

Reeves Street Somersby Planning Proposal

PP-2023-2340

Hunter and Central Coast Regional Planning Panel

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Part 1 – Objectives of the planning proposal

The objective of the planning proposal is to enable low-impact rural residential development and protect land that has high conservation values including a regional biodiversity corridor, on land at Reeves Street, Somersby (Lot 481, DP 1184693).

The planning proposal gives effect to chapter 3 – Aboriginal Land of the *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP) and the Darkinjung Development Delivery Plan (DDP) to support social outcomes and economic self-determination for the local Aboriginal community.

The planning proposal applies to part of Lot 481 DP 1184693. The lot is currently zoned RU2 Rural Landscape and C2 Environmental Management. The balance of the site on the eastern side is zoned C2 Environmental Management and does not form part of the planning proposal. Details of the subject land are provided in Figure 1 below.



Figure 1: Land subject to the planning proposal (Nearmaps, 2023)

The planning proposal seeks to amend the *Central Coast Local Environmental Plan 2022* (CCLEP 2022) to:

- enable future low-impact rural residential on part of the site;
- protect environmentally and culturally significant land;
- support the economic self-determination of the Darkinjung Local Aboriginal Land Council (LALC) and community.

A concept proposal is provided in Figure 2 below.

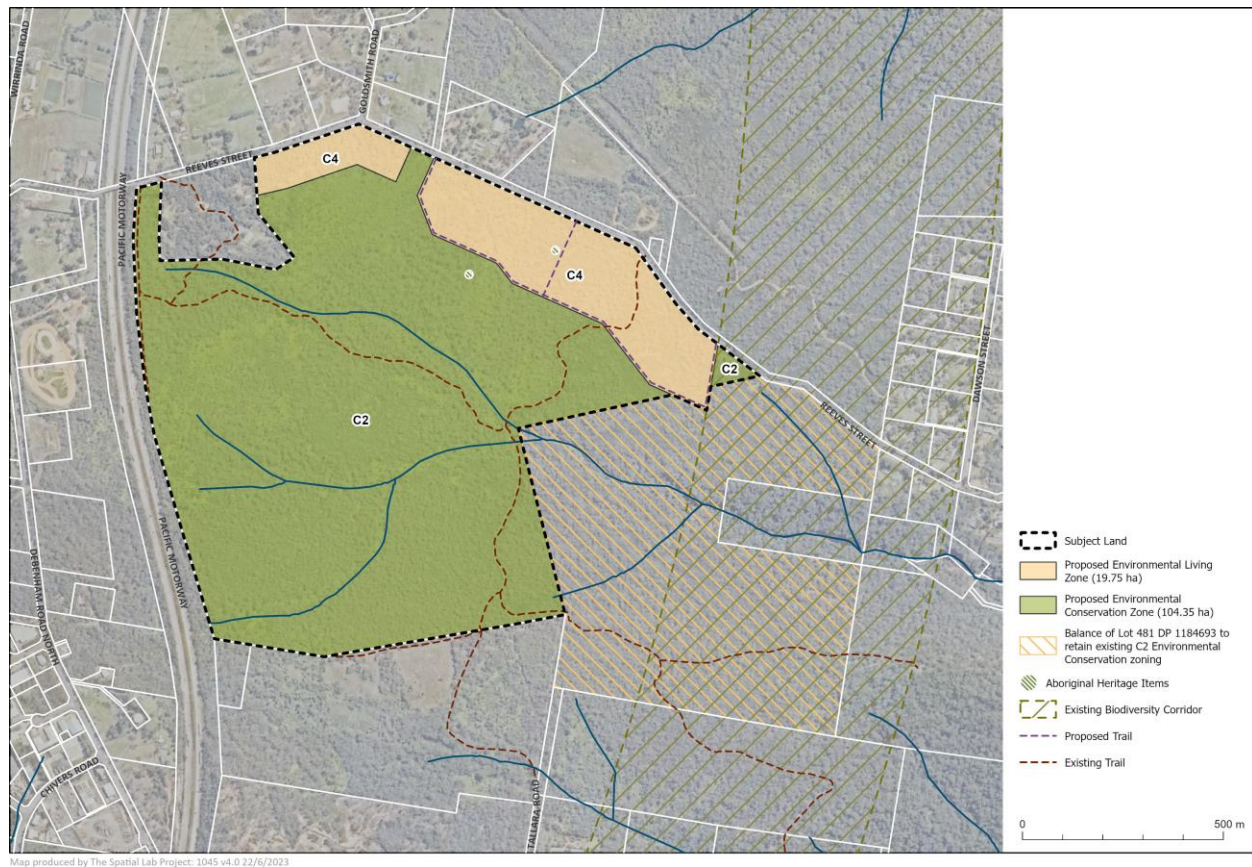
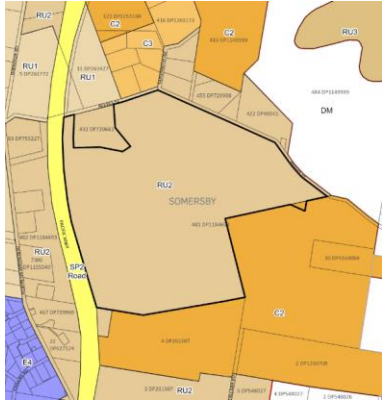
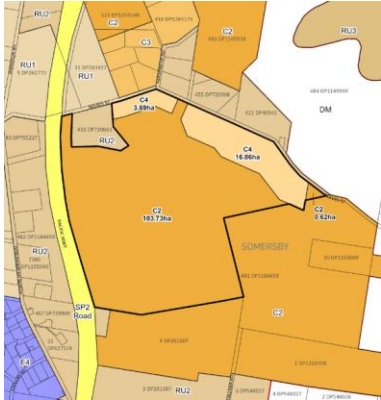


Figure 2: Concept proposal (Darkinjung, 2023)

The current proposal is a refinement of the planning proposal originally submitted for the site, which received strategic support from the Hunter and Central Coast Regional Planning Panel in 2019. The revised proposal has a reduced development footprint and reduced environmental impacts compared to the original planning proposal.

Part 2 – Explanation of provisions

Table 1: Explanation of Provisions

| CCLEP | Intended provisions |
|-------------|---|
| Land Zoning | <p>Rezone 123.83ha of the land from RU2 Rural Landscape to:</p> <ul style="list-style-type: none"> • C4 Environmental Living (19.48ha); and • C2 Environmental Conservation (104.35ha). <p>Rezone 0.27ha from Zone C2 Environmental Conservation Zone to Zone C4 Environmental Living.</p> <p>Retain the balance of the site (54.4ha) as C2 Environmental Conservation.</p> <div style="display: flex; justify-content: space-around; align-items: flex-end;">   </div> <div style="display: flex; justify-content: space-around; align-items: center;"> Current Proposed </div> |
| Lot Size | <p>Amend the minimum lot size from 20ha to:</p> <ul style="list-style-type: none"> • 1ha for land proposed to be zoned C4 Environmental Living to enable up to 14 rural-residential lots; and • 40ha for the remaining land to be zoned C2 Environmental Conservation. <p>Amend the Minimum Lot Size from 40ha to:</p> <ul style="list-style-type: none"> • 1ha for the south-eastern corner (0.27ha lip) of the proposed C4 Environmental Living part of the site currently zoned C2. |

Part 3 – Justification of strategic and site-specific merit

Section A – need for the planning proposal

Q1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

Yes. The planning proposal is the result of implementing the:

- Central Coast Local Strategic Planning Statement (LSPS); and
- Darkinjung Development Delivery Plan (DDP).

Central Coast Local Strategic Planning Statement (LSPS)

The Central Coast LSPS (2020) identifies the site on the housing precincts map, along with other Darkinjung-owned land identified under chapter 3 – Aboriginal Land of the Planning Systems SEPP (previously SEPP (Aboriginal Land) 2019) (refer to Figure 3 below).

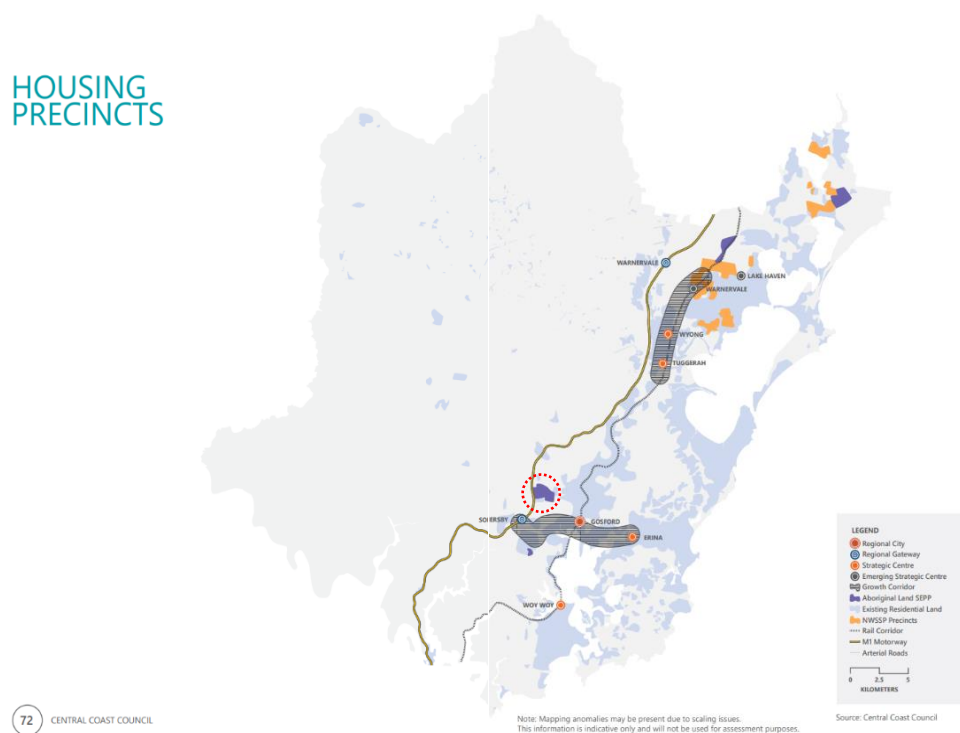


Figure 3: Housing Precincts map in Central Coast LSPS identifying land under chapter 3 - Aboriginal Land from Planning Systems SEPP

The Central Coast LSPS states (p. 16) that:

The NSW Government and Central Coast Council will work with Local Aboriginal Land Councils to identify how their land can best be planned, managed, and developed through the Planning Systems SEPP... Council will also work with the NSW Government to achieve good planning outcomes through application of State Environmental Planning Policies as part of our environmental assessment processes.

