the deferred lands:

- are primarily zoned for environmental and scenic protection purposes under either the Interim Development Order 122 – Gosford (IDO 122) or Gosford Planning Scheme Ordinance (GPSO),
- are occupied by a range of uses including agricultural uses, dwellings, caravan parks, service stations, stormwater treatment facilities and bushland,
- are interspersed between towns and centres; and include, or are in close proximity to, residential uses,
- are in close proximity to national parks and state forests; as well as bushland, rainforest, wetlands and coastal areas which are recognised for their environmental values and may include ecologically endangered communities and threatened species, and
- are in close proximity to the Coastal Open Space System (COSS), which comprises a network of reserves supporting native vegetation managed by Central Coast Council.

1.1.1 Purpose of plan

The draft LEP (**Attachment LEP**) aims to provide a more consistent zoning framework for environmental lands across the Central Coast Local Government Area (LGA), as required by the *Standard Instrument (Local Environmental Plans) Order 2006*.

The planning proposal (**Attachment A**) contains the following intended outcomes:

- Transition zoning for the deferred lands from the Interim Development Order 122 – Gosford (IDO 122) and Gosford Planning Scheme Ordinance (GPSO) to the Standard Instrument zones. Primarily translation occurs to the C2 Environmental Conservation, C3 Environmental Management, and C4 Environmental Living Zones (refer to **Table 1**).
- Apply minimum lot sizes to land identified as ‘deferred lands’ generally consistent with the minimum lot sizes applied under CCLEP 2022.
- Amend the Land Application Map to include the ‘deferred lands’ in the Central Coast Local Environmental Plan.
- Repeal the Interim Development Order 122 – Gosford (IDO 122) and Gosford Planning Scheme Ordinance (GPSO).
- Retire the bonus lot provision clause (18(4)(b)) under IDO 122 which enables subdivision of 7(c2) land to 1-2 hectares provided land is dedicated to Council as a public reserve (as part of Council’s Coastal Open Space System) or a monetary contribution is provided to Council for the purchase or embellishment of COSS public reserves. Note, CCLEP 2022 Clause 4.1E Exceptions to minimum subdivision lot sizes for certain split zones enables land conservation or dedication.
- Remove CCLEP 2022 Clause 4.1F ‘Exception to minimum lot size for subdivision of land that includes deferred matter’.
- Introduce a clause to permit lots smaller than the minimum lot size, provided the land is used for the purposes of conservation management or a similar purpose and does not create an opportunity for additional dwellings.
- Introduce a clause to permit lots smaller than the minimum lot size for certain split zone lots (land in a residential, employment or mixed use zone split with land in RU1 Primary Production, RU2 Rural Landscape, RU6 Transition, C2 Environmental Conservation or C3 Environmental Management zone) to ensure that the subdivision occurs in a manner that promotes sustainable land use and development, provided the ‘undersized’ lots do not create the opportunity for additional dwellings.
- Amend clause 4.1E Exceptions to minimum subdivision lot sizes for certain split zones (3)(b) to increase the lot size for all resulting lots containing land in Zone C4 Environmental Living from 0.5 hectares to a 1ha lot size.
- Make administrative amendments to the CCLEP to include transition of existing provisions from IDO 122 and GPSO such as the heritage schedule and additional permitted uses schedule.

In parallel to this LEP amendment, Council will also update the Central Coast Development Control Plan to remove any references to deferred lands/deferred matters zones and update any other DCP controls that accompany the proposed LEP provisions.

Table 1 – proposed zone translations

Current Zone	Proposed Zone (under CCLEP 2022)	Number of lots
IDO 122 Zone 7(a) Conservation and Scenic Protection (Conservation)	C2 Environmental Conservation	60
IDO 122 Part Zone 7(a) Conservation and Scenic Protection (Conservation), Part 7(b) Conservation and Scenic Protection (Scenic Protection) and Part 7(c2) Conservation and Scenic Protection (Rural Land Holdings)	Part Zone C2 Environmental Conservation and Part C3 Environmental Management	91* *Note some lots counted with proposed 7(a), 7(b) and 7(c2) zonings below
IDO 122 Zone 7(a) Conservation and Scenic Protection (Conservation)	Part Zone C2 Environmental Conservation and Part C3 Environmental Management	1173
IDO 122 & GPSO Zone 7(a) Conservation and Scenic Protection (Conservation)	Part Zone C2 Environmental Conservation and Part C3 Environmental Management Part R2 Low Density Residential	4 (partial)
IDO 122 Zone 7(c2) Conservation and Scenic Protection (Rural Land Holdings)	C4 Environmental Living	2150
IDO 122 Zone 7(b) Conservation and Scenic Protection (Scenic Protection)	Part C2 Environmental Conservation and Part C3 Environmental Management	4 (including 2 partial)
IDO 122 Zone 7(e) Coastal Land Acquisition	C2 Environmental Conservation	2
GPSO Zone 2(a) Residential	R2 Low Density Residential	1 (partial)
GPSO & IDO 122 Zones 5(a) Special Uses and 6(b) Open Space (Special Purposes)	C2 Environmental Conservation and C3 Environmental Management	12
GPSO Zone 5(e) Special Uses (Arterial Road - Proposed)	C2 Environmental Conservation and C3 Environmental Management	1 (partial)
GPSO Zone 6(a) Open Space (Recreation) and IDO 122 Zone 6(a) Open Space (Recreation)	C2 Environmental Conservation and C3 Environmental Management	35

It is also proposed to rezone from 7(a) Conservation and Scenic Protection (Conservation); three existing part roads to RE1 Public Recreation at Springfield; Coomal Avenue, Davistown; and Cullens Road, Kincumber; and two existing part roads; to R2 Low Density Residential at Reads Road, Wamberal and The Round Drive, Avoca Beach.

1.1.2 Methodology

Council notes the planning proposal's (**Attachment A**) methodology was informed by a land use assessment and associated mapping for deferred lands by suburb as well as a literature and data review.

The proposal outlines a three-stage zoning methodology that was used:

1. Zone Translation – as an initial step, a translation of the existing zone to the best matched Standard Instrument zone was carried out.
2. Environmental Attribute Assessment – following the zone translation, an environmental attribute assessment (EAA) was undertaken to ensure environmental attributes of sites were aligned with the stage 1 zone translation. This stage further refined translated zones and resulted in some 'split zonings' where part of a lot containing land of a higher ecological value is zoned C2 Conservation and the remainder of the lot is zoned C3 Environmental Management. The environmental attributes assessment and translated zoning was informed by LEP *Practice Note PN 09-002 – Environmental Protection Zones* and key criteria.

However, since the Practice Note (2009) and Standard Instrument Order (2006), State policy has evolved over time, particularly noting the 2018 Coastal management framework, NSW Bushfire Inquiry 2020 and NSW Flood Inquiry 2022 which have resulted in updates to key guidelines for natural hazards. There are sufficient State strategic planning mechanisms and guidelines to manage natural hazards and resilience planning. As such, it is noted the primary objective of a conservation zoning is to conserve the environmental values and natural qualities of that land. The identification of a significant natural hazard has to date been a secondary consideration for a conservation zone.

If land met one or more of the below criteria, it has been nominated to be the land use zone as listed in the following headings:

C2 Environmental Conservation

- Endangered Ecological Communities
- Wetlands
- Rainforests
- Riparian Corridors
- Land under a Coastal Lands Protection Scheme
- Coastal foreshores and coastal wetlands subject to coastal hazards, including climate change effects
- Steeply sloping escarpment land and land slip areas (33% or higher)

C3 Environmental Management (does not include attributes associated with C2 Environmental Conservation land)

- Areas of special ecological, scientific, cultural or aesthetic attributes, specifically, scenic protection areas with contiguous native vegetation or forest cover (mapped and aerial imagery analysis)
- Lands with environmental hazards (Acid Sulfate Soils Class 1 and 2, High hazard flood areas)

C4 Environmental Living

- Given the clear alignment between the IDO 122 - 7(c2) Conservation and Scenic Protection (Scenic Protection – Rural Small Holdings) and C4 zone, C4 is to be applied except where land is identified to be of high environmental value (where the C2 zoning is to be applied).

3. Land Fragmentation Analysis -

- Site-by-site analysis of all land was undertaken as a final step which considered existing lot size, suitability of certain permissible land uses (i.e extensive agriculture) and common lot ownership.
- This analysis further informed implementation of split zone lots.
- Generally, lot sizes 2ha or less that are clustered together or that adjoin other C4 land, and that did not trigger a C2 or C3 zoning during the zone translation and environmental attribute assessments, are proposed to be converted to the C4 zone.

1.1.3 Strategic context

It is noted there are some strategic documents and other matters that are relevant to the subject proposal and future planning for the Central Coast, including:

- Draft Central Coast Strategic Conservation Plan;
- Government response to review of the *Biodiversity Conservation Act 2016*; and
- Central Coast Local Environmental Plan 2022 (Amendment No 7).

The following provides an overview of these projects and general considerations for finalisation of the subject planning proposal.

Draft Central Coast Strategic Conservation Plan

The Department is developing the draft Central Coast Strategic Conservation Plan (CCSCP). The plan will seek biodiversity approvals which support development of land in line with state and federal legislation. These approvals will allow development to occur while balancing environmental outcomes and ensure a broad view is taken. Land covered by the conservation plan has been identified for growth under the Central Coast Regional Plan 2041 and the Darkinjung Local Aboriginal Land Council's development delivery plan. The Department held workshops on the CCSCP in December 2023 and are continuing investigations and aim to exhibit the draft plan in mid-2025 subject to approvals.

The Central Coast Regional Plan 2041 identifies regionally significant growth areas and growth precincts in Greater Warnervale, Greater Lake Munmorah and Somersby. It is noted the Central Coast Strategic Conservation Plan is likely to provide the statutory biodiversity approvals to support development in these particular areas. The deferred lands which are located in the Somersby regionally significant growth area are proposed to be C2 Environmental Conservation or C4 Environmental Living (corresponding to an identified residential investigation area adjacent to existing residential zoned land). It is anticipated the environmental criteria guiding the planning proposal will align with the CCSCP principals, noting consistency with the Regional Plan.

Government response to review of *Biodiversity Conservation Act 2016*

In July 2024, the NSW Government released its response to the independent statutory review of the *Biodiversity Conservation Act 2016*. Key government actions identified and relevant to the subject planning proposal include:

- *establish new processes to better consider the potential biodiversity impacts from government decision-making.*
- *map areas of current and future high biodiversity value to provide clear guidance to the community and decision-makers about areas where biodiversity impacts should be*

avoided. While this map is not intended to operate as a 'no go' zone map, the details will be incorporated into strategic planning processes and inform land-use and development decision-making.

- *ensure fit-for-purpose biodiversity data requirements for use in strategic land-use planning.*
- *make improvements to existing environmental information systems to optimise their usefulness and improve our understanding of biodiversity, vegetation and habitat extent, condition, connectivity and resilience upgrading BioNet and SEED Portal capabilities, inputs, access and user experience.*

Council notes, boundaries of conservation zones will be reviewed as part of a future Local Government Area (LGA) Wide Environmental Zones Review Project for the Central Coast. When this is done the latest vegetation mapping information will be used. If there is other suitable and mappable ecological data which can be used to better define zone boundaries it may also be used as part of any future Environmental Zones Review Project.

Central Coast Local Environmental Plan 2022 (Amendment No 7)

The Central Coast LEP 2022 (Amendment No 7) was made on 6 September 2024 which provides a mechanism (Clause 4.1G) to enable subdivision of certain sites that are classified by multiple zones, usually a combination of urban and rural or environmental lands, and to release the urban lands for development while ensuring on-going protection of environmental lands. It is noted that Clause 4.1G Exceptions to minimum subdivision lot sizes for environmental purposes is proposed to be broadened and replaced by a clause to apply to the entire LGA as part of this planning proposal.

1.1.4 State electorate and local member

The deferred lands fall within the following state electorates and associated State Members:

- Gosford – Ms Liesl Tesch MP
- Terrigal – Mr Adam Crouch MP
- The Entrance – Mr David Mehan MP

The site falls within the following federal electorates and associated Federal Members:

- Robertson – Hon Dr Gordon Reid MP
- Dobell – Hon Emma McBride MP

Representations by State Members Ms Liesl Tesch MP and Mr Adam Crouch were made to the Minister of Planning and Public Places on behalf of constituents.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to the planning proposal.

2 Gateway determination and alterations

The Gateway determination issued on 6 December 2022 determined that the proposal should proceed subject to conditions (**Attachment C**). Further assessment is provided in the Gateway determination report (**Attachment D**).

The Gateway was altered on 28 September 2023 (**Attachment E**) to delay the start date of the public exhibition of the proposal and on 6 May 2024 (**Attachment F**) to extend the finalisation date of the planning proposal to 2 September 2024.

On 28 May 2024, the planning proposal, as amended in response to comments received during public exhibition, was endorsed by Council and then sent to the Department for finalisation on 28 June 2024.

The delay in finalising the planning proposal has occurred as a detailed assessment has been undertaken to respond to the complexity of issues raised in submissions and particular concerns raised over Council's methodology used to inform the planning proposal and potential reduction in environmental protections as discussed in the following sections of this report.

In summary, the Gateway (**Attachment C**) required:

- The proposal to be updated to provide clarification on the proposed changes to zoning and minimum lot sizes
- A more detailed assessment of the proposal against Section 9.1 Ministerial Directions – 3.1 Conservation Zones, 4.1 Flooding, 4.3 Planning for Bushfire Protection, 4.4 Remediation of Contaminated Land, 5.2 Reserving land for Public Purpose, 8.1 Mining, Petroleum Production and Extractive Industries, and 9.2 Rural Lands
- Details to be provided of additional research undertaken to confirm the application of the C2 Environmental Conservation zone to lots with a historic subdivision approval
- Inclusion of a summary of all sites that will be impacted by changing land use permissibility and how any conflicts are proposed to be addressed, including any existing agricultural lots that will be translated into a conservation zone
- Consultation with a range of public authorities and government agencies
- A number of administrative updates to mapping, images and document references in the planning proposal.

Council updated the planning proposal prior to exhibition to provide further detail as required by the Gateway determination. These matters are assessed in the following sections of this report.

3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination (**Attachment C**), condition 2(a) required the planning proposal to be publicly exhibited by Council for 20 working days. Due to a high level of community interest, Council extended exhibition by one week (i.e. 5 working days). The planning proposal was exhibited from 11 October 2023 to 15 November 2023.

3.1 Submissions during exhibition

Council received 328 submissions during public exhibition of the planning proposal (refer to Council's post-exhibition report at **Attachment H** and Submission Summary supporting the Council post-exhibition report at **Attachment I**). This included:

- 230 objecting to the proposal (70.1% of total)
- 79 supporting the proposal (24.1% of total)
- 19 were neutral or unclear on their position (5.8% of total).