This planning proposal has been prepared in accordance with the collaborative approach between Council, Darkinjung LALC, and the NSW Government as described by the Central Coast LSPS, to ensure balanced environmental, social, and economic outcomes can be achieved on the site.

Darkinjung Development Delivery Plan

The Darkinjung DDP (2022) identifies the site as a short-term priority to assist Darkinjung LALC achieve its social and economic aspirations for the local Aboriginal community (refer Figure 4 below).



Figure 4: Reeves Street, Somersby site mapped in the Darkinjung DDP

The 178.5ha site was strategically assessed among Darkinjung LALC's 3,700ha of land holdings and determined, comprising 31 sites in total, as having development potential given that the site adjoins an existing rural-residential area to the north, has access to existing infrastructure and services, and provides an opportunity to secure much of the site for long-term environmental conservation and increase environmental protection for the land.

Q2. Is the planning proposal the best means of achieving the objective of the planning proposal or is there a better way?

Yes. The planning proposal is the best means of achieving the planning proposal's objective to enable limited low-impact residential and environmental conservation outcomes.

The site has been assessed as having development potential for up to 14 dwellings on 19.48ha of the site given that it:

- adjoins an existing rural-residential area to the north;
- has access to existing infrastructure and services; and
- provides an opportunity to secure most of the site for long-term environmental conservation.

The current planning controls, including the RU2 Rural Landscape zoning, do not reflect the site's development potential and therefore a planning proposal is required.

Other options considered to achieve the planning proposal's objective include:

- seeking to vary applicable development standards via clause 4.6 of the relevant LEP;
- whether the outcome could be achieved through an amendment to a development control plan; and
- waiting for council to finalise a study and/or separate planning proposal.

The proposal is beyond the scope of a clause 4.6 variation and could not be achieved via an amendment to the Central Coast Development Control Plan 2022. Central Coast Council does not intend to rezone the site through a Council-led planning proposal and there are no further studies required to inform the planning proposal.

Section B – relationship to strategic planning framework

Q3. Will the planning proposal give effect to the objectives and actions of the Central Coast Regional Plan 2041?

Yes. The site is identified in the Central Coast Regional Plan 2041 (CCRP 2041) for residential investigation and is adjacent to the Somersby regionally significant growth area (refer to Figure 5 over the page).

The planning proposal gives effect to:

- Objective 2 to support the right of Aboriginal residents to economic self-determination by enabling Darkinjung LALC to achieve its development aspirations for land that is has reclaimed from the Crown;
- Action 2.1 by implementing the Darkinjung DDP and enabling Darkinjung LALC to achieve its development aspirations for land that has been strategically assessed for its development suitability; and
- Action 2.3 by facilitating the progression of a planning proposal identified in the Darkinjung DDP and that has addressed relevant site-specific considerations, including environmental values and infrastructure demands, as outlined in this planning proposal.

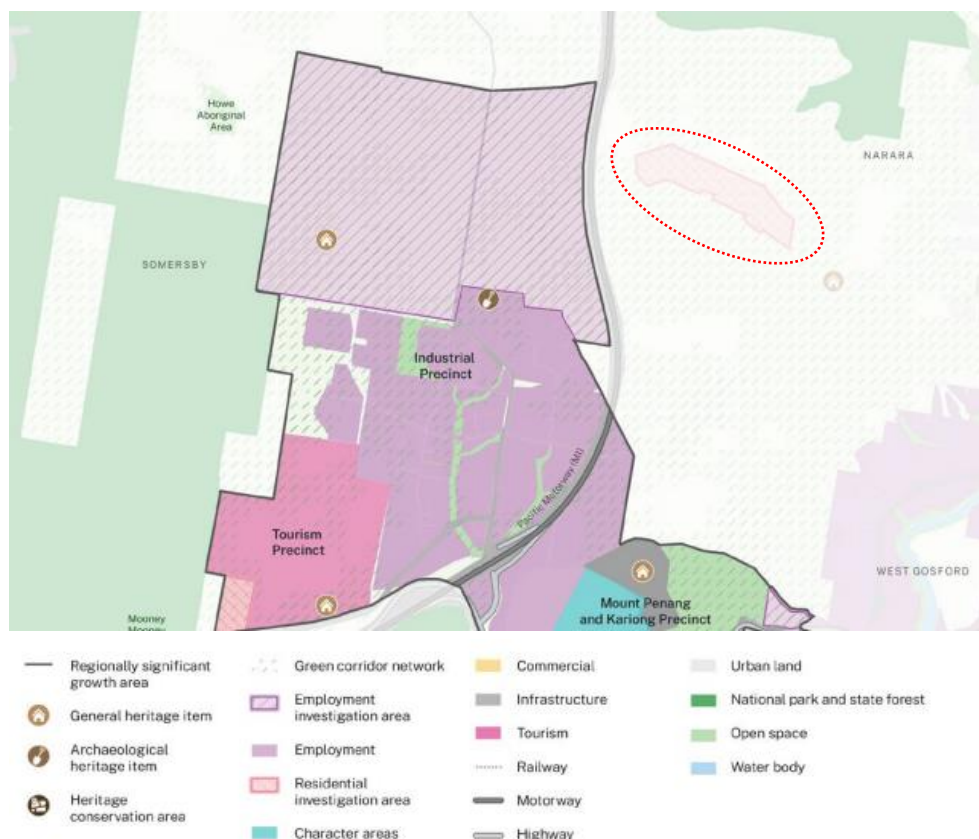


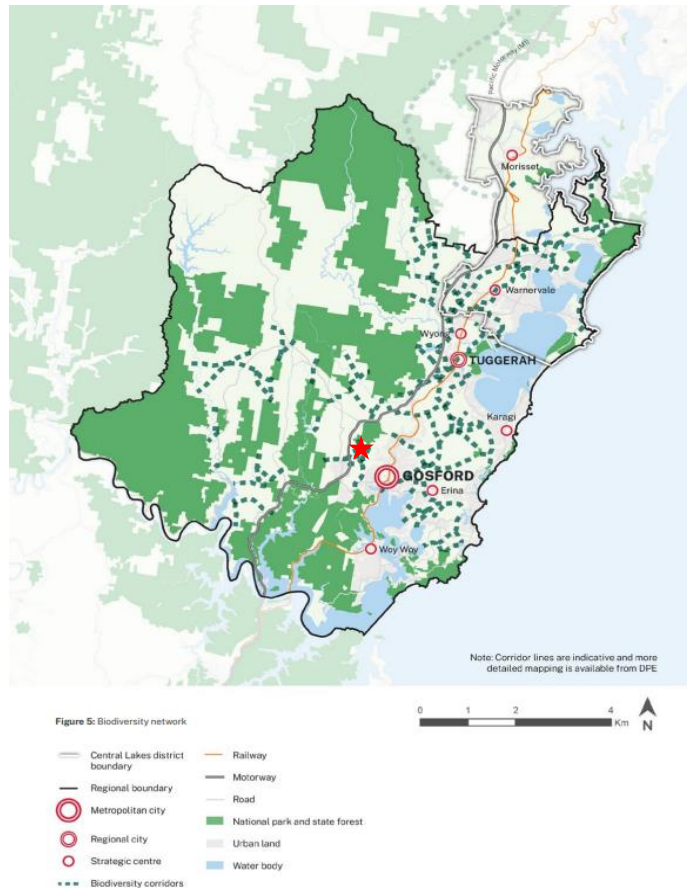
Figure 5: Reeves Street, Somersby site identified in CCRP 2041 as 'Residential investigation area'

Table 2 below explains how the proposal relates to relevant strategies in the CCRP 2041.

Table 2: Assessment against Central Coast Regional Plan 2041

| Central Coast Regional Plan | Consistency |
|---|--|
| Objective 1: A prosperous Central Coast with more jobs close to home | |
| Strategy 1.2 | The strategy is not applicable as the planning proposal does not propose new employment lands. |
| Strategy 1.5 | The strategy is not applicable as the planning proposal does not relate to a power station site. |
| Objective 2: Support the right of Aboriginal residents to economic self-determination | |
| Nil | |

| | |
|--|---|
| Central Coast Regional Plan | Consistency |
| Objective 3: Create 15-minute neighbourhoods to support mixed, multi-modal, inclusive and vibrant communities | |
| Strategy 3.2 | The strategy is not applicable as the planning proposal is not proposing a residential zone. |
| Strategy 3.3 | The strategy is not applicable as the planning proposal's proposed rural-residential yield is less than 1,500 dwellings. |
| Objective 4: An interconnected Central Coast without car-dependent communities | |
| Nil | |
| Objective 5: Plan for 'nimble neighbourhoods', diverse housing and sequenced development | |
| Strategy 5.3 | The strategy is not applicable as the planning proposal is not proposing a residential zone. |
| Objective 6: Conserve heritage, landscapes, environmentally sensitive areas, waterways and drinking water catchments | |
| Strategy 6.4 | <p>The strategy is applicable as the planning proposals relates to land within the biodiversity network.</p> <p>The proposal will rezone 104.35 ha of the site to C2 Environmental Conservation. This ensures that the regionally significant biodiversity corridors (refer below) are protected in an appropriate conservation zone.</p> |

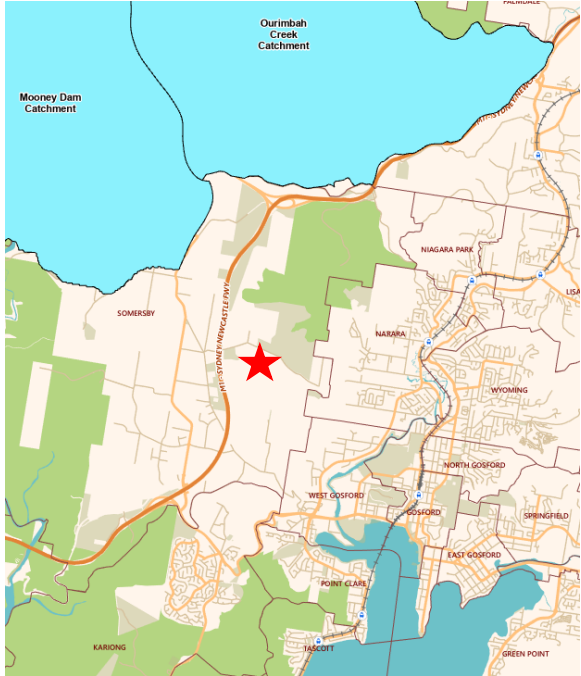


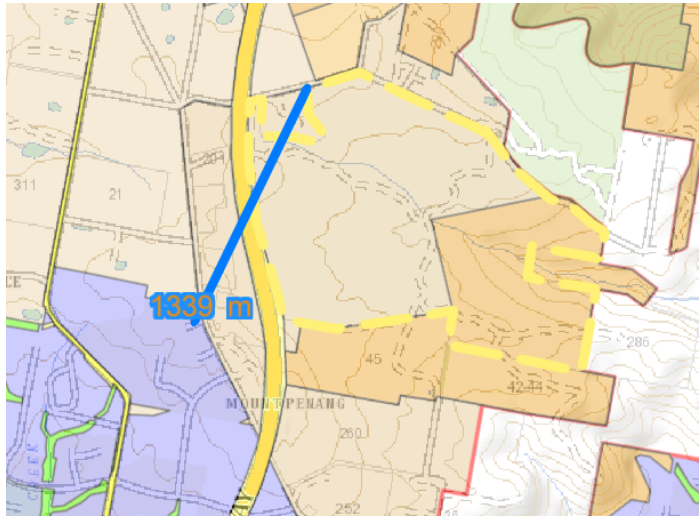
The strategy requires protection of the biodiversity network within an appropriate conservation zone unless an alternate zone is justified following application of the avoid, minimise, offset hierarchy.

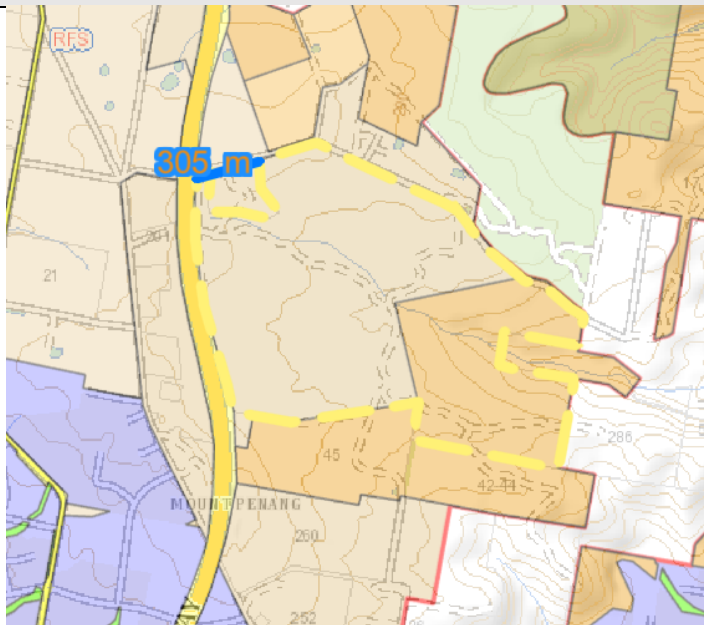
The proposed development area was established following the application of avoidance and mitigation measures and the proposed development footprint has been adjusted to minimise impacts on sensitive adjoining land.

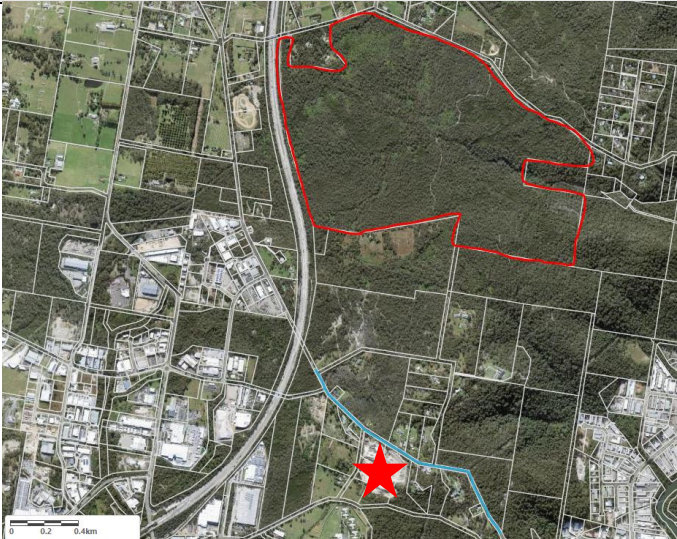
Darkinjung has indicated it is committed to providing a biodiversity offset strategy that appropriately compensates for the unavoidable loss of biodiversity values.

Development of the area proposed to be zoned C4 would not compromise the regional biodiversity corridors that traverse the site.

| Central Coast Regional Plan | Consistency |
|-----------------------------|--|
| | <p>Future development of the site will be subject to legislative requirements relating to environmental protection, as well as the <i>Central Coast Development Control Plan 2022</i> (CCDCP 2022) and a future high-level DCP that will establish site specific principles for future development, to operate in conjunction with CCDCP 2022.</p> |
| Strategy 6.5 | <p>The strategy is applicable as the planning proposals relates to land within the biodiversity network.</p> <p>The strategy requires planning proposals to 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.</p> <p>The planning proposal complements the biodiversity network by rezoning most of the site within an environmental conservation zone. Moreover, the proposal focuses low-impact rural-residential development within the northern Reeves Street frontage of the site adjoining existing rural-residential development.</p> |
| Strategy 6.12 | <p>The strategy is not applicable as the site does not lie within a drinking water catchment (DWC), with the two nearest catchments (Mooney Dam and Ourimbah Creek) located to the north of the site, north-west of the M1 Pacific Motorway.</p>  <p>The map displays the geographical context of the site. A red star marks the site's location, situated south of the M1 Pacific Motorway and west of the Kariong road. To the north of the site are the Mooney Dam Catchment (shaded in light blue) and the Ourimbah Creek Catchment (shaded in light green). The map also shows various localities including Somersby, Kariong, West Gosford, Gosford, North Gosford, East Gosford, Springfield, Point Clare, Harcourt, Green Point, and Wyoming. The M1 Pacific Motorway is shown as a major road running north-south through the area.</p> |

| | |
|--|--|
| Central Coast Regional Plan | Consistency |
| Objective 7: Reach net zero and increase resilience and sustainable infrastructure | |
| Strategy 7.5 | <p>The strategy is applicable as it proposes a sensitive land use (i.e., low-impact rural residential). The strategy requires planning proposals to protect sensitive land uses from sources of air pollution, such as major roads, railway lines and designated freight routes, using appropriate planning and development controls and design solutions to prevent and mitigate exposure and detrimental impacts on human health and wellbeing.</p> <p>The area proposed for development adjoins existing rural-residential land uses to the north. The site is bound by the M1 Motorway to the west, with the Somersby Industrial Park located to the west of the M1 within proximity (1-2km) to the site (see below).</p>  <p>The proposal includes appropriate separation distances between these identified sources of air pollution (being the M1 and nearby industrial land uses) and the future low-impact rural residential portion of the site. The proposal maintains approximately 300m between the proposed C4 zone and the major road corridor, creating an appropriate buffer between future residential sites and the source of air pollution from the M1 (see below).</p> |

| | |
|--|--|
| Central Coast Regional Plan | Consistency |
| |  |
| Objective 8: Plan for businesses and services at the heart of healthy, prosperous and innovative communities | |
| Strategy 8.2 | The strategy is not applicable as the planning proposal does not propose new commercial activity. |
| Strategy 8.6 | The strategy is not applicable as the planning proposal does not intend to facilitate tourism activities. |
| Objective 9: Sustain and balance productive rural landscapes | |
| Strategy 9.1 | <p>The strategy is applicable as it requires consideration of the location of mineral and energy resources, mines and quarries and ensure sensitive land uses would not encroach on those operations.</p> <p>The subject area is located approximately 600 metres north of the blasting transition zone of Debenham Rd Quarry, the nearest extractive operation (see below).</p> |

| | |
|--------------------------------|--|
| Central Coast Regional Plan | Consistency |
| |  <p data-bbox="427 877 1458 909">The Geological Survey of NSW has advised that is has no objections to the proposal.</p> |
| Strategy 9.4 | The strategy is not applicable as the planning proposal does not relate to the expansion of a rural town or village. |

Q4. Is the planning proposal consistent with the Central Coast Local Strategic Planning Statement or another endorsed local strategy or strategic plan?