In addition:

- The Community Environment Network (CEN, a not-for-profit independent Central Coast community group with a key focus on ecologically sustainable development) made an extensive submission objecting to the proposal (**Attachment J**)
- Mr Gary Chestnut, Chair CEN, made a presentation against the proposal at the Council meeting on 28 May 2024
- Mr Benjamin Ricardo, Pastor Terrigal Christian Israelite Church, made a presentation against the proposal at the Council meeting on 28 May 2024
- Council reported there were 6,464 recorded visits to public exhibition webpage during the public exhibition period, including 4,200 recorded visits from individual users
- Council reported 200 one-on-one meetings were conducted with residents and other parties seeking additional information; and they otherwise responded to direct enquiries via phone and email.

A summary of all submissions, and Council's response to them, is provided in a separate attachment (**Attachment I**). Note Council prepared a detailed response to the Community Environment Network submission (**Attachment J**).

3.1.1 Submissions supporting the proposal

As identified in Council's report to the Ordinary Council meeting on 28 May 2024 (**Attachment H**), the following key themes were raised during public exhibition in support of the planning proposal (Council also noted that many of the submissions in support did not provide additional comment):

- the planning proposal meets the need to complete the planning process for the area, given a complex history of deferred lands
- support for the translation to Standard Instrument zones and resulting permissibility of secondary dwellings in C3 and C4 zones, particularly in relation to supporting extended families and ageing-in-place.

3.1.2 Submissions objecting to and/or raising issues about the proposal

Council identified the following key themes raised during public exhibition in objection to the planning proposal:

- mapping accuracy and data layers
- land use permissibility
- limited use of C2 Zone for 7(a) zoned land
- determination under Council Administration
- request of direct conversion of current zones to Standard Instrument Zones
- removal of permitted uses.

Table 3 below provides some further detail on these matters, based on the summary of issues identified in the Council report to the Ordinary Council Meeting on 28 May 2024 (**Attachment H**), including Council's response and the Department's assessment of the adequacy of Council's response.

Table 3 – Summary of key issues

Issue raised	Council response and Department assessment of adequacy of response
<p>1. Mapping Accuracy for Deferred Lands – Individual landowners requesting a review of the zone boundaries, generally relating to the C2/C3 Zone boundary on proposed split zoned lots.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> • As this planning proposal relates to approximately 3,440 parcels of land, Council sought feedback from the community on what specific sites required detailed investigation. Through the FAQ section of Council's Webpage and during meetings and phone conversations, landowners were invited to lodge submissions to have the proposed land use zoning reviewed. • A desktop assessment of these sites, and a series of independent site inspections were undertaken to confirm the accuracy of the data. Any inaccuracies were noted as generally related to the application of slope mapping, the extent of the NSW Government's Biodiversity Values Map and the identification of buildings located under dense vegetation cover. • It is proposed that minor zone boundary adjustments be made to some 33 lots to reflect the outcome of the submission review and site inspection findings. Council notes that given that this will affect less than 1% of land parcels the overall process undertaken has been successful. • Attachment S – Council proposed post-exhibition changes contains the list of properties where zone boundary adjustments are proposed. <p><u>Department response:</u></p> <ul style="list-style-type: none"> • Council has appropriately utilised relevant, reliable mapping for consideration in the drafting of land use zones in accordance with the Department's Environment Protection Zones LEP practice note (PN-09-002). • As the planning proposal seeks to translate existing zoning to the updated Standard Instrument LEP format, Council's up to date local scale ecological community mapping and the proposal's methodology is considered appropriate. • Further consideration of mapping matters is provided below.

Issue raised	Council response and Department assessment of adequacy of response
<p>2. Council should re-evaluate all the existing C2 boundaries under the CCLEP 2022, particularly C2 land translated from the previous Wyong LEP 2013 to CCLEP 2022, to adjust for errors and other omissions made evident from more recent site-specific studies.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> • The vegetation mapping used to inform the deferred lands boundaries is more up to date and accurate than the mapping which was used to establish zone boundaries under the CCLEP 2022 and Wyong LEP 2013. • Wyong LEP 2013 utilised vegetation mapping from 2002 and 2008 for the identification of C2 Zones. In 2009, Gosford City Council commissioned an update to their 2004 mapping which reviewed the mapping linework to define vegetation communities. In 2019 following the amalgamation of the Wyong and Gosford Councils, the new Central Coast Council commissioned the preparation of a mapping product that intended to amalgamate the Wyong and Gosford mapping products (Bell 2019). The deferred lands proposal utilises the Bell (2019) mapping for the identification of highest values of native vegetation alongside any other up to date mapping. • It is important that the most up to date vegetation mapping be used to inform the establishment of environmental zone boundaries across the Local Government Area. • For the majority of the Central Coast LGA historic zones such as 7(a) and 7(c2) have been moved to contemporary Standard Instrument zones as has occurred across the State. This has occurred progressively under Wyong LEP 2013, Gosford LEP 2014 and CCLEP 2022. • Of the 3,438 land parcels within the deferred lands, Council was requested through the public consultation process to review the zone boundaries of 33 parcels. Site inspections of this and other land has been undertaken following public exhibition to review issues identified by landowners and to ensure that the mapping being used is suitable and accurate. • Some submissions have mentioned, that detailed ecological assessments conducted with site specific development or rezoning proposals, sometimes show EECs and other environmental constraints at a more refined level than conservation zone boundaries defined by broadscale strategic work such as this planning proposal. • Additionally, much of the threatened species data which exists has not been collected on a comprehensive basis across the deferred lands study area. Fine scale point source data cannot be reliably mapped and applied to define the boundaries of conservation zones. As an example, the sighting of a threatened species cannot usefully be used when applying conservation zones over large areas at a Central Coast scale. • Anyone who seeks to conduct removal of native vegetation through the DA process is required to undertake detailed ecological assessments, no matter the zoning of the land. • Any proposal for development must be supported by comprehensive studies and reports in accordance with the <i>Biodiversity Conservation Act 2016</i>, <i>National Parks and Wildlife Act 1974</i> and other Federal, State and Local Policies and Plans as required. • C2 and C3 Zone boundary locations will be further reviewed as part of a future LGA Wide Environmental Zones Review Project for the Central Coast. When this is done the latest vegetation mapping information will be used. If there is other suitable and mappable ecological data which can be used to better define zone boundaries it

Issue raised	Council response and Department assessment of adequacy of response
	<p>may also be used as part of any future environmental zones review project.</p> <p><u>Department response:</u></p> <ul style="list-style-type: none"> • It is noted that Council's mapping information updates as more data becomes available and it is agreed the mapping used to inform the Wyong LEP is superseded. • There are sufficient provisions to ensure detailed assessment of ecological values and management can occur as part of any future development application process. • It is noted that as funding becomes available Council will be undertaking Phase 3 of the Environmental Lands Review which will ensure that all environmentally zoned land is mapped consistently across the Central Coast. • As noted previously, as the planning proposal seeks to translate existing zoning to the updated Standard Instrument LEP format, Council's up to date local scale ecological community mapping and the proposal's methodology is considered appropriate.
<p>3. Land Use Permissibility in the C3 and C4 zones.</p> <p>The conversion of land currently zoned 7(a) Conservation under IDO 122 to the C3 zone will introduce the permissibility of additional land uses as does the conversion of 7(c2) zoned land to the C4 Zone.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> • Interim Development Order 122 was introduced in 1979, replacing and extending the provisions of the preceding IDO 100. LEPs in general have evolved over this time to define and include more land uses in environmental zones that did not previously exist, such as eco-tourist facilities, environmental facilities, environmental protection works, research stations and the like. Many of these additional land uses are permissible under other relevant Environmental Planning Instruments such as State Environmental Planning Policy (SEPP) Transport and Infrastructure or are identified under the Standard Instrument LEP as land uses that are mandatory as permissible in these land use zones. • When the Central Coast Local Environmental Plan 2022 was made, permissible land uses in the C2, C3 and C4 zones were considered with the consolidation of Gosford LEP 2014 and Wyong LEP 2013 following consultation with the public, government agencies and the Department. The relevant planning proposal was exhibited 6 December 2018 to 28 February 2019 including a section on land use provisions and which existing uses from the former instruments were considered for inclusion or exclusion in each zone. • The draft LEP expands the existing C2, C3 and C4 zones under the Central Coast LEP 2022 to apply to the deferred lands. The permissibility of uses under CCLEP2022 C2, C3 and C4 zones are not changing. • The translation of the deferred lands to zoning under the Central Coast LEP results in some changes to what may be permissible on a site. • Land uses that have received some attention through the public exhibition process include uses under the C3 Environmental Management and C4 Environmental Living zones such as animal boarding and training establishments, community facilities, dual occupancies, veterinary hospitals, home occupation (sex services), child care facilities and the like.

Issue raised	Council response and Department assessment of adequacy of response
	<ul style="list-style-type: none"> • While the C3 zone permits dual occupancy development, land fragmentation and land use conflict will be prevented through retention of the 40ha minimum lot size and consideration of development impacts through Council's Development Control Plan. • These provisions are already in place under Central Coast LEP 2022 for the majority of the LGA. Accordingly, there is no significant conflict anticipated to arise from the proposed change in permissible uses. Dual occupancy and secondary dwelling development is currently a permitted use in the C3 and C4 zone under CCLEP 2022 and Council has not seen a significant influx of applications for dual occupancy development. • Impacts of development, including amenity, noise and odour impacts are considered as part of the merit assessment process at the time a development application is assessed. Development remains subject to Council's Development Control Plan and the provisions of the Biodiversity Conservation Act 2016, there is no change to the assessment of biodiversity as a result of this planning proposal. • A future review of the CCLEP 2022 land use table will be undertaken as part of a comprehensive review of the environmental zones for all environmental lands subject to the CCLEP. <p><u>Department response:</u></p> <ul style="list-style-type: none"> • It is noted the draft LEP does not introduce any new permissible land uses under CCLEP 2022 zones, however does implement a change in permissible uses for the deferred lands in the translation of zones from IDO122 and GPSO to CCLEP as discussed in Council's response. The draft LEP rezones deferred land from the Central Coast LEP 2022 currently under IDO122 and GPSO to be consistent with the Standard Instrument and previous translations of the Wyong and Gosford LEPs implemented for the Central Coast LEP 2022. • The majority of land currently zoned 7(a) Conservation under IDO 122 will have a split C2/C3 zoning under the CCLEP to ensure where parcels of land in part contain significant environmental values are protected and zoned C2 and where in part have environmental attributes that do not form criteria that triggers the C2 zone, are zoned C3. While the C3 zone permits dual occupancy development, land fragmentation and land use conflict will be prevented through retention of the 40ha minimum lot size and restrictions on development impacts through Council's Development Control Plan.
<p>4. Additional permitted land uses will result in extensive land clearing and biodiversity loss.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> • Where deferred lands are occupied/used for a use currently that will no longer be permissible under the proposed zones, these existing uses can continue to operate in accordance with the <i>Environmental Protection and Assessment Act 1979</i>. • Additional permitted uses that have been approved in the past (via enabling clauses) and are still current, are recommended to be retained under CCLEP 2022 Schedule 1 Additional Permitted Uses. • As is currently the case in the 7(a) Zone (where large dwelling houses, ancillary development and other development is currently permissible), any proposal that involves the removal of vegetation in any of these land use zones requires detailed site-specific studies to be undertaken and is subject to rigorous assessment.

Issue raised	Council response and Department assessment of adequacy of response
	<ul style="list-style-type: none"> Any new application for development consent that involves the removal of vegetation or modification to an approved development under Part 4 of the EP&A Act are subject to the biodiversity assessment requirements of the <i>Biodiversity Conservation Act 2016</i> (BC Act). The BC Act introduced the Biodiversity Offsets Scheme (BOS). A Biodiversity Development Assessment Report (BDAR) must be submitted with applications for development which trigger entry into the scheme. The BDAR must be prepared by an ecologist who is an Accredited Assessor under the BC Act. Accredited Assessors are listed on a public register. The biodiversity impacts of developments that do not trigger the BOS will continue to be assessed under s.4.15 of the EP&A Act and Council's flora and fauna guidelines. The proponent for a development needs to determine whether the BOS applies to their proposal. Evidence that the BOS threshold is not triggered needs to be submitted with these development applications. In April 2024 the Minister for Environment released the <i>Biodiversity Assessment Method 5- Year Review Report</i>. The report identifies groups of recommendations that will be implemented by the State Government. The BC Act and BAM process will continue to be updated and thoroughly reviewed for currency and effectiveness in the future. <p><u>Department response:</u></p> <ul style="list-style-type: none"> It is unclear from Council's summary of submissions whether concerns related to additional permitted uses under Schedule 1 of the LEP or changes to permissible uses under the zoning translations. Council have addressed both matters sufficiently and are further addressed as follows. Additional permitted uses (APU) for the deferred lands are being translated directly from IDO 122 across to Schedule 1 of CCLEP 2022. It is not anticipated the APUs will introduce any new impacts. Any development seeking approval for an APU under CCLEP 2022 Schedule 1 will be sufficiently assessed as part of the development application process. As noted previously there are sufficient provisions to ensure detailed assessment of ecological values and management can occur as part of any future development application process. Further, as part of the development application process there are other provisions and controls that need to be adhered to, other than land use permissibility under the LEP. As noted above, the draft LEP rezones deferred land under IDO122 and GPSO to be consistent with the Standard Instrument and expands existing zones under the Central Coast LEP 2022. Although the translation from IDO122 and GPSO zones to the CCLEP2022 will see a change in permissible uses, as addressed by Council, there are sufficient provisions in place to assess and manage potential development impacts as part of any future development application.
5. Concerns regarding the limited use of the C2 Zone and it not being applied to all areas of native vegetation, the location of	<p><u>Council response:</u></p> <ul style="list-style-type: none"> LEP Practice Note 09-002 lists the type of land where the C2 zone can be applied, being land of 'high ecological, scientific, cultural or aesthetic value'. Where relevant reliable mapping is available suitable