Yes. The planning proposal is consistent with the:

- Central Coast Local Strategic Planning Statement (LSPS); and
- Coastal Open Space System (COSS) Strategy.

Central Coast Local Strategic Planning Statement (LSPS)

As outlined in response to Question 1 of this planning proposal, the Central Coast LSPS (2020) identifies the site on the housing precincts map, along with other Darkinjung-owned land identified under chapter 3 – Aboriginal Land of the Planning Systems SEPP (previously SEPP (Aboriginal Land) 2019) (refer to Figure 6 below).

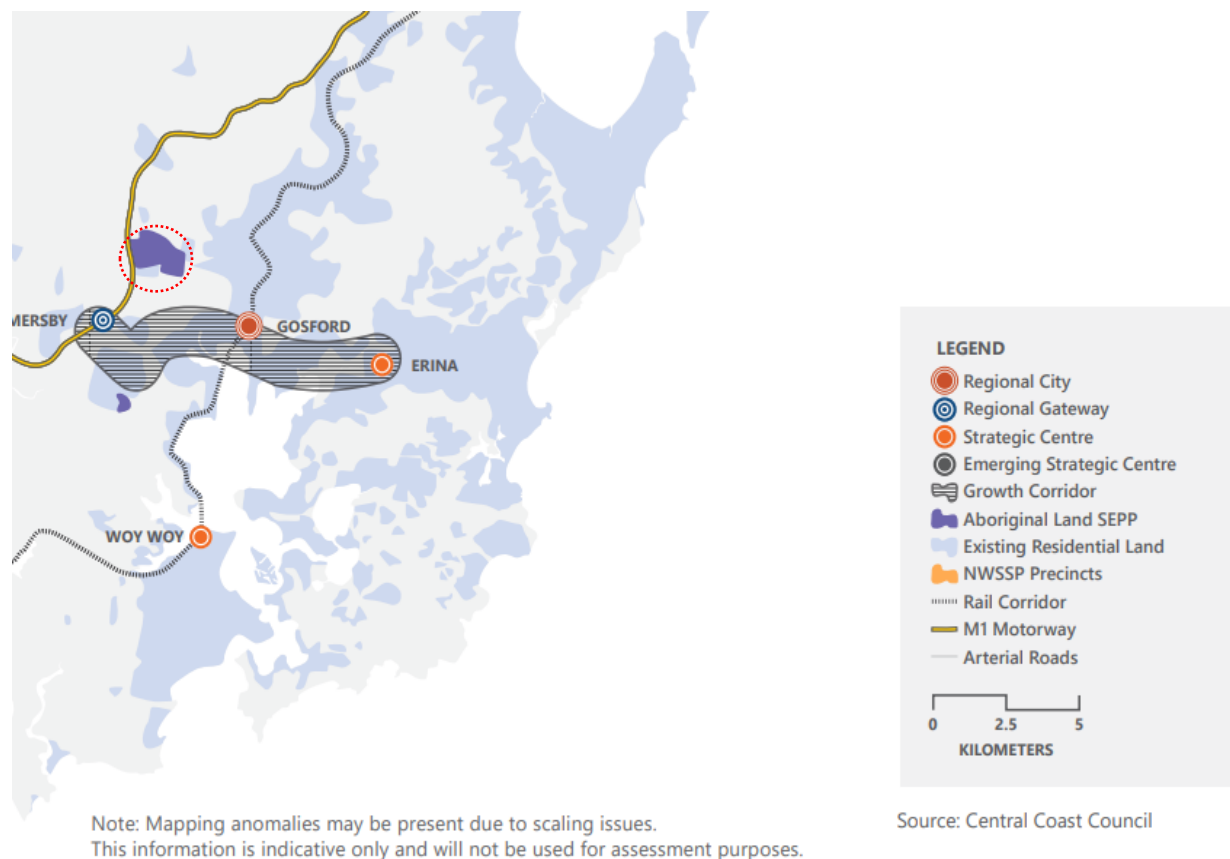


Figure 6: Detail of Housing Precincts Map from Central Coast LSPS showing the subject site in red

Coastal Open Space System (COSS) Strategy

The COSS Strategy aims to protect and secure lands for the protection of native flora and fauna. The site is identified by the COSS Strategy as a private landholding with potential for incorporation into the COSS (refer to Figure 7 over the page).

The COSS Strategy recognises that not all private land may be available for incorporation into the COSS and negotiations between Council and landowners is required. Darkinjung LALC has committed to a biodiversity certification process under the *Biodiversity Conservation Act 2016* to Biocertify land proposed for rezoning to C4 Environmental Living. This process is underway. To offset the residual impacts of development on biocertified land, Darkinjung LALC proposes to protect and manage residual land within the broader site under a biodiversity stewardship agreement. This agreement will ensure this land is secured in perpetuity for the protection of native flora and fauna.

The planning proposal is consistent with the COSS Strategy because the proposed environmental conservation zone applies to the majority of the site, and future stewardship and management of the lands by Darkinjung LALC will contribute to the function and objectives of the COSS and broader biodiversity network.

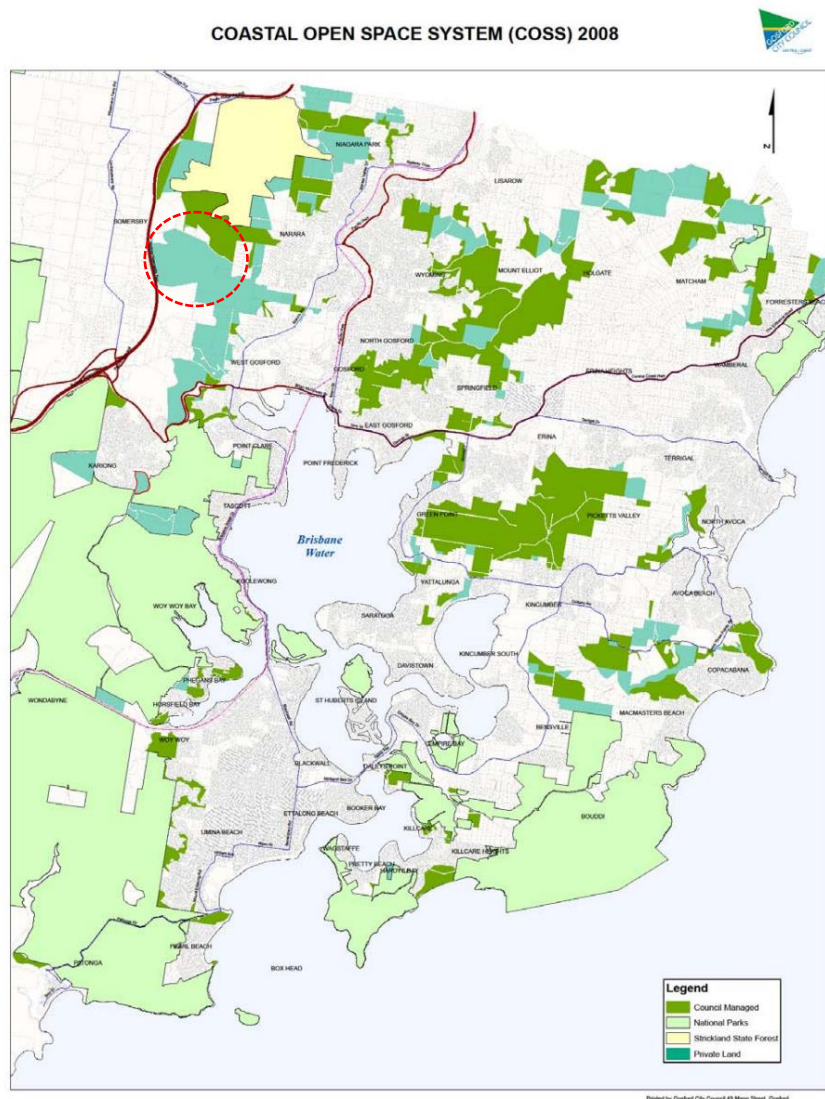


Figure 7: COSS map identifying privately owned land as part of the COSS (Central Coast Council, 2010).

Draft Central Coast Local Housing Strategy (January 2023)

The draft Central Coast Local Housing Strategy has been prepared to manage the supply of housing on the Central Coast and to meet the needs of the current and future community. The draft Strategy has been exhibited, and a final draft Strategy was adopted by Central Coast Council on 28 May 2023, and has been forwarded to the NSW Government for endorsement, but not yet finalised.

The draft Strategy supports and is supported by the development and implementation of the Darkinjung Local Aboriginal Land Council *Development Delivery Plan*, (DDP), and the DDP identifies the site as a short-term priority to assist Darkinjung LALC achieve its social and

economic aspirations for the local Aboriginal community. The site is also identified in CCRP 2041 as a 'Residential investigation area'

The planning proposal is consistent with the draft Strategy in that it provides for additional housing to meet the needs of the community, in a location consistent with the CCRP 2041, and will provide for suitable housing types that are appropriate for the size of future allotments and the environmental qualities of the land.

Q5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

NSW Housing Strategy

Yes. The proposal is consistent with NSW Housing Strategy aspirations for 2041, including:

1. delivering housing supply in the right locations at the right time by giving effect to the *Central Coast Regional Plan 2041* which identifies the site as a residential investigation area;
2. providing housing that is diverse and meets varied and changing needs by incorporating low density residential zoning that will enable various lot size and housing typology options to be developed and adapted over time;
3. providing housing that is affordable and secure by providing new housing opportunities within an established suburban area with access to local facilities, employment opportunities and jobs; and
4. delivering enduring and resilient housing by designing in response to natural hazards, such as extreme heat, bushfires, flooding.

Q6. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Table 3: Assessment of State Environmental Planning Policies

| Assessment of State Environmental Planning Policies |
|---|
| State Environmental Planning Policy (Planning Systems) 2021 |

Chapter 2 State and regional development

The policy aims to identify development that is State significant development, State significant infrastructure, critical State significant infrastructure, and regionally significant development.