Issue raised	Council response and Department assessment of adequacy of response
<p>identified threatened species and aboriginal archaeological sites and other environmentally sensitive land.</p>	<p>for consideration in the drafting of land use zones this mapping has been applied.</p> <ul style="list-style-type: none"> • The location of threatened species relies on 'point data sources' (e.g. fauna sightings) and therefore does not lend itself to being applied to land use zoning. There is not adequate or systematically collected mapped areas of threatened species habitat available at this time to map areas for this purpose based on these criteria. Similarly, sites of Aboriginal cultural heritage value are point data sources and locations are often distorted or not made public. The current and proven practice is to assess this information at the development application stage in order to ensure that environmental legislative requirements are met. • A change or update in land use zoning does not change the assessment process for the assessment of development proposals or other activities under the EP&A Act, BC Act and other relevant, Federal, State and Local Plans and Policies. • Environmental zones are based on the environmental qualities of the land. All significant development proposals that involve land clearing, irrespective of land use zone, are still subject to detailed on site studies. • It should be noted that the main reason deferred lands were further deferred from CCLEP 2022 was due to the unusual land use outcomes which were produced from the GIS scoring methodology under the Environmental and Urban Edge Zone Review (EUEZR) 2016. Council commenced the EUEZR following finalisation of Gosford LEP 2014, however during the preparation of the review Gosford City and Wyong Shire Councils were amalgamated in 2016. The recommendations of the EUEZR were incorporated into the consolidated Draft Central Coast LEP. <p>The EUEZR used point source and grid-like habitat mapping information. This methodology attempted to apply all criteria the Department listed under PN-09-002 for application in applying the C2 Zone. From the outcomes of this process it was clear that the accuracy of the information used is a critical consideration.</p> <p><u>Department response:</u></p> <ul style="list-style-type: none"> • Council's approach is consistent with Central Coast Regional Plan 2041 criteria to define areas of high environmental value. • As noted previously, Council has undertaken land use assessments to inform the proposal and have sufficiently utilised the best available mapping information at the time of publication. Further it is noted zone boundaries can be reviewed and amended from time to time as more information is made available and development assessment is based on site specific and up to date information at the time of assessment.
<p>6. Concern regarding potential additional residential development and subdivision.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> • The draft LEP generally does not change minimum lot sizes and is unlikely to result in increased subdivisions and is further discussed below. • Dual occupancies and secondary dwellings are permissible uses under the CCLEP 2022 C3 Environmental Management and C4 Environmental Living zones. Where zones are translated from IDO 122 and GPSO to C3 or C4, these forms of residential development will now be permissible. It is noted, dual occupancy (attached) is

Issue raised	Council response and Department assessment of adequacy of response
	<p>currently a permissible land use under IDO 122 Zone 7(b) Conservation and Scenic Protection (Scenic Protection) and 7(c2) Conservation and Scenic Protection (Scenic Protection – Rural Small Holdings), which consists of more than half of the deferred lands (approximately 2,150 parcels).</p> <ul style="list-style-type: none"> One partial lot is proposed to be translated from GPSO Zone 2(a) Residential to R2 Low Density Residential which permits shop top housing, group homes and senior's housing. Though the land use is permissible, approval may not be possible due to the need for consideration of the issues mentioned above and all the relevant considerations as per s.4.15 of the EP&A Act. <p><u>Department response:</u></p> <ul style="list-style-type: none"> Land under IDO122 and GPSO that are proposed to be C2 or C3 under CCLEP2022 either translates existing 40ha minimum lot size (MLS) or introduces a 40ha MLS where there isn't one previously specified under historical planning instruments. 40ha MLS sites have little or no additional subdivision potential. Other MLS from IDO122 and GPSO have been carried across under the CCLEP2022 for other translated land uses and do not introduce any further potential for future subdivision. This is discussed further in Section 4 of this report.
<p>7. Concern regarding potential impact on infrastructure due to the introduction of additional residential land uses such as secondary dwellings.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> The expansion of locations where secondary dwellings and detached dual occupancies are permissible with consent is not anticipated to warrant additional road and other infrastructure. Any impacts to existing services and infrastructure will be considered through the development application process along with other potential issues such as on-site sewer management, flooding and bushfire. Secondary dwellings in conservation or rural zones require Council consent, that is, they cannot be approved through the Complying Development process. With regard to secondary dwellings a large proportion of community enquiries related to aging in place or provision of accommodation for extended family and supported the inclusion of these provisions. <p><u>Department response:</u></p> <ul style="list-style-type: none"> Any residential development and the scale of supporting infrastructure can be sufficiently considered by Council as a local assessment matter as noted in Council's response above. Council has Section 7.11 and 7.12 Development Contribution Plans which allow for contributions toward local infrastructure to be required through the development application process.
<p>8. The mapping does not account for creek lines and other environmental features in the proposed C4 zone. Land with these values should be zoned C2.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> The deferred lands have been translated to conservation zones in accordance with Practice Note 09-002. The C4 zone is to be applied to land currently zoned 7(c2) except in the exceptional circumstances where land is identified as having high environmental value or the land is subject to environmental hazards.

Issue raised	Council response and Department assessment of adequacy of response
	<ul style="list-style-type: none"> Many existing parcels within the 7(c2) zone have an area of less than 2Ha due to historical planning provisions and many lots have been subdivided down to 1Ha using the provisions of IDO 122. Where the translation of zones from IDO 122 to CCLEP 2022 and environmental attribute assessment results in a recommended zone of C3, a further analysis of suitability of the C3 Zone was undertaken based on existing land parcel size, and the character of the locality. To avoid excessive zone fragmentation, lots with a lots size less than 2 hectares are generally recommended a zone of C4 Environmental Living. Ecological impacts of development are considered at the development assessment phase for individual sites and are subject to the provisions of the BC Act 2016. There is no change to the assessment of biodiversity issues as a result of this draft LEP. <p><u>Department response:</u></p> <ul style="list-style-type: none"> As noted previously, Council has appropriately utilised available mapping data (including creek lines) and criteria for areas of environmental values to inform the proposal's methodology and translations to environmental zones under the Standard Instrument. Council's land use assessment which informs the proposal includes mapping to inform the C zones Further, assessment of potential environmental impacts can be sufficiently considered as part of any future development application process.
<p>9. The proposal is not a like for like conversion of land use zones.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> Any reference to the words "like for like" in the information Council provided in support of this planning proposal relate to moving from one set of historic conservation/environmental zones to the most appropriate equivalent Standard Instrument Zone available. It is acknowledged that the permissible uses within available zones in the standard instrument do not exactly align with the uses provided for existing deferred lands, and the proposed translations are required to meet the Standard Instrument LEP criteria. <p><u>Department response:</u></p> <ul style="list-style-type: none"> The Department's Gateway assessment (Attachment D) endorsed the proposal proceeding to public exhibition subject to agency consultation and the exhibited version of the proposal clearly explained the effect of changing land use permissibility to the community. The Gateway is also considered in Sections 2 and 4 of this report. As noted previously, the draft LEP rezones deferred land from the Central Coast LEP 2022 currently under IDO122 and GPSO to be consistent with the Standard Instrument and previous translations of the Wyong and Gosford LEPs implemented for the Central Coast LEP 2022.
<p>10. Request for residential zone or 'upzone'.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> The intention of this planning proposal is to phase out the provisions under IDO 122 and GPSO and replace these with the modern Standard Instrument zoning provisions that currently apply under the CCLEP 2022. This planning proposal is unable to consider a change in zoning that is outside this objective; such proposals would need to

Issue raised	Council response and Department assessment of adequacy of response
	<p>be pursued separately through the LEP process and would most likely be done through landowner-initiated planning proposals.</p> <p><u>Department response:</u></p> <ul style="list-style-type: none"> Any landowner requests to rezone land to a residential zone or to 'upzone' will need to be subject to a separate planning proposal process either initiated by landowners or included in a comprehensive LEP amendment initiated by Council.
<p>11. Defer the planning proposal until an elected Council is in place.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> Council must continue to resolve planning matters in the absence of an elected Council and proceed with resolutions of Council to meet its obligations under the Local Government Act 1993. Council resolved 27 April 2021 as follows: <ul style="list-style-type: none"> <i>That Council prepare a Planning Proposal for the integration of Deferred Matters land under Central Coast Local Environmental Plan into Central Coast Local Environmental Plan</i> <i>That Council submit the Planning Proposal to the Minister for Planning and Public Places, in accordance with Section 3.35(2) of the Environmental Planning and Assessment Act 1979, requesting a Gateway Determination, pursuant to Section 3.34 of the Environmental Planning and Assessment Act 1979.</i> The Gateway determination issued by the Minister for Planning requires the planning proposal process to be completed by 2 September 2024. Tasks that must be undertaken following Council endorsement includes, Council's submission and the Department's acceptance of the planning proposal for finalisation, Ministerial consideration and approval, completion and approval of new digital LEP mapping and legal review of the changes to the planning instrument (CCLEP2022). This process has been allocated 3 months to complete. Council is obliged to follow this condition of the Gateway determination. <p><u>Department response:</u></p> <ul style="list-style-type: none"> Council has adequately responded.
<p>12. Zone methodology – promote direct conversion of 7(a) to C2 and 7(c2) to C3 as was used under Gosford LEP 2014.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> The way the zoning for the E2, E3 and E4 zones (now known as C2, C3, C4) were applied under Draft Gosford LEP 2009 and what was eventually gazetted as GLEP 2014, did not change and pre-dated the introduction of Practice Note PN 09-002. There was no review undertaken by Council or the Department against PN 09-002 in the interim. This approach, while appropriate at the time without any further guidance, does not investigate the current environmental characteristics of the land. Within the deferred lands there is only 1 lot entirely zoned 7(a) which is above the 40 Ha minimum lot size. The remaining 1,037 deferred lands lots that are currently zoned 7(a) (i.e. not split zoned) are all below the 40 Ha minimum lot size. A breakdown is provided below: <ul style="list-style-type: none"> 258 lots have an area of less than 550m² 599 have an area of less than 2Ha

Issue raised	Council response and Department assessment of adequacy of response
	<ul style="list-style-type: none"> - 838 are less than 3Ha - 901 are less than 4Ha. • The creation of these undersized lots is a product of: <ul style="list-style-type: none"> - historical subdivisions made prior to the introduction of planning provisions which created the 40 Ha minimum lot size provision. provisions available under IDO 122 and its predecessor IDO 100 which allowed 7(a) zoned land to be subdivided into small lots. These provisions were removed in 1980 - enabling clauses inserted into IDO 122 which permitted smaller lot sizes via site-specific LEP amendments. • All these circumstances have markedly diluted the intent of the 40 Ha minimum lot size for 7(a) zoned land to a point where now the characteristics of land within this zone vary significantly. As such the planning proposal reviews the translation of lot sizes, character and zoning in accordance with environmental criteria and the Standard Instrument. • The zone recommendations in this planning proposal have been established using environmental mapping that reflects the environmental attributes on the site in accordance with LEP Practice Note 09-002. Generally, areas mapped as C2 Environmental Conservation are identified as having Endangered Ecological Communities and/or other ecologically significant attributes. Further it is noted dwelling houses are prohibited in the CCLEP C2 zone in areas outside of the deferred lands. • For many years the former Gosford Council pursued the introduction of an additional E5 zone to better protect Coastal Open Space System (COSS) lands. The Department does not support the creation of an additional conservation zone and it was recommended for the application of the C2 zone to protect these lands. <p><u>Department response:</u></p> <ul style="list-style-type: none"> • It is noted generally, the 7(a) zone has been converted to C2 where the land has also met certain criteria under the environmental attribute assessment and PN 09-002. Remaining land where these criteria are not met was found to align with environmental criteria for the C3 Environmental Management zone. • The C3 zone environmental attributes include areas of ecological, scientific, cultural or aesthetic attributes and areas with contiguous native vegetation or forest cover. • There are 60 land parcels with a total area of 244ha currently zoned 7(a) Conservation and recommended to be completely within Zone C2. It is noted, the vast majority of these land parcels have a restriction on use as a part of previous subdivision of adjoining 7(c2) zoned land. • The draft LEP does not impact upon existing C2 zoned land under CCLEP 2022 currently identified under the Dwelling Opportunity Map and subject to CCLEP Cl. 7.21.
13. C3 zone provides an unsuitable transition in zones to/from National Parks, COSS land and land containing	<p><u>Council response:</u></p> <ul style="list-style-type: none"> • Practice Note PN 09-002 describes the C3 Environmental Management zone as a suitable transition zone between C1 (National Parks and Nature Reserves) or C2 (zone which includes parts of the

Issue raised	Council response and Department assessment of adequacy of response
Endangered Ecological Communities and surrounds.	<p>Coastal Open Space System) Zones and other land such as that zoned rural or residential. As is the case for the 7(a) Zone, any development of C3 zoned land is subject to the provisions of the BC Act 2016 and the EP&A Act 1979, and other relevant Acts, plans and policies, with consideration given to relevant environmental impacts.</p> <ul style="list-style-type: none"> Where a development proposal adjoins National Parks or other land identified in submissions, consideration of provisions such as Council's flora and fauna guidelines and the BC Act will apply which require other protections for any development permitted in the vicinity of sensitive lands. <p><u>Department response:</u></p> <ul style="list-style-type: none"> The proposed zoning translations ensure areas of environmental values are protected and managed and can be sufficiently assessed as part of any future development application. It is also noted it is not appropriate for C2 to apply areas which do not have any standalone conservation value.
14. Concern over introducing additional land uses to flood affected areas.	<p><u>Council response:</u></p> <ul style="list-style-type: none"> Development on flood affected land is subject to the flood controls in Council's Development Control Plan, CCLEP 2022 Clause 5.21 Flood Planning, Clause 5.22 Special Flood Considerations and guidance under the NSW Flood Risk Management Manual. Changes to considerations in relation to flooding and development proposals have been introduced following the <i>NSW Flood Inquiry 2022</i>. This includes Clause 5.22 which restricts development in high-risk areas and requires rigorous consideration of issues such as evacuation and safety before consent for any proposal can be issued. <p><u>Department response:</u></p> <ul style="list-style-type: none"> The draft LEP translates deferred lands from zonings under IDO22 and GPSO to be consistent with the Standard Instrument and Central Coast LEP 2022. As noted in Council's response above, any future redevelopment of flood affected land can be sufficiently assessed as part of the development application process. The Department has received advice from the former Environment and Heritage Group previously in response to the Conservation Zones review that hazard mapping should not be relied upon to guide conservation zoning. Under the existing policy and planning framework, there are appropriate mechanisms for hazards including LEP controls and mapping overlays supported by a development control plan and assessment processes that adequately reinforce those controls. Flooding matters are further assessed in the following sections of this report.
15. Removal of Permitted Land Uses – Place of public worship is currently permissible in the 7(c2) zone under IDO 122 but not under the C4 Zone.	<p><u>Council response:</u></p> <ul style="list-style-type: none"> The land use Place of public worship is currently prohibited in the C4 Zone under Central Coast LEP 2022 and was previously prohibited development in the C4 Zone under Wyong LEP 2013 and Gosford LEP 2014. Any lawful place of public worship within these zones currently operates under existing use rights dating back to when zones such as 7(c2) applied to this land and the land use was

Issue raised	Council response and Department assessment of adequacy of response
	<p>permissible. This planning proposal seeks to align the deferred lands with the LEP that applies to the rest of the Central Coast.</p> <ul style="list-style-type: none"> • Amongst other constraints, C4 zoned land on the Central Coast is generally not serviced by sewer, is not located on major public transport routes and is located on road networks not designed to accommodate significant traffic. At the time IDO 122 came into effect the nature and scale of places of worship were not at the scale they are now, as they have since evolved. It is considered appropriate that this land use remain prohibited in the C4 zone and existing places of public worship continue to operate under existing use rights. Alternatively a planning (rezoning) proposal could be pursued where it is considered a rezoning to an appropriate zone for this land use can be justified and supported. Similar circumstances apply to seniors housing and some isolated historic agricultural uses which were previously permissible in the 7(c2) Zone but not listed as a permissible land use in the C4 Zone under CCLEP 2022. <p><u>Department response:</u></p> <ul style="list-style-type: none"> • Council has adequately addressed the issue as above and the planning proposal sufficiently outlines the translation of land uses from IDO122 and GPSO to CCLEP 2022. • CCLEP 2022 currently does not permit places of public worship in any of the conservation zones, however as noted above there may be some existing places of public worship in these zones which will continue to operate under existing use rights. • It is a role for councils to determine land use permissibility in the LEP (aside from mandated land uses under the Standard Instrument for each zone). Council undertook this process as part of the Central Coast LEP 2022. • A planning proposal pathway could be pursued to allow for an alternative zone or additional permitted use/s.
<p>18. Landowners concerned existing lot has an area of less than the minimum lot size proposed. Concerned about how this can occur and what are the impacts.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> • The term 'minimum lot size' can often be misinterpreted. Another way of referring to this control is 'minimum subdivision lot size'. For example, if land has a minimum lot size of 2Ha (such as the C4 or 7(c2) zones) then a lot would need to be at least 4Ha or more in size to allow for land subdivision to be considered. • Many land parcels within the deferred lands have a lot size below the current minimum lot size. This is due to various historical controls that have been in place at different times over many years that have allowed subdivision to occur. • There is generally no change in minimum lot sizes (for subdivision) proposed as part of this planning proposal. In the vast majority of instances, the 40 Ha minimum lot size of the 7(a) zone is transferred to the C2 and C3 Zones and the 2Ha minimum lot size of the 7(c2) zone is transferred to the C4 Zone. • There is no impact for landowners whose land does not meet the current or proposed minimum lot size and they will be able to continue to use their land as they currently do. <p><u>Department response:</u></p> <ul style="list-style-type: none"> • Council has adequately responded.