The proposal is capable of being determined as regionally significant development should the planning proposal proceed given that it comprises land owned by a Local Aboriginal Land Council as set out in chapter 3 of the Planning Systems SEPP.

The planning proposal is consistent with chapter 2 of the Planning Systems SEPP.

Chapter 3 Aboriginal land

The policy aims to provide for development delivery plans for areas of land owned by Aboriginal Land Councils to be considered when development applications are considered, and to declare specified development carried out on land owned by Aboriginal Land Councils to be regionally significant development.

The planning proposal comprises Darkinjung LALC land as shown on the Land Application Map of the Planning Systems SEPP. A development delivery plan (DDP) has been made under the SEPP and the planning proposal authority must take the DDP into account when preparing a Planning Proposal.

As outlined in response to Question 1 of this planning proposal, the proposal is a result of the Darkinjung DDP and is therefore consistent with the Planning Systems SEPP.

The planning proposal is consistent with chapter 3 of the Planning Systems SEPP.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

The policy aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

Chapter 2 applies to land zoned C2 Environmental Conservation under an environmental instrument. Part of the site (0.27ha proposed to be C4) is currently zoned C2 under CCLEP 2022 and therefore the policy applies to this planning proposal.

The policy states that priority is to be given to retaining bushland, unless it is satisfied that significant environmental, economic, or social benefits will arise which outweigh the value of the bushland.

While the proposed rezoning will result in the removal of bushland, the majority of this will occur in the existing RU2/proposed C4 zone, with the removal of bushland proposed in 0.27ha of the site currently zoned C2. The majority of the site will remain undisturbed and contained in the proposed C2 zone.

The proposal will also support social and economic opportunities for the local Aboriginal community by supporting economic self-determination of Darkinjung Local Aboriginal Land Council in line with the objectives of the Aboriginal Land Planning Framework. The policy will need to be considered further through the development assessment process.

The planning proposal is justifiably inconsistent with chapter 2 of the Biodiversity and Conservation SEPP.

Chapter 4 Koala habitat protection 2021

The policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

A Flora and Fauna Assessment Report (EMM, August 2023), in the format of a Biodiversity Certification Assessment Report (BCAR), has been completed for the site. Surveys undertaken by EMM did not detect any signs of koala habitats being located on the proposed development area (along the Reeves Street frontage). Surveying included wildlife detection cameras, vegetation assessments, nocturnal spotlight searches, call playbacks and scat searches. Further surveys have since been undertaken and will be detailed in the final BCAR submitted as part of the biocertification of the site.

The planning proposal is consistent with chapter 4 of the Biodiversity and Conservation SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of land

The policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

The preliminary site contamination assessment report (Qualtest, July 2023 – refer Figure 8) submitted with the planning proposal identified:

- a small area in the centre of the site, and outside the proposed C4 zone, has previously been used as a scout camp, with associated building materials, use of a generator and a septic tank; and
- evidence was found of illegal dumping of wastes including wood, concrete and domestic refuse. This was predominately on the western side of the site, outside of the area proposed for rural residential land use.

The report concluded that no further assessment is recommended in the areas proposed for rural residential land use, unless waste materials that may have caused contamination are identified (i.e. asbestos containing materials, items that may have leaked fuels or oils).

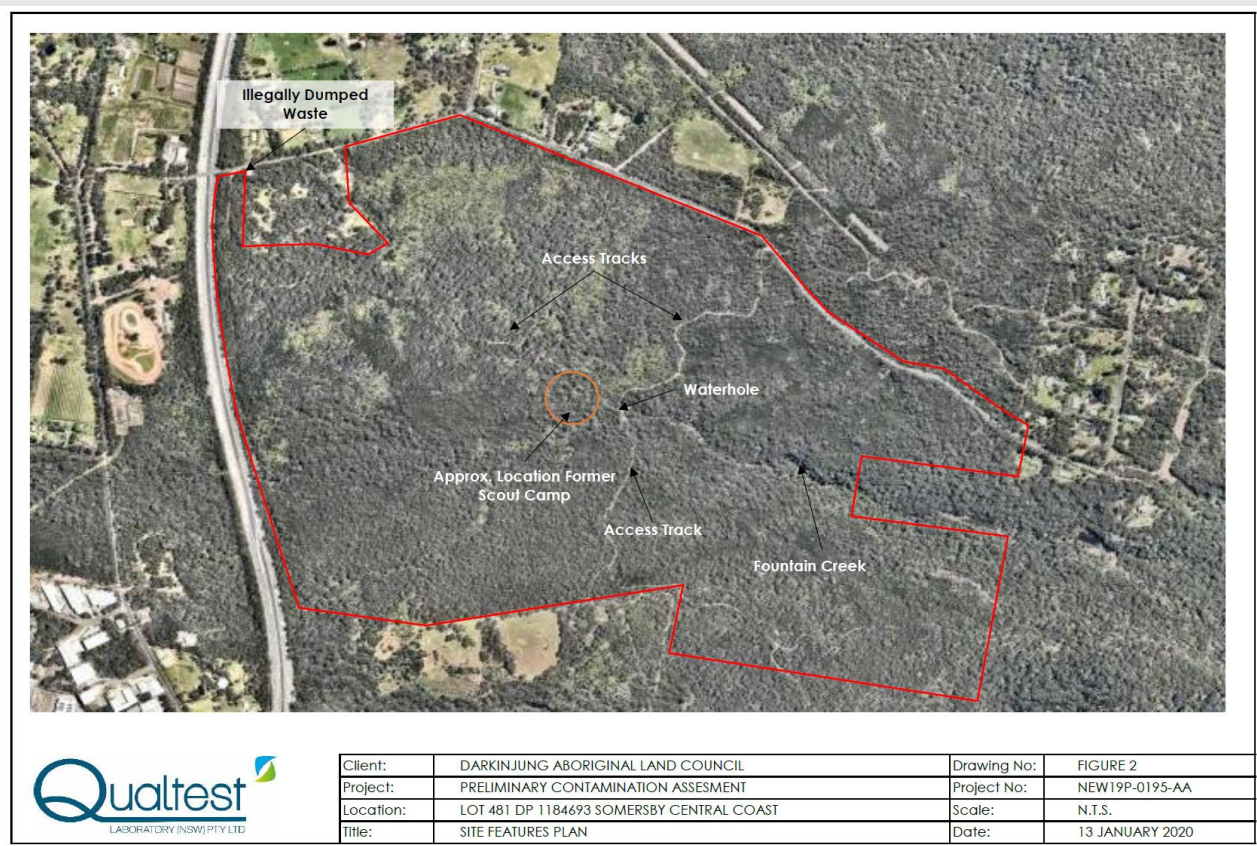


Figure 8: Site features plan – preliminary site contamination assessment

Given the findings of the preliminary site contamination assessment report, the planning proposal is consistent with this policy.

The planning proposal is consistent with chapter 4 of the Resilience and Hazards SEPP.

Chapter 2 Infrastructure

The policy aims to facilitate the effective delivery of infrastructure across the State.

The ability for infrastructure to be provided to the additional dwellings has been assessed as part of the proposal. The proposal is supported by a preliminary servicing assessment (Northrop, 2022) and preliminary traffic advice (SECA solution, May 2020).

The preliminary servicing assessment concluded that service infrastructure, including electricity, telecommunications, and gas can be extended or augmented from existing adjacent services in Kariong. Water and sewer connections are required to service the site and advice has been sought from Central Coast Council’s water and sewer section on the design and location of these services.

Assessment of State Environmental Planning Policies

The preliminary traffic advice indicates that there is sufficient capacity in the existing road network to cope with the additional population that would result from the rezoning. Transport for New South Wales were consulted post-Gateway and did not raise an objection to the planning proposal.

Further consideration infrastructure provision is provided in response to Question 11 of this planning proposal.

The planning proposal is consistent with chapter 2 of the Transport and Infrastructure SEPP

State Environmental Planning Policy (Housing) 2021

Chapter 2 Affordable housing

The policy aims to encourage the development of housing that will meet the needs of more vulnerable members of the community.

A key objective of the proposal is to improve housing affordability by delivering greater housing choice. Opportunities for affordable housing can be considered at the development application stage.

The planning proposal outcomes are capable of satisfying the requirements of the Housing SEPP.

The planning proposal is consistent with chapter 2 of the Housing SEPP.

Chapter 3 Diverse housing

The policy aims to enable the development of diverse housing types.

The planning proposal is consistent with chapter 3 of the Housing SEPP.

State Environmental Planning Policy (Resources and Energy) 2021

Chapter 2 Mining, petroleum production and extractive industries

The policy aims to recognise the importance of mining, petroleum production and extractive industries to New South Wales.

The planning proposal is unlikely to impact on mining, petroleum production or extractive industries. Geological Survey NSW has been consulted and supports the proposal.

The planning proposal is consistent with chapter 2 of the Resources and Energy SEPP.

Chapter 3 Extractive industries in Sydney area

The policy aims to facilitate the development of extractive resources in proximity to the population of the Sydney Metropolitan Area.

Assessment of State Environmental Planning Policies

The planning proposal is unlikely to impact on extractive resources. Geological Survey NSW has been consulted and supports the proposal.

The planning proposal is consistent with chapter 3 of the Resources and Energy SEPP.

State Environmental Planning Policy (Primary Production) 2021

Chapter 2 Primary production and rural development

The policy aims to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources.

The site does not hold any existing agricultural value nor do the site attributes, including size, location and ground and soil conditions, indicate potential for future agricultural activity. The planning proposal will not undermine the ability for any existing farmers in exercising their right to farm or enable fragmentation of rural land that increases the risk of land use conflict between residential land uses and other rural land use.

The planning proposal is consistent with chapter 2 of the Primary Production SEPP.

Q7. Is the planning proposal consistent with applicable section 9.1 Ministerial directions or key government priority?

Table 4: Assessment of Ministerial Directions

| Assessment of Ministerial Directions |
|--------------------------------------|
| Focus area 1: Planning Systems |

1.1 Implementation of Regional Plans

Objective

To give legal effect to the vision, strategy, goals, directions and actions contained in Regional Plans.

Direction

Planning proposals must be consistent with the relevant Regional Plan released by the Minister.

Consistency

The planning proposal is consistent with the CCRP 2041 as provided in response to Question 3.

The planning proposal is consistent with Ministerial Direction 1.1 Implementation of Regional Plans.

1.2 Development of Aboriginal Land Council land

Objective

To provide for the consideration of development delivery plans prepared under chapter 3 of the *State Environmental Planning Policy (Planning Systems) 2021* when planning proposals are prepared by a planning proposal authority.

Direction

As the planning proposal authority, the Hunter and Central Coast Regional Planning Panel must take into account the Darkinjung DDP.

Consistency

As outlined in response to Question 1 of this planning proposal, the Darkinjung DDP identifies the site as a short-term priority to assist Darkinjung LALC achieve its social and economic aspirations for the local Aboriginal community.

The planning proposal gives effect to the Darkinjung DDP and is consistent with the planning policy.

The planning proposal is consistent with Ministerial Direction 1.2 Development of Aboriginal Land Council land.

1.3 Approval and Referral Requirements

Objective

To ensure that LEP provisions encourage the efficient and appropriate assessment of development.

Direction

A planning proposal must:

- minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority; and
- not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless approved by the appropriate Minister or public authority the Planning Secretary; and
- not identify development as designated development.

Consistency

Assessment of Ministerial Directions

The planning proposal does not propose to include provisions in the CCLEP 2022 that require the concurrence, consultation or referral of future development applications to a Minister or public authority.

The planning proposal is consistent with Ministerial Direction 1.3 Approval and Referral Requirements.

1.4 Site Specific Provisions

Objective

To discourage unnecessarily restrictive site-specific planning controls.

Direction

A planning proposal to allow a particular development must either:

- a. allow that land use in the zone the land is situated on; or
- b. rezone the site to an existing zone that allows the land use; or
- c. allow that land use on the relevant land without imposing any development standards or requirements in addition to those contained in the existing principal environmental planning instrument being amended.

A planning proposal must also not contain or refer to drawings that show details of the proposed development.

Consistency

The planning proposal seeks to allow a particular development of a residential subdivision by rezoning the site to C4 Environmental Living. On this basis, the planning proposal is consistent with Ministerial Direction 1.4 Site Specific Provisions.

The planning proposal is consistent with Ministerial Direction 1.4 Site Specific Provisions.

Focus area 1: Planning Systems – Place-based

Nil

Focus area 2: Design and Place

Nil

Focus area 3: Biodiversity and Conservation

3.1 Conservation Zones

Objective

To protect and conserve environmentally sensitive areas.

Direction

A planning proposal:

1. must include provisions that facilitate the protection and conservation of environmentally sensitive areas; and
2. that applies to land within a conservation zone must not reduce the conservation standards that apply to the land.

Consistency

The planning proposal is partly inconsistent with this direction as it reduces the conservation standards that apply to part of the land by seeking to rezone 0.27 ha of the site from C2 Environmental Conservation to C4 Environmental Living. The proposal is otherwise consistent with the direction and increases the level of environmental protection of land currently zoned RU2 Rural Landscape. The Biodiversity Conservation Science Group advised on 19 May 2024 that they considered the inconsistency with Ministerial Direction 3.1 to be minor and justified

Justification

The planning proposal is justified by a Biodiversity Assessment Certification Report (BCAR) prepared in support of the planning proposal which considers the objectives of this direction.

The BAR supports rezoning a significant portion of the site (104.35 ha) from RU2 Rural Landscape to C2 Environmental Conservation, securing regional biodiversity corridors within a more appropriate Conservation zone, while part of the site has been assessed as appropriate for development following application of the avoidance and mitigation measures.

The planning proposal's inconsistency with this direction is justified, as the proposed rezoning of the site will result in the contribution to the regional biodiversity corridor and increased protection of important environmental values through the amendment of land use zones from RU2 Rural Landscape to C2 Environmental Conservation.

Darkinjung LALC are committed to delivering a biodiversity offset strategy that appropriately compensates for the unavoidable loss of biodiversity values because of the project under the *Biodiversity Conservation Act 2016* and the *Biodiversity Conservation Regulation 2017*. The project design and development footprint were altered at the project planning stage to avoid and minimise

Assessment of Ministerial Directions

biodiversity impacts. A range of impact mitigation strategies to mitigate the impact of ecological values were also considered prior to consideration of offsetting requirements.

The BCAR adequately demonstrates the avoidance and mitigation of biodiversity impacts. The BCAR identifies the residual biodiversity impacts and any likely credit obligations of the development.

Credit obligations required to offset any development impacts will be considered through the relevant biodiversity approval pathways in accordance with the provisions of the *Biodiversity Conservation Act 2016* and *Environmental Planning and Assessment Act 1979*. This may include progression of a:

- strategic biocertification;
- the establishment and retirement of credits within a stewardship site;
- securing required credits through the open credit market; and/or
- payments to the Biodiversity Conservation Fund.

The planning proposal is justifiably inconsistent with Ministerial Direction 3.1 Conservation Zones.

Further consideration of biodiversity values is provided in response to Question 8 of this planning proposal.

3.2 Heritage Conservation

Objective

To conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

Direction

A planning proposal must contain provisions that facilitate the conservation of Aboriginal and non-Aboriginal heritage.

Consistency

Aboriginal heritage

An Aboriginal Cultural Heritage Assessment (Heritage Now, September 2023) was prepared in support of the planning proposal to facilitate the conservation of Aboriginal heritage in accordance with Ministerial Direction 3.2.

Two Aboriginal heritage items have been recorded within the site. One identified item is located outside of the development footprint and is proposed to be rezoned from RU2 Rural Landscape to C2 Environmental Conservation. One site is located within the proposed C4 Environmental Living zone

Assessment of Ministerial Directions

and the Aboriginal Cultural Heritage Assessment report provides recommendations for the management of this site at the subdivision stage, construction stage, and ongoing management and mitigation measures, including a buffer zone and the implementation of a Heritage Management Plan.

Future development will be subject to consideration of Aboriginal Cultural Heritage at the subdivision Development Application stage, including the implementation of recommendations from the Aboriginal Cultural Heritage Assessment report.

The Aboriginal Cultural Heritage Assessment has undergone consultation with Registered Aboriginal Parties and further consideration of Aboriginal heritage is provided in response to Question 9 of the planning proposal.

Both Aboriginal heritage items are identified in the Aboriginal Heritage Information Management System (AHIMS), and are protected under Section 86 of the *National Parks and Wildlife Act 1974*

Non-Aboriginal heritage

The site does not contain any items of heritage significance listed in Central Coast LEP 2022 or the State Heritage Register, and it is not located within a heritage conservation area. The site is removed from Heritage Item 173 "Old railway dams and environs" on 240 and 274 Reeves Street to the east and retains the existing C2 Environmental Conservation zoning adjoining these properties. Stormwater and flooding considerations are separately addressed relevant to water discharge and quality.

The planning proposal is consistent with Ministerial Direction 3.2 Heritage Conservation.

3.5 Recreation Vehicle Areas

Objective

To protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.

Direction

A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area on certain land.

Consistency

The proposal is consistent with the direction as it does not propose to enable land to be developed for a recreation vehicle area.

The planning proposal is consistent with Ministerial Direction 3.5 Recreation Vehicle Areas.

3.6 Strategic Conservation Planning

The site is not identified as avoided land or a strategic conservation area under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*.

It is noted that there is an opportunity for the site to form part of the Central Coast Strategic Conservation Plan (CCSCP).

The planning proposal is consistent with Ministerial Direction 3.6 Strategic Conservation Planning.

3.7 Public Bushland

Objective

To protect bushland in urban areas, including rehabilitated areas, and ensure the ecological viability of the bushland.

Direction

A planning proposal must be consistent with the objective of the direction and gives priority to retaining public bushland, unless the planning proposal authority is satisfied that significant environmental, economic or social benefits will arise that outweigh the value of the public bushland.

Consistency

The proposed rezoning will result in the removal of bushland that is currently in private ownership. However, most of the site will be rezoned and conserved in an environmental conservation zone.

Justification

A planning proposal may be inconsistent with the terms of this direction if justified by the Central Coast Regional Plan 2041. In this instance, the site is identified in the Central Coast Regional Plan 2041 (CCRP 2041) for residential investigation adjacent to the Somersby regionally significant growth area.

The proposal will also support social and economic opportunities for the local Aboriginal community by supporting economic self-determination of Darkinjung Local Aboriginal Land Council in line with the objectives of the Aboriginal Land Planning Framework.

The planning proposal is justifiably inconsistent with Ministerial Direction 3.7 Public Bushland.

3.10 Water Catchment Protection

Assessment of Ministerial Directions

Objectives

To maintain and improve the water quality (including ground water) and flows of natural waterbodies, and reduce urban run-off and stormwater pollution

To protect and improve the hydrological, ecological and geomorphological processes of natural waterbodies and their connectivity

To protect and enhance the environmental quality of water catchments by managing them in an ecologically sustainable manner, for the benefit of all users

To protect, maintain and rehabilitate watercourses, wetlands, riparian lands and their vegetation and ecological connectivity.

Application

The site contains Coastal Upland Swamp (wetlands). The planning proposal will impact on 4.48ha of Sydney Coastal Upland Swamp Heath (refer Figure 9).