Issue raised	Council response and Department assessment of adequacy of response
<p>19. The expansion of Coastal Open Space System (COSS) is undermined by the planning proposal through inflating the value of proposed COSS and not providing a mechanism for the funding to purchase more COSS lands.</p> <p>20. Council should preserve the “bonus” subdivision opportunities contained in IDO 122 to allow landowners to subdivide and to allow for the expansion of COSS land through the continuation of permitting funds to be collected through this process.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> Privately owned land that has been previously identified as proposed COSS is generally proposed to be zoned C2 or C3 depending on the environmental qualities of the land. Proposed COSS land is not identified for future acquisition under Council's LEP and must be treated the same as other privately owned land. The land use zoning applied is based on the land's environmental value and Council cannot zone land based on prospective purchase. IDO 122 contains provisions that allow for a financial contribution to Council to permit variations to the minimum lot size of certain land. Clause 18(4)(b) enables subdivision of 7(c2) land to 1-2 hectares provided land is dedicated to Council as a public reserve (as part of Council's Coastal Open Space System) or a monetary contribution is provided to Council for the purchase or embellishment of COSS public reserves. While the possibility of dedication of land within the existing parcel can and is being retained through Cl. 4.1E of CCLEP 2022, a cash contribution in lieu of land dedication on-site cannot be carried over into contemporary planning instruments such as CCLEP 2022. Funds that have previously been collected for the purchase of COSS lands in the former Gosford LGA and through previous similar provisions that were in place in the former Wyong LGA, are to be used for these purposes only. Moving forward, the Central Coast Conservation Fund will use contemporary mechanisms such as Biodiversity Stewardship Agreements to allow Council to add to its property portfolio where it is considered appropriate. <p><u>Department response:</u></p> <ul style="list-style-type: none"> Council has adequately responded. The proposal does not deal with all COSS land, also noting all council owned COSS land was previously translated to C2 land under CCLEP2022. Further, changes have been made to planning legislation which require monetary contributions to be sought through mechanisms such as a development contribution plan, rather than through an LEP clause. The proposed clauses 4.1F and 4.1G seek to provide flexibility in subdivision standards to support land used for long-term conservation management and to ensure sustainable land use and development.
<p>21. Retention of enabling clauses/Additional Permitted Uses. Several submissions were received from landowners whose properties were subject to enabling clauses under IDO 122 that allow additional permitted land uses and were seeking to ensure that these provisions remain in place.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> The term ‘enabling clause’, used under historic planning instruments, was generally replaced with the term ‘additional permitted use’ under LEPs. An additional permitted use is a provision that allows development to occur (or in this case continue) where it would normally be prohibited in the relevant land use zone. A review of submissions and IDO 122 has been undertaken to identify any additional permissible uses still relevant. It is proposed that these land uses, where not permissible under the revised land use zones be added to the list of additional permitted uses under CCLEP 2022. These generally relate to commercial operations that are already operating or have received approval to operate.

Issue raised	Council response and Department assessment of adequacy of response
	<ul style="list-style-type: none"> Attachment S contains the list of proposed additional permitted uses/local controls. <p><u>Department response:</u></p> <ul style="list-style-type: none"> Council has adequately responded.
22. The C2 Environmental Conservation Zone should be applied to land that is subject to a Conservation Agreement with Biodiversity Conservation Trust.	<p><u>Council response:</u></p> <ul style="list-style-type: none"> Agreed. While a Conservation Agreement is a superior instrument to ensure land is not developed it is appropriate that this be reinforced with a C2 Zoning. <p><u>Department response:</u></p> <ul style="list-style-type: none"> Council has adequately responded.
23. Proposed Zoning of 30 Blythe St, Killcare – neighbours requesting site to be zoned C2.	<p><u>Council response:</u></p> <ul style="list-style-type: none"> Adjoining landowners have requested that the eastern area of this site be zoned C2 due to environmental impact concerns and potential for view loss if a dwelling is constructed near a common property boundary. There is a dwelling house located to the west of the site and is accessed from the west. The site was inspected to review the accuracy of the zone boundaries. The area of the site in question, that adjoins the neighbours to the east does not meet the criteria for the C2 Zone. It is noted that dwelling houses are permissible under the current land use zone. It is noted that Council's DCP does not permit multiple access locations for dual occupancy or secondary dwellings. <p><u>Department response:</u></p> <ul style="list-style-type: none"> Council has adequately responded, and any future development application process can sufficiently assess potential impacts.

Submissions also raised concerns regarding development control plan matters (identified as issues 17 and 18 in Council's post exhibition report **Attachment H**). In summary, concerns included the DCP nominal 50m separation distance for dual occupancy development and access for secondary dwellings. Council has considered these matters and **Attachment S** contains a list of proposed post exhibition DCP changes.

Submission from the Coastal Environment Network

The Coastal Environment Network provided an extensive submission objecting to the proposal (over 100 pages in length). While Council noted that many of the matters raised were reiterated in other submissions, Council provided a detailed response addressing the 53 identified issues (**Attachment J**).

In summary, key matters raised by CEN include:

- Dwelling house permissibility and methodology for zoning translations
- Alignment of C2 zoning and environmental mapping layers
- Proposed zoning translations are not "like for like"
- Impacts of certain permissible land uses (animal boarding or training establishments, group homes, home occupations (sex services), sewage reticulation systems).

The Department notes Council's response to CEN's submission is adequate (**Attachment J**).

As noted in response to submissions above, the draft LEP rezones deferred land from the Central Coast LEP 2022 currently under IDO122 and GPSO to be consistent with the Standard Instrument and previous translations of the Wyong and Gosford LEPs implemented for the Central Coast LEP

2022. Council notes there is limited guidance on the conversion of planning instruments that pre-date the introduction of LEPs under the EP&A Act in 1979 and where circumstances have changed markedly in the interim. As such, the draft LEP rezones deferred land to be consistent with the Standard Instrument.

Council has appropriately utilised available mapping data and criteria for areas of environmental values to inform translations to conservation zones under the Standard Instrument. Further, assessment of potential environmental impacts can be sufficiently considered as part of any future development application process. It is noted Council will be undertaking a future Phase 3 of the Environmental Lands Review across the Central Coast which will ensure that all environmentally zoned land is mapped consistently across the Central Coast. Council also states that if new and suitable threatened species information or other ecological constraint data becomes available, Council will give consideration to further definition of C2/C3 zone boundaries.

3.2 Advice from agencies

In accordance with the Gateway determination, Council was required to consult with agencies listed below in **Table 4** who provided the following feedback.

Table 4 – Advice from public authorities (alphabetical order)

Agency	Advice raised	Council response and Department assessment of adequacy of response
Department of Climate Change, Energy, the Environment and Water Conservation Programs, Heritage and Regulation (CPHR) (former Biodiversity Conservation and Science Division (BCS))	Please refer to separate section following this table, given the extensive nature of CPHR's advice.	
Commonwealth Department of Environment and Energy	No comment provided during pre-exhibition consultation or exhibition consultation.	<ul style="list-style-type: none"> N/A
Crown Lands	Response provided during pre-exhibition consultation and indicated no objection.	<ul style="list-style-type: none"> N/A
Darkinjung Local Aboriginal Land Council	No comment provided during pre-exhibition consultation or exhibition consultation.	<ul style="list-style-type: none"> N/A
Department of Primary Industries – Agriculture (Attachment K)	<p>Much of the deferred land is subject to historical environmental zones and a translation to a new conservation zone will be appropriate in most instances.</p> <p>Extensive agriculture and horticulture are not permissible in the C4 zone and these uses will rely on existing use rights. NSW DPI Agriculture strongly recommends that Council contact those landowners whose agricultural, horticultural or plant nursery land use is to become prohibited and determine if they intend to continue or expand their operations. If the landowners indicate an intention to continue and/or expand their operations, then it is requested that Council consider supporting the continuation of these land uses by listing them as additional permitted uses in Schedule 1 of the Central Coast LEP 2022.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> There are very few sites in the deferred lands area where agricultural uses are still being conducted. In providing for an additional permitted use, Council would need to be satisfied that the use does not contravene current planning legislation, and this would require a number of studies to be undertaken for each site. This falls outside the scope of translations and the deferred lands planning proposal. It is preferable that land-owners seek an additional permitted use for their land through an owner-initiated planning proposal where they consider existing use rights are not sufficient. <p><u>Department response:</u></p> <ul style="list-style-type: none"> Council has sufficiently responded.

Agency	Advice raised	Council response and Department assessment of adequacy of response
		<ul style="list-style-type: none"> As addressed in responses to community submissions, existing use rights and relevant additional permitted uses will continue and are transferred across to CCLEP2022.
Department of Regional NSW – Mining, Exploration and Geoscience (Attachment L)	MEG has reviewed the Gateway Determination Report and has no resource sterilisation concerns regarding the planning proposal and section 9.1(2) of the Environmental Planning and Assessment Act 1979, Direction 8.1 Mining, Petroleum Production and Extractive Industries.	<u>Council response:</u> <ul style="list-style-type: none"> Noted <u>Department response:</u> <ul style="list-style-type: none"> No comment
Environmental Protection Authority (Attachment M)	Based on number of land parcels, their coverage and permissible use, the proposed integration has the potential to locate residential receivers within proximity to existing industrial facilities that hold an environment protection licence. Thus, we recommend when approving future development applications, Central Coast Council consider the potential for land use conflict. A search of environment protection licences located within a specific suburb can be completed using the NSW EPA POEO public register.	<u>Council response:</u> <ul style="list-style-type: none"> Noted <u>Department response:</u> <ul style="list-style-type: none"> No comment
Local Land Services	No comment provided during pre-exhibition consultation or exhibition consultation.	<ul style="list-style-type: none"> NA
NSW Rural Fire Service (Attachment R)	The NSW RFS has considered the information submitted and subsequently raise no concerns or issues in relation to bush fire.	<ul style="list-style-type: none"> NA
Transport for NSW (Attachment N; Attachment O)	TfNSW advice has not changed from previous correspondence which indicated that given the proposed rezonings are to a conservation zoning, it is unlikely to generate a significant additional traffic impact on our network.	<ul style="list-style-type: none"> NA

3.2.1 Advice from Conservation Programs, Heritage and Regulation

Department of Climate Change, Energy, the Environment and Water - Conservation Programs, Heritage and Regulation (CPHR) (former Biodiversity Conservation and Science Division (BCS)); provided initial recommendations to Council on 14 March 2024 (**Attachment P**) and Council provided an email response on 4 April 2024. In response, BCS provided follow-up comments on 24 April 2024 (**Attachment Q**).

An assessment of Council's response to CPHR's 24 April 2024 advice is provided in **Table 5** below. Council provided a direct response against several items, though it was suggested that other items had been responded to elsewhere.