Figure 9: Coastal Upland Swamp areas (EMM Consulting, 2023)

Direction

A planning proposal must be consistent with the objectives of this direction and

Assessment of Ministerial Directions

demonstrate through a report prepared by a suitably qualified person(s) that the planning proposal considers adverse impacts on migratory animals or vegetation, impacts on water quality and water quantity; and

identify how the planning proposal will protect and improve environmental values and the social, economic and environmental interests of the community.

Consistency

The preliminary servicing assessment, flora and fauna assessment (EMM 2023), and supplementary information to the flora and fauna assessment (EMM 2023), prepared in support of the planning proposal identify stormwater and wastewater management strategies that include protection measures for Coastal Upland Swamps.

The impact on groundwater, including on the quality and quantity of water entering or traversing the Coastal Upland Swamp, will be managed through:

- onsite detention (i.e. domestic water tanks)/water harvesting for domestic re-use;
- designated on-site sewage management systems (OSSM); and
- controlling overflow from on-site detention to mimic natural conditions.

The key potential impact from OSSM systems will be increased nutrients such as nitrogen and phosphorous, encouraging the establishment of invasive species downstream of lots.

Each lot will have a designated OSSM system to treat and dispose of domestic sewerage. Depending on the location of future dwellings on each lot, it is expected that the OSSM system will be constructed within the building envelope or within the upper reaches of the APZ area. OSSM disposal areas are to be located more than 40 m away from the boundaries of lots that border Coastal Upland Swamp.

Options to appropriately treat runoff to a level required to avoid any impacts off lots include:

- surface spraying,
- below ground drip lines, or
- constructed landscaped mounds (often referred to as ‘Turkey Mounds’ – see Figure 10).

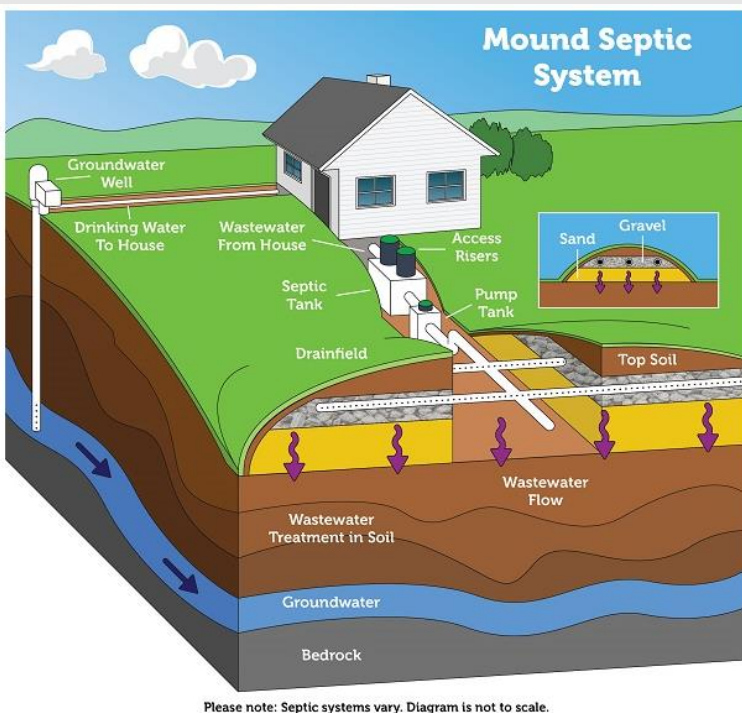


Figure 10: Illustration of mound septic system (United States Environmental Protection Agency, 2023)

The design of future OSSM systems will be in accordance with Australian Standards, Public Health, and Council regulations.

The construction of a dwelling upslope of the Coastal Upland Swamps is highly unlikely to result in any interception of or impacts to either shallow groundwater in the upper Hawkesbury or deeper regional aquifers.

The supplementary information provided by EMM confirms that there is sufficient capacity within the resulting 1 ha lots to accommodate residential dwellings and on-site sewerage management systems without impacting areas containing Coastal Upland Swamp EEC.

Consultation with adjoining councils is not required in this instance given the planning proposal is unlikely to have an adverse environmental impact on land downstream of the site.

The planning proposal is also supported by a flora and fauna assessment report that considers the impact of development on migratory animals and vegetation and found that any potential impacts can be avoided, mitigated or offset in accordance with the *Biodiversity Conservation Act 2016*.

The planning proposal is consistent with Ministerial Direction 3.10 Water Catchment Protection.

4.3 Planning for Bushfire Protection

Objectives

- To protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas; and
- To encourage sound management of bush fire prone areas.

Application

The site is mapped as bushfire prone land (Figure 11: Bushfire Prone Land Map), and an overlay of the Environmental Living asset protection zones is provided at Figure 12:

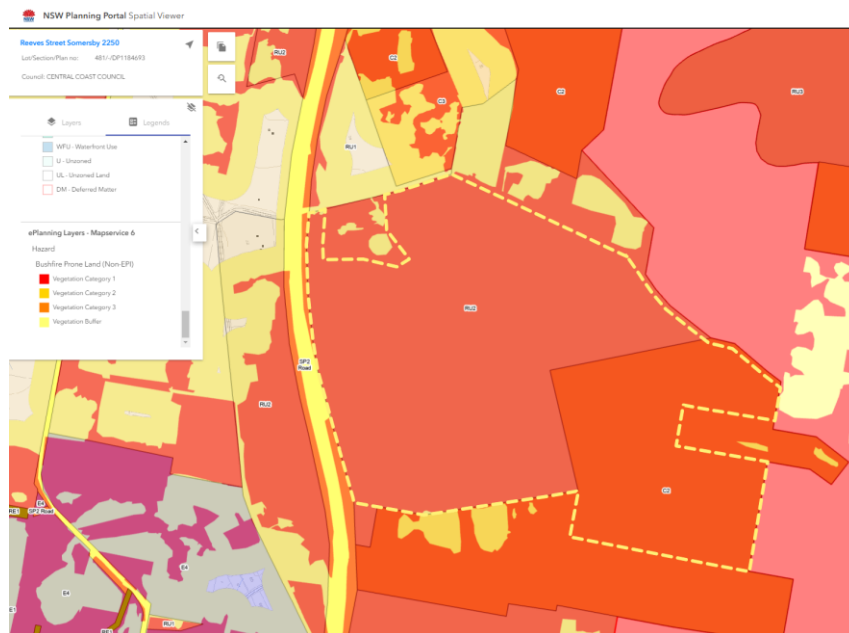


Figure 11: Bushfire Prone Land Map

Direction

A planning proposal must:

- have regard to *Planning for Bushfire Protection 2019*,
- introduce controls that avoid placing inappropriate developments in hazardous areas, and
- ensure that bushfire hazard reduction is not prohibited within the Asset Protection Zone (APZ).

Assessment of Ministerial Directions

Consistency

NSW Rural Fire Service (RFS) provided advice, dated 19 September 2023, confirming that the refined proposal and findings from the supporting Strategic Bushfire Study (Clarke Dowdle & Assoc. July 2023) and associated Traffic Impact Assessment (Intersect Traffic, June 2023) are consistent with this direction.

The Strategic Bushfire Study report was prepared for the site in accordance with the requirements of *Planning for Bush Fire Protection 2019* (PBP) and in response to initial comments from NSW RFS following required post-Gateway consultation for the initial planning proposal (as per Gateway condition No. 1 issued 21 May 2020). The report concludes that the proposal satisfies PBP 2019 and is not considered incompatible with the surrounding environment and bushfire risk.

Consultation was repeated with NSW RFS in July 2023, and NSW RFS confirmed they held no objection to the planning proposal, provided that the recommendations in the Strategic Bushfire Study are carried out.

Future development applications for the site will also need to be supported by a Bush Fire Assessment Report which has been produced in accordance with the requirements of Appendix 2 of PBP 2019.

Further consideration of bushfire risk is provided in response to Question 9 of this planning proposal.

The planning proposal is consistent with Ministerial Direction 4.3 Planning for Bushfire Protection.

Assessment of Ministerial Directions

- if the land requires remediation, the planning proposal authority is satisfied the land will be remediated before the land is used.

The planning proposal authority is also required to obtain a preliminary investigation report in relation to the potentially contaminated land.

Consistency

Preliminary Contamination Assessment report has been prepared by Qualtest (July 2023 – refer to Appendix A) in support of the planning proposal. The preliminary site investigation of the land was carried out in accordance with the contaminated land planning guidelines and the report identifies two Areas of Environmental Concern (AECs) outside of the proposed development footprint.

The report concluded that the site would be generally compatible, from a site contamination perspective, with the proposed rural residential land uses.

The planning proposal is consistent with Ministerial Direction 4.4 Remediation of Contaminated Land.

4.5 Acid Sulfate Soils

Objective

To avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.

Application

The site is not mapped as containing acid sulfate soils as per Figure 13 below:

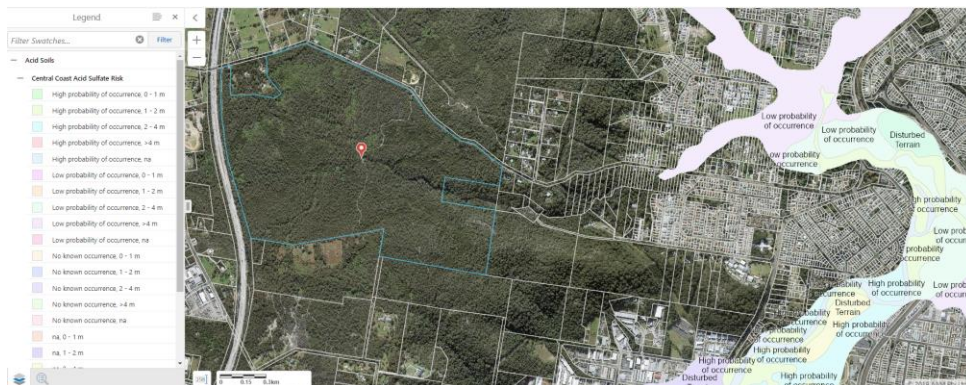


Figure 13: Acid Sulfate Soils Map (Central Coast Council)

Ministerial Direction 4.5 Acid Sulfate Soils is not applicable to the planning proposal.