Table 5 – Advice raised by CPHRS

Advice raised	Council response and Department assessment of adequacy of response
Ministerial Direction 3.1	
<p>The PP is inconsistent with Ministerial Direction 3.1 as it reduces the environmental protection of the land through predominant translation of zones indicating high environmental values (HEV) to lower environmental protection zones.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> • There are inherent conflicts between Direction 3.1 and PN-09-002, the Practice Note which Council must apply with moving old land use zones to Standard Instrument Zones. • As per PN-09-002 'it is anticipated that many councils will generally have limited areas displaying the characteristics suitable for the application of the E2(C2) zone'. Council's methodology reflects the required application of the Practice Note. • Direction 3.1 deals with 'land within a conservation zone or land otherwise identified for environment conservation/protection purposes in a LEP' but does not deal with the conversion of planning instruments that pre-date the introductions of LEPs under the EP&A Act in 1979 and where circumstances have changed markedly in the interim. • As noted previously, there is limited guidance on the conversion of planning instruments that pre-date the introductions of LEPs under the EP&A Act in 1979 and where circumstances have changed markedly in the interim. As such, the draft LEP rezones deferred land to be consistent with the Standard Instrument. <p><u>Department response:</u></p> <ul style="list-style-type: none"> • It is noted the Department's Gateway determination report (Attachment D) assessed the proposal as being potentially inconsistent with Ministerial Direction 3.1 – Conservation zones, including potential reductions in environmental protections and translation of zones as follows: <ul style="list-style-type: none"> - <i>To be consistent, a planning proposal must include provisions that will facilitate the protection and conservation of environmentally sensitive areas, and not reduce the conservation standards that apply to the land (including minimum lot sizes, unless for a dwelling).</i>

Advice raised	Council response and Department assessment of adequacy of response
	<ul style="list-style-type: none"> - Council have outlined that by translating GPSO and IDO 122 zonings into C2 Environmental Conservation, C3 Environmental Management and C4 Environmental Living zones, the conservation standards applying to deferred lands will not be reduced. - The Department generally agrees with this position, however, notes the Land Use Assessment (April 2022) has identified a limited number of areas to be rezoned to residential or recreational land (based on an assessment of the site characteristics). - The proposal also seeks to amend minimum lot sizes based on recommendations of the Assessment, and to align with the CCLEP 2022. The proposal may therefore be inconsistent with part 2 of this Direction. - It forms a condition of the Gateway that the proposal provide clarification on the proposed changes to zoning and minimum lot sizes, and update the response to this Direction accordingly. - The proposal is potentially inconsistent with this Direction and requires further clarification. <p>The planning proposal endorsed by Council to proceed to finalisation (Attachment A) has been updated to include further detail on zone translations and minimum lot sizes (MLS) to further address consistency with Direction, particularly that there will be no reduction in conservation standards.</p> <p>The proposed minimum lot size translations include:</p> <ul style="list-style-type: none"> • No change to 550sqm MLS from GPSO 2(a) Residential to CCLEP R2 Low Density Residential • Introducing a 40ha MLS where no MLS previously applied under the GPSO or IDO 122 for land to be zoned C2 Environmental Conservation or C3 Environmental Management under CCLEP • No change to 40ha MLS from IDO 122 7(a) Conservation & Scenic Protection (Conservation) to C2 and C3 under CCLEP • Increasing MLS from 20ha under IDO 122 7(b) Conservation & Scenic Protection (Scenic Protection) to 40ha for land to be zoned C2/C3 under CCLEP • No change to 1ha/2ha MLS under IDO 122 7(c2) Conservation & Scenic Protection (Rural Small Holdings) to CCLEP C2 Environmental Living. <p>Further, proposed clauses 4.1F Exceptions to minimum lot sizes for conservation and 4.1G Minimum lot size for certain split zone lots seek to provide flexibility in subdivision standards to support land used for long-term</p>

Advice raised	Council response and Department assessment of adequacy of response
	<p>conservation management and to ensure sustainable land use and development.</p> <p>The Department considers that the proposed minimum lot size provisions are a comparable translation of existing provisions and do not result in a reduction in conservation standards for the subject sites.</p> <p>The planning proposal provides further detail and justification on the translation of zonings, particularly existing conservation zonings that are proposed to be rezoned to a non-conservation zone. These proposed rezonings are discussed as follows.</p> <p>The planning proposal seeks to rezone four partial lots from 7(a) Conservation and Scenic Protection (Conservation) to part C2, part C3 and R2 (at 182-136 Carrington Street, Narara and 172 Glennie Street, Wyoming). The rezoning to part R2 is an extension of existing adjoining R2 on the lot and is recommended as a result of updated mapping and criteria assessment.</p> <p>The planning proposal rezones from 7(a) Conservation and Scenic Protection (Conservation); three existing part roads to RE1 Public Recreation at Springfield; Coomal Avenue, Davistown; and Cullens Road, Kincumber; two existing part roads to R2 Low Density Residential at Reads Road, Wamberal and The Round Drive, Avoca Beach; and one partial lot from 2(a) Residential to R2 Low Density Residential.</p> <p>These rezonings are justifiably inconsistent with Direction 3.1 as they apply to land that had partial conservation zoning that has been partly modified and is now proposed to apply to a reduced area of environmental value or apply to roadways that do not have environmental value.</p> <p>The proposed part road rezonings to RE1 Public Recreation and R2 Low Density Residential is consistent with the guidance provided in LEP Practice Note PN 10-001 'Zoning for Infrastructure in LEPs. PN 10-001 identifies several types of infrastructure – including roads, that are permissible in all LEP zones, irrespective of the LEP zoning. The practice note requires roads to be zoned in accordance with the adjoining land, and where there are multiple adjoining zones, the zone that provides the greatest flexibility to assist with land use planning.</p> <p>Further, as noted previously, Council has appropriately utilised available mapping data and criteria for areas of environmental values to inform the proposal's methodology and translations to environmental zones under the Standard Instrument. Council's land use assessment which informs the proposal includes mapping to inform the C zones</p> <p>The above demonstrates any considered inconsistency with Direction 3.1 is justified.</p>

Advice raised	Council response and Department assessment of adequacy of response
Ministerial Direction 1.2	
<p>Ministerial Direction 1.2 relates to the requirement under the Central Coast Regional Plan 2041 for strategic planning proposals to protect areas of High Environmental Values (HEV). Without onsite ecological assessment a precautionary approach is requested, and the existing conservation zoning level of land should be maintained.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> • CCRP states than 'Local Strategic Planning and Planning Proposals should ground truth data layers using the listed high environmental values (HEV) criteria'. • Where reliable mapping is available that meets the HEV criteria, listed under the CCRP, it would also meet the C2 Zone criteria. Council notes it has not been practical to undertake detailed ground truthing for over 3,000 lots in the deferred lands as part of this planning proposal. • This matter is further discussed in response to other parts of BCS's submission below. <p><u>Department response:</u></p> <ul style="list-style-type: none"> • It is understood these comments relate to Ministerial Direction 1.1 Implementation of Regional Plans. • The LEP achieves the overall intent of the Regional Plan and does not undermine the achievement of the Regional Plan's vision, land use strategy, goals, directions or actions. • Further, an assessment under the Regional Plan is provided in Section 4 of this report.
Central Coast Strategic Conservation Plan	
<p>The planning proposal includes lots within the area covered by the proposed Central Coast Strategic Conservation Plan. Any reduction in conservation outcomes, including additional permissibilities, will be difficult to reverse in the future when conservation priorities for the Plan have been established.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> • If reliably mapped land is identified as having characteristics of the C2 zone consistent with PN-09-002 Council has no option but to recommend the land be zoned C2 in the future LGA wide review. <p><u>Department response:</u></p> <ul style="list-style-type: none"> • The Central Coast Strategic Conservation Plan is yet to be released. <i>The Central Coast Regional Plan 2041</i> identifies regionally significant growth areas and growth precincts in Greater Warnervale, Greater Lake Munmorah and Somersby. It is noted the Central Coast Strategic Conservation Plan is likely to provide the statutory biodiversity approvals to support development in these particular areas. The deferred lands which are located in the Somersby regionally significant growth area are proposed to be C2 Environmental Conservation or C4 Environmental Living (corresponding to an identified residential investigation area adjacent to existing residential zoned land). It is anticipated the environmental criteria guiding the planning proposal will align with the CCSCP principals, noting consistency with the Regional Plan.

Advice raised	Council response and Department assessment of adequacy of response
Zone translations	
<p>Zones are a signal to landowners as to what is permissible on land and sets development expectations. Using lot size as the main deterrent of development, or a development control plan (DCP), rather than limiting what is permissible with consent in a zone, is not recommended; the provisions should reflect the intent/objectives of the zone.</p> <p>BCS does not agree with the approach of using the development application (DA) stage to limit inappropriate development. Clear signals should be provided by the zone provisions.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> • The adoption of the deferred lands LEP will provide for a reduction in inconsistencies in environmental zones and reduce ambiguity in the application of planning controls. Council will also have met its obligations under the Standard Instrument (Local Environmental Plans) Order 2006. • There is generally no change in minimum lot sizes (for subdivision) proposed as part of this planning proposal. In the vast majority of instances, the 40 Ha minimum lot size of the 7(a) zone is transferred to the C2 and C3 Zones and the 2Ha minimum lot size of the 7(c2) zone is transferred to the C4 Zone. • As part of the deferred lands planning proposal exhibition process, minor changes to certain chapters of Central Coast DCP 2022 were proposed to ensure that the DCP Chapters would no longer reference to deferred lands or land use zonings under IDO 122. These DCP Chapters are Chapter 3.5 Tree and Vegetation Management; Chapter 5.14. Various Suburbs (specifically 5.14.6 Green Point/Erina Terrigal); Chapter 5.16 Yattalunga. <p><u>Department response:</u></p> <ul style="list-style-type: none"> • Council's land use assessment includes a review of historical land use planning, zoning methodologies and environmental planning instruments that applied to the Central Coast LGA and the context of State guidance on zoning. • Council have appropriately used PN-09-002 and criteria to inform the proposal. • The proposed zoning translations reflect the aligned C zone objectives under the CCLEP2022. • As previously noted, the translation of the deferred lands to zoning under the Central Coast LEP implements some changes to land use permissibility. The draft LEP expands the existing C2, C3 and C4 zones under the Central Coast LEP 2022 to apply to the deferred lands. However, the permissibilities under CCLEP2022 C2, C3 and C4 zones are not changing. • While additional permissible land uses will now be available to deferred lands it is noted in part, land fragmentation and land use conflict will be prevented through retention of the 40ha minimum lot size and restrictions on development impacts through Council's Development Control Plan. • As these permissibilities are already in place under Central Coast LEP 2022 for the majority of the LGA, there is no significant conflict anticipated to arise from the proposed change in permissible uses.

Advice raised	Council response and Department assessment of adequacy of response
<p>All land zoned 7a and 7b should be zoned C2. Areas with potential biodiversity value (e.g. vegetated areas, creek lines, buffers and corridors) should be assumed to provide potential HEV and the existing conservation zoning status maintained (e.g. 7a/7b would go to C2). For example, Endangered Ecological Communities (EEC), with buffers, should be included in a C2 zone. If the boundaries of the EEC vegetation (plus buffers) are complex, practical straight lines should be used to encompass all the EEC values.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> • The proposed C2 zone boundary is established in accordance with the methodology described within the planning proposal. • It is unclear how vegetation (not always in a straight line) can be zoned using straight lines and if estimated, how this could be practically applied. • Where a development proposal adjoins such land (i.e. C1 and C2) considerations such as Council's flora and fauna guidelines and the BC Act will apply and require buffers and other protections for any development permitted in the vicinity of sensitive lands. <p><u>Department response:</u></p> <ul style="list-style-type: none"> • Council's approach is consistent with Central Coast Regional Plan 2041 criteria to define areas of high environmental value. • As noted previously, as the planning proposal seeks to translate existing zoning to the updated Standard Instrument LEP format, Council's up to date local scale ecological community mapping and the proposal's methodology is considered appropriate.
<p>Practice Notice 09-002 on Environmental Protection Zones is not aligned with current environmental policy and BCS recommends the consideration of threatened species habitat as a criterium for inclusion in a C2 zone in addition to the criteria listed. Council can use BioNet or consider specific areas known for particular threatened species, e.g. Serious and Irreversible Impact entities.</p> <p>Central Coast Council is regarded as having high-quality environmental data (e.g. vegetation classification, EEC mapping and corridor mapping) and all available environmental data should be used as the basis for conservation zones.</p> <p>Where a 7a/7b zone is not considered suitable for transitioning to a C2 zone, the deferred lands should be assessed for HEV as described in the Regional Plan 2041.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> • CCRP states that 'Local Strategic Planning and Planning Proposals should ground truth data layers using the listed high environmental values (HEV) criteria'. • Where reliable mapping is available that meets the HEV criteria, listed under the CCRP, it would also meet the C2 Zone criteria. • The provisions of IDO 122 predate the introduction of many significant environmental provisions in NSW, including the <i>Threatened Species Conservation Act 1995</i>, and the <i>Native Vegetation Conservation Act 1997</i>. Both Acts have been amended several times and now form part of the Biodiversity Conservation Act 2016. The current proposal more accurately reflects land of High Environmental Value as the mapping data which has been used to assist in establishing the standard instrument zones has been informed by environmental standards within the current environmental legislation and the current physical attributes of the land. <p><u>Department response:</u></p> <ul style="list-style-type: none"> • Council has included a methodology to consider areas of high-environmental value and the land use assessment which includes areas of threatened ecological communities and key habitats. • As noted previously, Council's proposal utilises the Bell (2019) mapping for the identification of land containing endangered ecological communities,

Advice raised	Council response and Department assessment of adequacy of response
	<p>including threatened species or communities for potential for serious and irreversible impacts, alongside any other up to date mapping.</p> <ul style="list-style-type: none"> • • Further, Council notes a future review of the CCLEP 2022 land use table will be undertaken as part of a comprehensive review of the environmental zones for all environmental lands subject to the CCLEP.
<p>BCS supports the use of split zones if the boundaries are easy to recognise and practical, but not split zones using landforms or contour lines which are not clear and easy to define in situ. Currently there is inadequate justification for splits between C2 and C3 on some parcels of land. Split zones should not, for example, separate contiguous native vegetation between riparian zones and adjacent vegetation.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> • An assessment of the environmental attributes of each site using environmental data from the digital geodatabase was used to inform the proposal. A change to the zoning established under the equivalency test was required for some sites at this point, including application of split zonings (a lot with two or more zones) where land of higher ecological value is converted to C2 Environmental Conservation. This approach is consistent with advice provided in PN 09- 002. <p><u>Department response:</u></p> <ul style="list-style-type: none"> • Council have adequately responded.
Wildlife corridors and COSS	
<p>The effect of zone changes on corridors should be considered. No evidence of consideration of corridors has been given to date. Wildlife corridors should be zoned C2 wherever possible. Areas requiring rehabilitation in order to provide better corridor connectivity should also be included in a C zone.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> • Ecological impacts of development are considered at the development assessment phase for individual sites and are subject to the provisions of the Biodiversity Conservation Act. • LEP Practice Note 09-002 lists the type of land where the C2 zone can be applied, being land of 'high ecological, scientific, cultural or aesthetic value'. Where relevant reliable mapping is available suitable for consideration in the drafting of land use zones this mapping has been applied. <p><u>Department response:</u></p> <ul style="list-style-type: none"> • It is noted Council's land use assessment which informs the proposal includes wildlife corridor mapping to inform the C zones.
<p>All proposed Coastal Open Space System (COSS) land which has already been assessed for its suitability in the past should be zoned C2. The fact that the land has already been included in the proposed COSS supports this zone.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> • Privately owned land that has been previously identified as proposed COSS is generally proposed to be zoned C2 or C3 depending on the environmental qualities of the land. Proposed COSS land is not identified for future acquisition under Council's LEP and must be treated the same as other privately owned land. The land use zoning applied is based on the land's environmental value and Council cannot zone land based on prospective purchase. <p><u>Department response:</u></p>

Advice raised	Council response and Department assessment of adequacy of response
	<ul style="list-style-type: none"> Most of the COSS has already been zoned and only some parcels are within deferred lands. Most of the COSS in deferred lands are proposed to be zoned C2 other than some portions which are proposed to be zoned C3. The recommended zoning is based on environmental attributes of the land such as vegetation communities which is represented by up to date mapping. Any development of C3 zoned land is subject to the provisions of the Biodiversity Conservation Act 2016 and the Environmental Planning and Assessment Act 1979, with consideration given to scenic and amenity impacts and environmental impacts.
<p>Gosford Shire Council had an “E2” zone with a dwelling entitlement with a 40 hectare (ha) lot; this entitlement should be retained. The use of a dwelling entitlement on 40ha C2 lots is requested as opposed to the use of split zoning C2/C3 to facilitate a dwelling entitlement. The use of a dwelling entitlement in this instance enables the existing conservation status of the land to be maintained. The only exception to this should be the C2 land which has been set aside for conservation with no dwelling entitlement as a result of the bonus provisions which were available under the COSS.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> There is generally no change in minimum lot sizes (for subdivision) proposed as part of this planning proposal. In the vast majority of instances, the 40 Ha minimum lot size of the 7(a) zone is transferred to the C2 and C3 Zones and the 2Ha minimum lot size of the 7(c2) zone is transferred to the C4 Zone. The split zone methodology used for deferred lands will ensure site specific considerations such as endangered ecological communities are protected by a C2 zoning. The zoning methodology for split zoned parcels is outlined in Attachment A. <p><u>Department response:</u></p> <ul style="list-style-type: none"> As noted previously, the current COSS approach does not align with contemporary LEP approaches. The proposed clauses 4.1F Exceptions to minimum lot sizes for conservation and 4.1G Minimum lot size for certain split zone lots seek to provide flexibility in subdivision standards to support land used for long-term conservation management and to ensure sustainable land use and development Further existing CCLEP 2022 Clause 4.1E enables land in the C4 Environmental Living zone to be subdivided down if one of the resulting lots is dedicated for C2 or C3 and is greater than 1ha. Clause 4.1E as well as the proposed clauses 4.1F and 4.1G, in effect, provide the same dwelling entitlements as that translated across from IDO 122. It is noted these provisions are drafted in accordance with the Standard Instrument. As noted in Council’s response above, there are no changes proposed to the 40ha MLS for C2 land.
Permissibility	
<p>This PP appears to increase permissibility within the C2, C3 and C4 zones to align the</p>	<p><u>Council response:</u></p>

Advice raised	Council response and Department assessment of adequacy of response
<p>lots in the old Gosford Shire Council with the greater range of permissibility provided for the previous Wyong Shire Council. Many of these uses are at odds with the biodiversity values of the land, have large footprints, and lead to an intensification of land-use.</p> <p>-</p>	<ul style="list-style-type: none"> • The Standard Instrument provides three land use zones for consideration for the conversion of these zones and these have been converted as closely as possible consistent with PN-09-002 and in alignment with CCLEP 2022. • The permissible land uses in the C2, C3 and C4 zones were considered in the consolidation of GLEP 2014 and WLEP 2013 (into CCLEP 2022) following consultation with the public, government agencies and the Department. The CCLEP2022 planning proposal included a section on land use provisions and information on which existing uses from the former instruments were considered for inclusion or exclusion in each zone. • Impacts of development, including amenity, noise and odour impacts are considered as part of the merit assessment process at the time a development application is assessed. Development remains subject to Council's Development Control Plan and the provisions of the BC Act, there is no change to the assessment of biodiversity as a result of this planning proposal. <p><u>Department response:</u></p> <ul style="list-style-type: none"> • The draft LEP rezones deferred land under IDO22 and GPSO to be consistent with the Standard Instrument and previous translations implemented for the Central Coast LEP 2022. • No changes to the current permissibility of uses under the C zones in Central Coast LEP 2022 is proposed. The translation to the new LEP will result in changes to what is permissible on a site which is currently deferred.
Miscellaneous	
<p>It is noted that there are mapping inaccuracies currently making some of the zones redundant (e.g. some of the riparian zones are not aligned with the creek). All GIS should be updated and corrected prior to mapping the zones.</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> • The vegetation mapping used for the planning proposal is up to date and superior to mapping that has been used in the past. It is likely that such mapping will continue to evolve and be applied in future reviews. • A desktop assessment of these sites, and a series of independent site inspections were undertaken to confirm the accuracy of the data. Any inaccuracies were noted as generally related to the application of slope mapping, the extent of the NSW Government's Biodiversity Values Map and the identification of buildings located under dense vegetation cover. • Of the approximate 3,440 deferred lands parcels, Council was requested through the public consultation process to review the zone boundaries of around 30 parcels of land. This generally related to the application of slope mapping, the extent of the NSW

Advice raised	Council response and Department assessment of adequacy of response
	<p>Government's Biodiversity Values Map and the identification of buildings located under dense vegetation cover.</p> <p><u>Department response:</u></p> <ul style="list-style-type: none"> • Council's approach is consistent with Central Coast Regional Plan 2041 criteria to define areas of high environmental value. • Further it is noted in future Council will be undertaking Phase 3 of the Environmental Lands Review across the Central Coast which will ensure that all environmentally zoned land is mapped consistently across the Central Coast. • As noted previously, as the planning proposal seeks to translate existing zoning to the updated Standard Instrument LEP format, Council's up to date local scale ecological community mapping and the proposal's methodology is considered appropriate.
<p>National Parks should be considered a sensitive land use, and wherever possible the C1 (National Parks) land should be bordered by C2 (Environmental Protection). No additional permissibilities should be allowed adjacent to NPWS (e.g. On page 56 of the PP it is stated that there are no nearby sensitive land uses adjacent to Bulls Hill quarry, although it is an in-holding in the National Park).</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> • All current 7(a) zoned land has been assessed to ensure alignment with the Practice Note. PN 09-002 which describes the C3 Environmental Management zone as a suitable transition zone between C1 (National Park) and other land. • The commentary on pg. 56 of the planning proposal (Attachment A) regarding 'sensitive land uses' in the context of the assessment undertaken in response to Ministerial Direction 8.1 Mining, Petroleum Production and Extractive Industries relates to potential impacts of residential or similar land uses by extractive industries. <p><u>Department response:</u></p> <ul style="list-style-type: none"> • Council has sufficiently responded and in accordance with Practice Note PN 09-002, the C3 Environmental Management zone has been appropriately used to inform the environmental zones translation of deferred lands adjacent to National Parks.
Flooding	
<p>The C4 zone has been applied to lots that are highly constrained by flooding, being almost entirely located within Council's adopted flood planning area (FPA). As stated in previous correspondence, it is considered that C2 or C3 zoning is more appropriate for the FPA, noting the objective of the C3 zone is "to provide a buffer to ... land that has environmental constraints or hazards".</p>	<p><u>Council response:</u></p> <ul style="list-style-type: none"> • The C4 Zone is closely matched to the 7(c2) Zone. There are similar residential land uses permissible in the C3 and C4 Zone under CCLEP 2022, though these two zones have significantly different minimum lot size for subdivision, being 40Ha and 2Ha respectively. That being said, there is little opportunity for subdivision of C4 land and there will be an actual reduction in subdivision potential from the current 7(c2) provisions (from 96 lots to 6 lots) under CCLEP 2022, so the potential for intensification by land subdivision is reduced. Split zoning has been avoided in general on smaller lots such as those zoned 7(c2) where

Advice raised	Council response and Department assessment of adequacy of response
	<p>development proposals can be more practically considered against other controls.</p> <ul style="list-style-type: none"> As per the response to public submissions regarding this issue, development on flood affected land is subject to the flood controls in Council's Development Control Plan, CCLEP 2022 Cl. 5.21 Flood Planning, Cl. 5.22 Special Flood Considerations and Guidance under the NSW Flood Risk Management Manual. Changes to considerations in relation to flooding and development proposals have been introduced following the NSW Flood Inquiry 2022. This includes LEP Clause 5.22 which restricts development in high risk areas and requires rigorous consideration of issues such as evacuation and safety before consent for any proposal can be issued. <p><u>Department response:</u></p> <ul style="list-style-type: none"> As previously noted by Council, the proposal will not result in a significant increase in development and/or dwelling density within the deferred lands, including land in flood way areas. Future redevelopment of any sites would be subject to a merit assessment at the development application stage against the relevant provisions of CCLEP 2022 and CCDCP 2022. Conservation zoning should only apply to land that has stand alone environmental attributes and value in accordance with Practice Note 09-002. Further assessment on flooding matters is provided under Section 4 of this report.

Application of the NSW Coastal Design Guidelines

While the planning proposal notes that it does not relate to land within a coastal vulnerability area or on land that is affected by a current or future coastal hazard in a local environment plan or development control plan, it has not considered studies or assessments undertaken by Council as required under Local Planning Direction 4.2 (Coastal Management) s(2)(b).

The proposal should be revised to include reference to how it has considered the findings of Council adopted studies that define coastal hazard exposure such as the Brisbane Water Estuary Management Study (2010) and the Coastal Zone Management Plan for Gosford Lagoons (2015). This process can be guided through completed of the mandatory assessment checklist of the NSW Coastal Design Guidelines 2023.

Council response:

- Under the methodology for determining the C2 zone the following attributes were used: endangered ecological communities; wetlands; rainforests; riparian corridors; high conservation coastal foreshores; coastal foreshores and land subject to coastal wetlands; steeply sloping escarpment land and land slip areas (33% or higher).
- The proposal does not involve coast-front land. Further work on a regionwide environmental zoning framework will have regard to sea level rise and coastal hazards (planning proposal post-exhibition, p. 97).
- There is no land subject to coastal hazards within the deferred lands area. Land within a coastal wetland area is proposed to be zoned C2 Environmental Conservation, and dwellings are proposed to be prohibited in this zone. The proposal does not propose to amend any coastal maps, and is consistent with the Coastal Management Act 2016, NSW Coastal Management Manual and associated Toolkit, NSW Coastal Design Guidelines 2003 and the draft NSW Coastal Design Guidelines.

Advice raised	Council response and Department assessment of adequacy of response
	<ul style="list-style-type: none"> Some fringe areas near Brisbane Water are identified as Coastal Environment Area and Coastal Use Area due to their proximity to Brisbane Water and creek lines. The proposal will not enable increased development or more intensive land use on land within a coastal vulnerability area or on land that is affected by a current or future coastal hazard in a local environmental plan or development control plan. The deferred lands comprise a small number of fringe areas near local tributaries that are identified as coastal wetlands and are within an identified coastal management zone. The environmental attribute assessment and application of the C2 zone within coastal wetlands and littoral rainforests will ensure there is no increased development in these areas (planning proposal post-exhibition, p. 31). <p><u>Department response:</u></p> <ul style="list-style-type: none"> Council has adequately responded.

3.3 Post-exhibition changes

3.3.1 Council resolved changes

At Council's Ordinary Meeting on 29 May 2024, Council resolved to send the planning proposal to the Minister for finalisation with post-exhibition changes (**Attachment S**), as detailed in **Table 6** below.

Table 6 – Council resolved changes

Item	Post-exhibition changes, Council justification, and Department assessment
Adjustment to zone boundaries for identified sites	<p><u>Post-exhibition changes:</u></p> <p>As detailed in Attachment S – it is proposed to adjust C3/C2 zone boundaries for 32 lots.</p> <p><u>Council justification:</u></p> <ul style="list-style-type: none"> Through the FAQ section of Council's Webpage and during meetings and phone conversations, landowners were invited to lodge submissions to have the proposed land use zoning reviewed. A desktop assessment of these sites, and a series of independent site inspections were undertaken to confirm the accuracy of the data. Any inaccuracies were noted as generally related to the application of slope mapping, the extent of the NSW Government's Biodiversity Values Map and the identification of buildings located under dense vegetation cover. It is proposed that minor zone position adjustments be made to some 32 lots to reflect the outcome of the submission review and site inspection findings. In all but one instances the zone boundary change relates to the C2/C3 Zone interface so no change to the minimum lot size map is proposed. In one instance the zone boundary change relates to the C2/C4 boundary interface and as such it is proposed that the minimum lot size map be adjusted. <p><u>Department response:</u></p>

Item	Post-exhibition changes, Council justification, and Department assessment
	<ul style="list-style-type: none"> Council post-exhibition changes are adopted.
<p>Conservation Agreement sites to be zoned C2</p>	<p><u>Post-exhibition changes:</u></p> <p>Zone the following Conservation Agreement sites as C2:</p> <ol style="list-style-type: none"> Part Lot 2 DP 663729 – 685 The Scenic Rd MacMasters Beach <p><u>Council justification:</u></p> <ul style="list-style-type: none"> Conservation Agreements with the Biodiversity Conservation Trust were not a consideration in the methodology applied and therefore land subject to a Conservation Agreement may be split zoned C3/C2 depending on its particular environmental qualities. While a Conservation Agreement is a superior instrument to ensure land is not developed it is appropriate that this be reinforced with a C2 Zoning. This issue was brought to Council's attention by a landowner. As the majority of the subject site was publicly exhibited as moving to the C4 zone an adjustment of the minimum lot size map is required. No other land within the deferred lands area is subject to a similar agreement. <p><u>Department response:</u></p> <ul style="list-style-type: none"> Council post-exhibition changes are appropriate.
<p>Carrying over of Additional Permitted Uses from IDO 122</p>	<p><u>Post-exhibition changes:</u></p> <p>Carry over the following Enabling Clauses from IDO 122 to Central Coast LEP 2022 as either Additional Permitted Uses or Additional Local Provisions:</p> <ol style="list-style-type: none"> Lot 490 DP 867168 (formerly Part Lot 50, DP 574711 and Lot 1, DP 745229), 431 Avoca Drive, Green Point, Reception establishment/refreshment room, and ancillary overnight accommodation in the form of not more than 5 units, identified as "Kantara House" on the additional permitted uses map. Lot 11 DP 1039852 (formerly Lot 11 DP 860715), 251 Scenic Highway Terrigal, Fruit and vegetable produce barn, identified as "George's Fruit Barn" on the additional permitted uses map. Lot 102 DP 1126730 (formerly Part Lot 1 DP 796912) 306-322 Empire Bay Drive, Service station, tourist units and refreshment, identified as "Service Station-Empire Bay" on the additional permitted uses map. Lot 1, D.P. 718165, 1 Poole Close Empire Bay, Tavern, tourist units and ancillary activities, identified as "Empire Bay Tavern" on the additional permitted uses map. Lot 1, D.P. 239201, 286 Mangrove Road, Somersby (formerly Niagara Park)- Music recording facility and ancillary activities (confined to the curtilage of the existing building), identified as "The Grove Studios" on the additional permitted uses map. <p><u>Council justification:</u></p> <ul style="list-style-type: none"> A review of submissions and IDO 122 has been undertaken to identify any additional permissible uses still relevant. It is proposed that these land uses, where not permissible under the revised land use zones be added to the list of additional permitted uses under CCLEP 2022. These generally relate to commercial operations that are already operating or have received approval to operate. <p><u>Department response:</u></p> <ul style="list-style-type: none"> Council's post-exhibition changes are adopted, however to ensure alignment with the Standard Instrument, the APU land use terms are amended as follows:

Item	Post-exhibition changes, Council justification, and Department assessment												
	<div><div><div>1. Lot 490 DP 867168 (formerly Part Lot 50, DP 574711 and Lot 1, DP 745229), 431 Avoca Drive, Green Point - additional permitted use to permit with development consent development for the purposes of <u>hotel or motel that results in no more than 5 self-contained suites</u>.</div><div>2. Lot 11 DP 1039852 (formerly Lot 11 DP 860715), 251 Scenic Highway Terrigal, "George's Fruit Barn" - additional permitted use to permit with development consent development for the purposes of <u>neighbourhood shop that results in a gross retail floor area of not more than 475m²</u>.</div><div>3. Lot 102 DP 1126730 (formerly Part Lot 1 DP 796912) 306-322 Empire Bay Drive, Service station - additional permitted use to permit with development consent development for the purposes of <u>service station, and hotel or motel accommodation</u>.</div><div>4. Lot 1, D.P. 718165, 1 Poole Close Empire Bay, identified as "Empire Bay Tavern" - additional permitted use to permit with development consent development for the purposes of <u>pubs</u>.</div><div>5. Lot 1, D.P. 239201, 286 Mangrove Road, Somersby (formerly Niagara Park) - additional permitted use to permit with development consent development for the purposes of <u>creative industries</u>.</div></div></div>												
State Heritage Item	<div><div><div><div><div><div><u>Post-exhibition changes:</u></div><div>State Heritage Item to be listed under Schedule 5 of CCLEP 2022 and associated map:</div><div><div>1. Part of Lot 393 DP 774276 – 265 The Scenic Rd Killcare Heights.</div></div></div></div><div><div><div><u>Council justification:</u></div><div><div><div>• One site at Killcare Heights has been listed as a State Heritage Item so it is appropriate that this land and item be identified under CCLEP 2022 and the associated mapping.</div></div></div></div><div><div><div><u>Department response:</u></div><div><div><div>• Council's post-exhibition changes are adopted, however to ensure accurate addresses and descriptions under Schedule 5, the listing is amended as follows:</div></div></div></div><div><table><tr><th>Suburb</th><th>Item Name</th><th>Address</th><th>Property Description</th><th>Significance</th><th>Item No</th></tr><tr><td>Killcare Heights</td><td>Bouddi Farm</td><td>265 The Scenic Road</td><td>Part of Lot 393 DP 774276</td><td>State</td><td>I425</td></tr></table></div></div></div></div></div></div>	Suburb	Item Name	Address	Property Description	Significance	Item No	Killcare Heights	Bouddi Farm	265 The Scenic Road	Part of Lot 393 DP 774276	State	I425
Suburb	Item Name	Address	Property Description	Significance	Item No								
Killcare Heights	Bouddi Farm	265 The Scenic Road	Part of Lot 393 DP 774276	State	I425								

3.3.2 The Department's recommended changes

Following the receipt of the revised planning proposal from Council, the Department has made further changes to the proposal as follows:

- Update details of amendments to CCLEP2022 Schedule 5 Environmental Heritage – Part 1 Heritage items to include sequential numbering, correct property descriptions and addresses as follows:

Suburb	Item Name	Address	Property Description	Significance	Item No
Erina	"Laythams" House	31 Portsmouth Road	Lot 116 DP 805652	Local	I421

Suburb	Item Name	Address	Property Description	Significance	Item No
Kincumber South	House	59 Humphreys Road	Lot 1 DP 1032271	Local	I422
Mount Elliot	Mt Elliot House	92 Toomeys Road	Lot 7 DP 833975	Local	I423
Niagara Park	Niagara Park Weir	30 Siletta Road	Lot 11, DP 17201	Local	I424

- Introduce a savings provision relating to development applications.
- Introduce an additional local provision for subdivision at 45 Mulloway Road, Chain Valley Bay. As 45 Mulloway Road, Chain Valley Bay is currently mapped on the Key Sites Map and is land to which existing CCLEP2022 Clause 4.1G applies to, since Clause 4.1G is being omitted and replaced with a clause that would no longer apply to the RE2 Private Recreation land on the site, it is appropriate for provisions to continue to apply to the land through a local provision clause.

3.3.3 Justification for post exhibition changes

The Department notes that these post-exhibition changes are justified and do not require re-exhibition. It is considered that the post-exhibition changes:

- Do not alter the intent of the planning proposal and are minor amendments to the planning proposal which primarily respond to issues raised through submissions.

4 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination (**Attachment D**) and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

As outlined or required in the Gateway determination report (**Attachment D**), the planning proposal submitted to the Department for finalisation:

- Includes an updated assessment and demonstrates consistency under the Central Coast Regional Plan 2041.
- Remains consistent with the Council's Local Strategic Planning Statement.
- Includes an updated assessment and demonstrates consistency under *State Environmental Planning Policy (Resources and Energy) 2021*.
- Has been updated to include assessment under relevant Section 9.1 Directions as discussed in the following sections.

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment,

requires further analysis or requires reconsideration of any unresolved matters these are addressed in the following sections.

Table 7 – Summary of strategic assessment

	Consistent with Gateway determination report Assessment	
Regional Plan	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to sections below
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Local Planning Panel (LPP) recommendation	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Section 9.1 Ministerial Directions	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to sections below
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Table 8 – Summary of site-specific assessment

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Environmental impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Site-specific matters have been assessed throughout report and are summarised in the following sections.

4.1 Central Coast Regional Plan 2041

The Department's Gateway determination (**Attachment C**) required the planning proposal to be updated with an assessment against the Central Coast Regional Plan 2041. The planning proposal's assessment has been updated and further consideration is provided as follows.

Strategy 6.4: Planning proposals must ensure the biodiversity network is protected with an appropriate conservation zone unless an alternative zone is justified following application of the avoid, minimise, offset hierarchy.

As discussed above, some alternative zones are proposed for some of the deferred lands. It is proposed to rezone from 7(a) Conservation and Scenic Protection (Conservation); three existing part roads to RE1 Public Recreation at Springfield; Coomal Avenue, Davistown; and Cullens Road, Kincumber; two existing part roads to R2 Low Density Residential at Reads Road, Wamberal and The Round Drive, Avoca Beach; and one partial lot from 2(a) Residential to R2 Low Density Residential. This has been sufficiently justified in the planning proposal (**Attachment A**) and is unlikely to result in any adverse environmental impacts.

Strategy 6.5: Planning proposals should promote enterprises, housing and other uses that complement the biodiversity, scenic and water quality outcomes of biodiversity corridors. Particularly, where they can help safeguard and care for natural areas on privately owned land.

The draft LEP seeks to retire the bonus lot provision clause under IDO 122 with proposals to be considered under CCLEP 2022 Clause 4.1E Exceptions to minimum subdivision lot sizes for certain split zones. The draft LEP also seeks to retire CCLEP 2022 Clause 4.1F Exception to minimum lot size for subdivision of land that includes deferred matter, as deferred lands will no longer be relevant. However, a new clause will be introduced that seeks to provide for exceptions to minimum lot sizes for conservation. The objective of the clause is to provide flexibility in the application of standards for the subdivision of land to be used for the purpose of long-term conservation management. The proposed provisions enable complementary land uses as envisioned by this Strategy while facilitating long-term conservation.

Narara district planning priority 5: Identify appropriate urban expansion opportunities to ensure a sufficient supply of safe, diverse and affordable housing.

The Department is satisfied that Council may consider future urban expansion opportunities in accordance with this district planning priority as part of its future strategic planning program including finalisation of the Central Coast Local Strategic Planning Statement.

4.2 Section 9.1 Directions

The Gateway determination (Condition 1(b)) required the planning proposal to be updated to provided further justification in relation to specific Section 9.1 Directions. These Directions are further assessed as follows.

4.2.1 Direction 3.1 Conservation Zones

Direction 3.1 states that a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. The Direction also states a planning proposal that applies to land identified for environmental conservation/protection purposes in a LEP must not reduce the conservation standards or modify development standards that apply to the land. Although the planning proposal is translating IDO 122 and GPSO (deemed environmental planning instruments) into a Local Environmental Plan, the following assessment under this Direction is provided.

The proposal does not include any modification to development standards that reduce the conservation standards of the subject land. The only development standard amended by the draft LEP does is minimum lot sizes. The draft LEP in effect uses development standards (i.e. minimum lot sizes) to maintain or increase 'conservation standards' by introducing a minimum lot size provision where none had previously applied under GPSO or IDO122 and increases the MLS requirement from 20ha under IDO 122 7(b) Conservation and Scenic Protection (Scenic Protection) to 40ha under the CCLEP2022 C2/C3 zone.

It is noted land use permissibility and zoning is not defined as a development standard. The draft LEP facilitates the protection and conservation of environmentally sensitive areas by consolidating land use zones into the standard instrument format (i.e. CCLEP2022), which ensures up to date provisions apply in relation to the deferred lands area.

Part roads of deferred land parcels at Reads Road, Wamberal and The Round Rive, Avoca Beach are proposed to be translated from an environmental type zone to a residential zone. The proposal also seeks to rezone three existing part roads from 7(a) Conservation and Scenic Protection (Conservation) to RE1 Public Recreation at Springfield; Coomal Avenue, Davistown; and Cullens Road, Kincumber and one partial lot from 2(a) Residential to R2 Low Density Residential. This is not considered to be a reduction in environmental or conservation standards of the subject lots. The proposed rezonings are consistent with the guidance provided in LEP Practice Note PN 10-001 'Zoning for Infrastructure in LEPs'. PN 10-001 identifies several types of infrastructure – including roads, that are permissible in all LEP zones, irrespective of the LEP zoning. The practice note requires roads to be zoned in accordance with the adjoining land, and where there are multiple adjoining zones, the zone that provides the greatest flexibility to assist with land use planning.

As noted previously, the translation of the deferred lands to zoning under the Central Coast LEP results in some changes to land use permissibility for sites. The draft LEP expands the existing C2, C3 and C4 zones under the Central Coast LEP 2022 to apply to the deferred lands. However, the permissibilities under CCLEP2022 C2, C3 and C4 zones are not changing. Council's zoning methodology has considered land fragmentation and land use conflict which will be mitigated through minimum lot sizes and Council's Development Control Plan.

Council notes Direction 3.1 does not provide any guidance on what a 'conservation standard' is. However, the PN-09-002, provides clear guidance on environmental protection and classification of conservation zones C2 through to C4, and how they should be applied in the preparation of local environmental plans. The LEP Practice Note has been used to inform Council's zoning methodology which has been adequately justified.

The Direction states inconsistencies need to be justified in accordance with the relevant Regional Plan. The Central Coast Regional Plan 2041 requires proposals to ground truth data layers using the listed high environmental values (HEV) criteria. As justified previously, Council have utilised up to date LGA wide mapping in part to assist with categorising suited conservation zoning for deferred lands in accordance with the Practice Note.

The above demonstrates any considered inconsistency with Direction 3.1 is justified.

4.2.2 Direction 4.1 Flooding

This Direction applies to a planning proposal which creates, removes or alters a zone or a provision that affects flood prone land. Some of the deferred lands are identified as flood prone land, primarily out of the high hazard or flood storage areas (**Figure 2**).

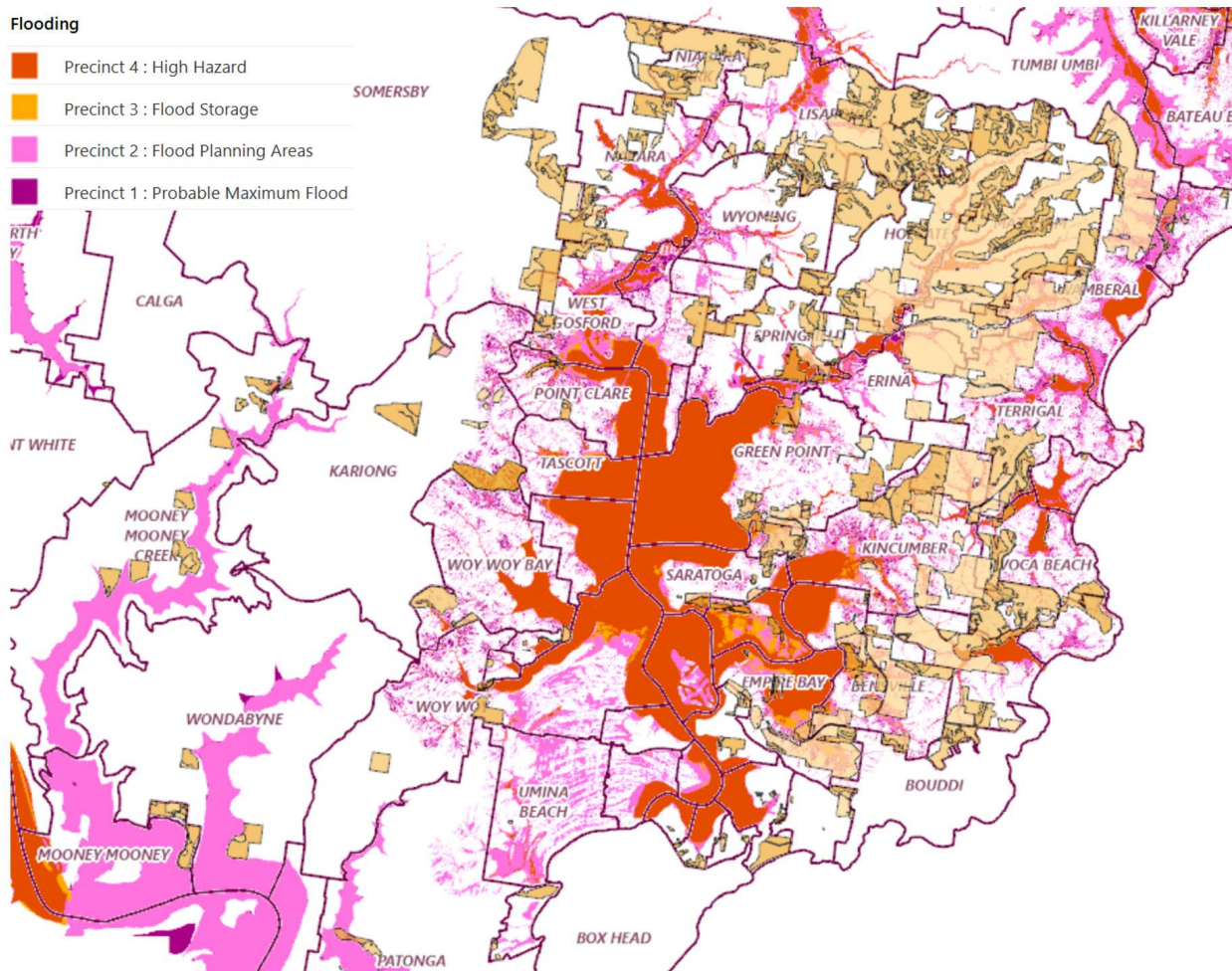


Figure 2 – flood mapping and deferred lands (Central Coast Council Online mapping tool)

The planning proposal is in effect altering zoning and provisions through the translation from IDO122 and GPSO zones to the Standard Instrument CCLEP2022. The Direction also states a planning proposal must not contain provisions that apply to the flood planning area which permit a significant increase in the development and/or dwelling density of that land. Although there is no guidance on what a 'significant increase' is, the following assessment is provided.

Council notes that dwelling density has a direct relationship with the minimum lot size of the land. The planning proposal revises dwelling density type controls with the translation of zones to CCLEP2022 resulting in expanded permissible uses, including dual occupancies (detached and attached) and secondary dwellings. However, it is noted dual occupancy (attached) is currently a permissible land use under IDO 122 Zone 7(b) Conservation and Scenic Protection (Scenic Protection) and 7(c2) Conservation and Scenic Protection (Scenic Protection – Rural Small Holdings), which consists of more than half of the deferred lands (approximately 2,150 parcels). As such, the opportunity for more than one dwelling per lot has been in place for these zones to date. These parcels are proposed to be zoned C4.

Council notes there is little opportunity for subdivision of C4 land and there will be an actual significant reduction in subdivision under CCLEP 2022. This reduction will occur due to the repeal of bonus lot provisions under IDO 122. IDO 122 enables subdivision of 7(c2) land to 1-2 hectares provided land is dedicated to Council as a public reserve (as part of Council's Coastal Open Space System) or a monetary contribution is provided to Council for the purchase or embellishment of COSS public reserves. However, as planning legislation requires monetary contributions to be sought through mechanism such as a contribution plan, rather than through an LEP clause, CCLEP 2022 Clause 4.1E Exceptions to minimum subdivision lot sizes for certain split zones enables land conservation or dedication only.

The planning proposal also seeks to introduce a minimum lot size provision where none had previously applied under GPSO or IDO122 and increases the MLS requirement from 20ha under IDO 122 7(b) Conservation and Scenic Protection (Scenic Protection) to 40ha under the CCLEP2022 C2/C3 zone. The implementation/increase of minimum lot size provisions will also appropriately guide the density of deferred lands. The draft LEP will not result in a significant increase in development and/or dwelling density within the deferred lands.

Further, while other additional permissible land uses (including horticulture, animal boarding or training establishments and eco-tourist facilities) will now be available to deferred lands it is noted in part, land fragmentation and land use conflict will be prevented through minimum lot sizes and restrictions on development impacts through Council's Development Control Plan.

Zone boundaries are by nature a static mapping layer and as such mirroring flooding to the zone boundary is not recommended given the changing nature of flooding and flood mapping generally. Development on flood affected land is subject to the flood controls in Council's Development Control Plan, CCLEP 2022 Cause 5.21 Flood Planning, Clause 5.22 Special Flood Considerations, and guidance under the NSW Flood Risk Management Manual. Changes to considerations in relation to flooding and development proposals have been introduced following the NSW Flood Inquiry 2022. There are sufficient provisions in place to assess and manage potential development impacts as part of any future development application.

The draft LEP is consistent with the NSW Flood Prone Land Policy, Flood Risk Management Manual 2023 and this Direction.

4.2.3 Direction 4.3 Planning for Bushfire Protection

The draft LEP does not introduce controls that place inappropriate development in hazardous areas/bushfire prone land and prohibits dwellings in the C2 Environmental Conservation zone.

Council has consulted with NSW RFS. RFS did not raise any concerns regarding the proposal (**Attachment R**).

The draft LEP does not prohibit Asset Protection Zones.

The draft LEP is consistent with *Planning for Bushfire Protection 2019* and this Direction.

4.2.4 Direction. 5.2 Reserving Public Land

The draft LEP translates three existing Council owned (part) roads in deferred lands from 7(a) Conservation and Scenic Protection (Conservation) to RE1 Public Recreation. The three parcels are part of Wells Street, Springfield; part of Coomal Avenue, Davistown and part of Cullens Road, Kincumber.

It is noted LEP Practice Note PN 10-001 'Zoning for Infrastructure in LEPs' requires roads to be zoned in accordance with the adjoining land. The draft LEP zoning translation will not inhibit the use or reservation of land for a public purpose and approval requirements under this Direction will be met through the making of the LEP.

4.2.5 Direction 4.4 Remediation of Contaminated Land

This Direction requires a planning proposal authority to consider whether land is contaminated. As noted in the final planning proposal (**Attachment A**) endorsed by Council (the planning proposal authority) at the 28 May 2024 meeting (**Attachment G**):

Ministerial Direction 4.4 Remediation of Contaminated land provides:

The Contaminated Land Planning Guidelines (1998) recognise that where a planning proposal covers a large area, it is difficult for a Planning Authority to be satisfied that every part of the subject land is suitable for the proposed uses in terms of contamination at the planning proposal stage. The Guidelines state:

“In these cases, the rezoning should be allowed to proceed, provided measures are in place to ensure that the potential for contamination and the suitability of the land for any proposed use are assessed once detailed proposals are made”.

Further, contamination issues associated with any change in land use would be considered as part of a future development application and in accordance with the *State Environmental Planning Policy (Resilience and Hazards) 2021*. The planning proposal (**Attachment A**) provides an assessment under the Resilience and Hazards SEPP and notes there are potentially six contaminated sites within the deferred lands (**Table 9**), however the potential scope of contamination is likely to be localised and relatively minor. Any contamination of these sites as a result of the use of the land is considered reasonably capable of remediation if required, in accordance with the procedures and practices set out in the contaminated land planning guidelines.

Table 9 – Deferred lands listed in Council register of contaminated land

Lot/DP	Address	Existing zone	Proposed zone	Existing development	Notation in Council potential land contamination register
Lot 3, DP 746320	38 Broadwater Dr, Saratoga	7(c2)	C4	House	Potentially contaminated
Lot 225, DP 755251	1000-1002 Woy Woy Rd, Woy Woy Bay	7(a)	C2, C3	Quarry, landscape supplies	Potentially contaminated
Lot 6, DP 30970	49 Alan St, Niagara Park	7(a)	C3	House	Potentially contaminated

Lot/DP	Address	Existing zone	Proposed zone	Existing development	Notation in Council potential land contamination register
Lot 102, 1126730	306-332 Empire Bay Dr, Empire Bay	7(c2)	C4	Service station	Potentially contaminated
Lot 3, DP 1157767	390 Avoca Dr, Green Point	7(c2)	C4	Service station	Potentially contaminated
Lot 245, DP 1255553	55 Mistview Cct, Forresters Beach	7(a)	C2, C3	Stormwater treatment basin	Known remediated

The draft LEP's translation of zoning provide for minor development opportunities and the extent to which the zones permit a change of use is incidental and unavoidable in the context of the proposed translation of zones. The final planning proposal (**Attachment A**) provides sufficient consideration of the Guidelines, has been adequately considered by Council (**Attachment G**), and as such the draft LEP (**Attachment LEP**) is consistent with this Direction.

4.2.6 Direction 8.1 Mining, Petroleum Production and Extractive Industries

The final planning proposal (**Attachment A**) includes adequate mapping as required by the Gateway (**Attachment C**) and notes the zoning translations have no effect on the existing operation of the activities on applicable deferred lands. The proposal also includes an assessment under the State Environmental Planning Policy (Resources and Energy) 2021 Chapter 2 – Mining, Petroleum Production and Extractive.

All existing zones in the deferred lands prohibit extractive industries and mining except for IDO 122 Zone 7(b) Conservation and Scenic Protection (Scenic Protection). This zone currently applies to 4 deferred land parcels, with a total area of 56.53ha. It is proposed to translate these parcels to C2 and C3, which will prohibit extractive industries and mining.

The Department of Primary Industries and the Department of Regional NSW – Mining, Exploration and Geoscience have raised no concerns with the draft LEP.

An assessment of mining, petroleum and extractive resource sites indicates there is no significant impact on existing extractive industries as a result of the draft LEP.

The draft LEP is consistent with this Direction.

4.2.7 Direction 9.2 Rural Lands

This Direction aims to protect the agricultural production value of rural land and applies where a planning proposal will affect land within an existing or proposed rural or conservation zone (including the alteration of any existing rural or conservation zone boundary). This includes Standard LEP or equivalent to rural and conservation zones.

The deferred lands area does include some small pockets of agricultural uses including orchards and horticultural, many of which currently operate under existing use rights. A review of agricultural lots was undertaken in Council's final planning proposal (**Attachment A**) and a total of 38 deferred land parcels were identified as agricultural lots.

The draft LEP will not have an impact on existing agricultural land uses or create any potential for land fragmentation or new conflicting land uses and is consistent with the Direction's requirements for a planning proposal, including:

- identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources
- consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions
- prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land use.

The draft LEP addresses these through the continuation of existing use rights and proposed split zonings of some of these sites, with lands of high environmental value being zoned C2 Environmental Conservation, while constrained land will be zoned C3 in accordance with Practice Note 09-002.

The draft LEP is consistent with the overarching objectives of this Direction as the translation of zonings to the Standard Instrument assists in the proper management, development and protection of rural lands to promote social, economic and environmental welfare. The draft LEP also encourages sustainable land use practices and ensure the ongoing viability of agriculture on rural land.

Council notes that subject sites can lodge a site-specific planning proposal in future if required to seek an additional permitted use be included under Schedule 1 of the LEP. The draft LEP does not include State Significant Agricultural Land under *State Environmental Planning Policy (Primary Production) 2021*.

The draft LEP is consistent with this Direction.

4.3 Site specific assessment

4.3.1 Social and economic impacts

The following provides a summary of the proposal's social and economic impacts, which are discussed in further detail in the previous sections of this report. The planning proposal will result in a modest increase in the potential for housing through permitting dual occupancies and secondary dwellings in some areas. This will encourage intergenerational living and opportunities for ageing in place and will have positive flow-on effects to the local economy. Any potential adverse impacts from slight increases in dwelling densities in the deferred lands are able to be appropriately managed through lot size controls and Council's development control plan.

As noted previously, the repeal of IDO 122 will remove some provisions relating to bonus lot provisions and monetary contributions to the Coastal Open Space System. IDO 122 currently enables subdivision of 7(c2) land to 1-2 hectares provided land is dedicated to Council as a public reserve (as part of Council's Coastal Open Space System) or a monetary contribution is provided to Council for the purchase or embellishment of COSS public reserves. However, up to date planning legislation requires monetary contributions to be sought through mechanism such as a contribution plan, rather than through an LEP clause. This enables a transparent framework for collection and spending towards local infrastructure. Dedication of land through a similar mechanism is enabled by CCLEP 2022 clause 4.1E Exceptions to minimum subdivision lot sizes for certain split zones.

The deferred lands area does include some small pockets of agricultural uses including orchards and horticulture, which will become prohibited uses under the proposed C4 zoning for subject sites.

4.3.2 Environmental impacts

As discussed previously, the proposed amendments are not expected to have a significant adverse impact on critical habitat or threatened species, populations or ecological communities, or their habitats. The proposal will convert existing environmental zonings under GPSO and IDO 122 to the best matched zone under the standard instrument in accordance with LEP Practice Note PN 09-

002 – Environmental Protection Zones. Any future development of land will remain subject to the requirements under the *Biodiversity Conservation Act 2016* where applicable.

As noted above the proposal is anticipated to have minimal adverse impacts on bushfire, flooding, contaminated land, cultural heritage and coastal management for the deferred lands. Further, there are sufficient provisions in place in the CCLEP 2022 and Council's development control plan to manage future development that may be impacted by these environmental considerations.

4.3.3 Infrastructure

One of the key intended outcomes of the planning proposal is to zone the deferred lands area to an equivalent zone under the standard instrument, and as such it is not anticipated there will be any significant increase in demand on infrastructure. The translation of zonings does see the expansion of locations where secondary dwellings and detached dual occupancies are permissible with consent. However, this is not anticipated to warrant additional road and other infrastructure. Any impacts to existing services and infrastructure will be considered through the development application process along with other potential issues such as on-site sewer management, flooding and bushfire.

5 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

Table 10 – Consultation following the Department's assessment

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	Digital map layers (Acid Sulfate Soils, Heritage, Land Zoning, Lot Size, Land Application, Height of Building and Additional Permitted Uses) for the subject sites have been prepared by the Department's ePlanning team and meet the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Council	<p>Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Council confirmed on 10/12/2024 that it approved the draft and that the plan should be made (Attachment T).</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Parliamentary Counsel Opinion	On 23/01/2025, Parliamentary Counsel issued a Certificate that the draft LEP is in an appropriate form for it to be published on the NSW Legislation website. This Certificate is provided at Attachment PC .	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- The draft LEP has strategic merit being consistent with the Central Coast Regional Plan 2041 and Interim Local Strategic Planning Statement.
- The plan is consistent with the Gateway Determination and relevant Section 9.1 Directions.
- Issues raised during consultation have been addressed, and there are no outstanding agency objections to the proposal.
- The plan translates out of date provisions for deferred lands, particularly land use zoning and minimum lot sizes, into the Standard Instrument and ensures consistency across the Central Coast LGA with the application of one set of planning provisions under the CCLEP2022.
- The deferred lands have been translated into CCLEP2022 conservation zones in accordance with Practice Note 09-002 Environmental Protection Zones, the Standard Instrument and up to date mapping data.
- Updates to subdivision clauses for certain split zones to enable land conservation and sustainable development.



11 April 2025

Jazmin van Veen

Director, Local Planning (North, East, and Central Coast)

Local Planning and Council Support

Assessment officer

Angela Hynes

Manager, North, East and Central Coast

9860 1558

Attachments

Attachment	Document
A	Planning proposal, post-exhibition (Central Coast Council, June 2024)
B	LEP Practice Note – PN 09-002 – Environmental Protection Zones
C	Gateway determination (6 December 2024)
D	Gateway determination report (December 2022)
E	Gateway alteration 1 (28 September 2023)
F	Gateway alteration 2 (6 May 2024)
G	Council resolution (Central Coast Council, 28 May 2024)
H	Council report to the Ordinary Council meeting (Central Coast Council, 28 May 2024)
I	Submissions Council staff review (Central Coast Council, June 2024)
J	Submissions Council staff review – Coastal Environment Network submission (Central Coast Council, June 2024)
K	Agency advice – Department of Primary Industries (Agriculture) (13 May 2023)
L	Agency advice – Department of Regional NSW (Mining, Exploration and Geoscience) (21 November 2023)
M	Agency advice – Environmental Protection Authority (7 November 2023)
N	Agency advice – Transport for NSW (pre-exhibition) (24 January 2023)
O	Agency advice – Transport for NSW (exhibition) (6 November 2023)
P	Agency advice – Biodiversity Conservation Division (initial comments) (14 March 2024)
Q	Agency advice – Biodiversity Conservation Division (follow-up comments) (24 April 2024)
R	Agency advice – NSW Rural Fire Service (6 February 2024)
S	Proposed post-exhibition changes (Central Coast Council, June 2024)
T	Consultation with Council
PC	Parliamentary Counsel Certificate