4.6 Mine Subsidence and Unstable Land

Assessment of Ministerial Directions

Objective

To prevent damage to life, property and the environment on land identified as unstable or potentially unstable.

Application

The site is not in a Mine Subsidence District (MSD), with the nearest MSD located in Wyong to the north as per Figure 14 below:

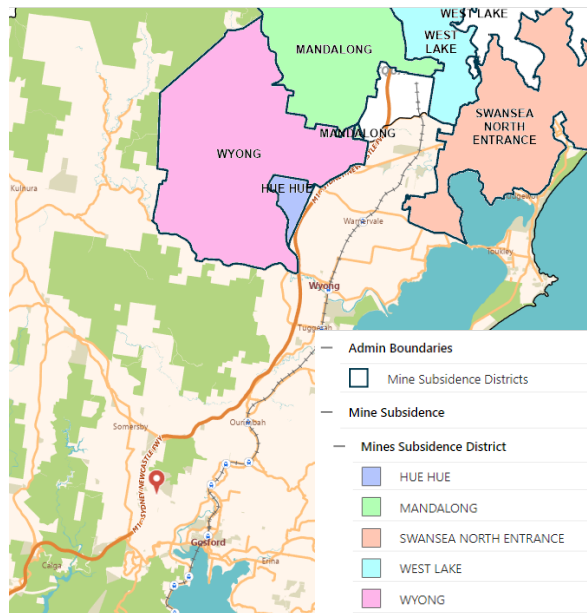


Figure 14: Mine Subsidence District Map (Central Coast Council)

Ministerial Direction 4.6 Mine Subsidence and Unstable Land is not applicable to the planning proposal.

Focus area 5: Transport and Infrastructure

Nil

Focus area 6: Housing

6.1 Residential Zones

This direction applies when preparing a planning proposal that will affect land within an existing or proposed residential zone (including the alteration of any existing residential zone boundary), or any other zone in which significant residential development is permitted or proposed to be permitted.

Assessment of Ministerial Directions

This direction does not apply to the planning proposal as it does not propose a *Residential* zone, and the outcomes of the proposal are not considered to be *significant residential development*.

6.2 Caravan Parks and Manufactured Home Estates

Objectives

1. To provide for a variety of housing types, and
2. To provide opportunities for caravan parks and manufactured home estates.

Direction

A planning proposal that relates to the identification of suitable zones, locations and provisions for caravan parks and manufactured homes estates must take into account considerations provided by this direction.

Consistency

The planning proposal is consistent with this direction as it does not propose to alter any provisions applying to caravan parks or manufactured home estates.

The planning proposal is consistent with Ministerial Direction 6.2 Caravan Parks and Manufactured Home Estates.

Focus area 7: Industry and Employment

| | |
|-----|--|
| Nil | |
|-----|--|

Focus area 8: Resources and Energy

8.1 Mining, Petroleum Production and Extractive Industries

Objective

To ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

Application

To determine whether the Ministerial Direction applies, the planning proposal was referred to the Geological Survey of NSW (on behalf of the Secretary of the Department of Primary Industries).

Assessment of Ministerial Directions

The Geological Survey of NSW confirmed on 16 June 2020 that the planning proposal would not have the effect of restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance in the area.

Therefore, the Ministerial Direction does not apply to the planning proposal.

Ministerial Direction 8.1 Mining, Petroleum Production and Extractive Industries is not applicable to the planning proposal.

Focus area 9: Rural Zones

9.1 Rural Zones

Objective

To protect the agricultural production value of rural land.

Application

This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).

Direction

1. A planning proposal must
 - a) not rezone land from a rural zone to a residential, employment, mixed use, SP4 Enterprise, SP5 Metropolitan Centre, W4 Working Waterfront, village or tourist zone.

Consistency

The proposal is partially consistent with Direction 9.1(1)(a) as it does not propose to rezone rural land to a residential, employment, mixed use, SP4 Enterprise, SP5 Metropolitan Centre, W4 Working Waterfront, village or tourist zone and the proposal will not increase the permissible density of land within a rural zone. **The proposal is partially inconsistent as it will allow for the creation of up to 14 low-impact rural residential lots of 1 ha in size.** Therefore, on that part of the lot, proposed to be zoned C4 Environmental Living, the density of the area will increase.

Justification

The minor inconsistency is justified as the proposal is consistent with the objective of this direction (also see discussion of MD 9.2 below) as well as the increase in density (being max 14 lots) is seen as minor significance.

9.2 Rural Lands

Assessment of Ministerial Directions

Objective

To protect the agricultural production value of rural land.

Application

The direction applies to land outside of the local government areas of Lake Macquarie, Newcastle Wollongong and the LGAs in the Greater Sydney Region that will affect land within an existing or proposed rural or conservation zone.

Direction

A planning proposal must:

| | |
|---|---|
| <ul style="list-style-type: none">• Be consistent with the strategic planning framework• Consider agricultural and primary production significance of the land• Identify and protect environmental values• Consider natural and physical constraints of the land | <ul style="list-style-type: none">• Promote opportunities for rural economic activities• Support the right of farmers to farm• Minimise rural land fragmentation• Consider social, economic and environmental interests of the community |
|---|---|

Consistency

The planning proposal is consistent with the strategic planning framework as demonstrated in responses to Questions 1, 3 and 4 of this planning proposal.

The site is not of agricultural or primary production significance to State, regional or local communities, and does not hold any existing agricultural value. The site is vegetated, with no apparent history of agricultural use, and also contains steep lands and areas of high environmental and Aboriginal cultural heritage values. The site attributes, including topography and environmental values, do not indicate potential for future agricultural activity and agricultural use would be contrary to the environmental values of the land.

The planning proposal will not undermine the ability for any existing primary producers in exercising their right to farm or result in fragmentation of rural land, or increase the risk of land use conflict between residential land uses and other rural land use.

Adjoining land to the west, south and east is not used for agriculture or primary production, and land to the north, on the other side of Reeves Street, is generally used for rural residential purposes.

There is evidence of previous agricultural use on 59 Reeves Street to the north, on the other side of Reeves Street, which is opposite a small part of the site. Future development on the site is unlikely to

Assessment of Ministerial Directions

impact on any agricultural use of 59 Reeves Road, and will retain larger setbacks to any agricultural use on 59 Reeves Street compared to existing rural residential properties located immediately east of 59 Reeves Street (75, 77 and 79 Reeves Street) and the existing dwelling at 60 Reeves Street, to the immediate west of the site. The proposal will also not give rise to any greater conflict with potential agricultural use of 59 Reeves Street compared to existing rural residential properties surrounding that property.

The planning proposal will not result in the fragmentation of any land on the site with agricultural value, and will not result in the fragmentation of any agricultural land nearby to the site

The planning proposal has identified and proposed measures to protect environmental values of the land as demonstrated in response to Ministerial Direction 3.1 Conservation Zones and in response to Question 8.

The planning proposal is appropriately located having regard to the availability of human services, utility infrastructure, transport and proximity to existing centres, and will be compatible with development in the surrounding area. The proposal is also on land identified as a 'residential investigation area' under the Central Coast Regional Plan 2041, and will implement the Darkinjung Development Delivery Plan which has been approved by the Minister for Planning.

The planning proposal has considered the social and economic interests of the community as demonstrated in response to Question 10 of this planning proposal.

The planning proposal is consistent with Ministerial Direction 9.2 Rural Lands.

Section C – environmental, social and economic impact

Q8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

A Flora and Fauna Assessment Report (EMM, August 2023) and supplementary information (EMM, November 2023) has been prepared concurrently with the planning proposal to align its biodiversity findings with the proposed zoning.

The flora and fauna assessment report has applied the principles of avoid and minimise in accordance with the *Biodiversity Conservation Act 2016*. In particular, the revised development footprint avoids 10.98 ha of native vegetation and 5.93 ha of Coastal Upland Swamp EEC compared to the original planning proposal.

The following biodiversity credits are required to offset the impacts of the proposed development:

Plant Community Types

The figures have been updated following additional surveys as part of the BDAR (refer to Figure 15).

- PCT 3586: Northern Sydney Scribbly Gum Woodland – 4.85 ha
- PCT 3593: Sydney Coastal Sandstone Bloodwood Shrub Forest – 10.08 ha
- PCT 3807: Northern Sydney Heath-Mallee – 1.28 ha
- PCT 3924: Sydney Coastal Upland Swamp Heath – 3.42 ha
- Somersby Mintbush – 18.88 ha
- Spreading Guinea Flower – 19.64 ha
- Hibbertia puberula – 10.08 ha

Fauna species

- species credits for Giant Burrowing Frog – 19.64 ha
- species credits for Squirrel Glider – 19.64 ha
- species credits for Red-crowned Toadlet – 19.64 ha
- species credits for Eastern Pygmy-possum – 19.64 ha (assumed)
- species credits for Large-eared Pied Bat – 18.36 ha

The Flora and Fauna Assessment Report has been prepared in the format of a Biodiversity Certification Assessment Report (BCAR) and will be used to inform an application for biodiversity certification.

Darkinjung LALC will prepare an offset strategy in consultation with the Department's Biodiversity Conservation Division to nominate one or more of the following offset approaches:

- strategic biocertification;
- the establishment and retirement of credits within a stewardship site;
- securing required credits through the open credit market; and/or
- payments to the Biodiversity Conservation Fund.

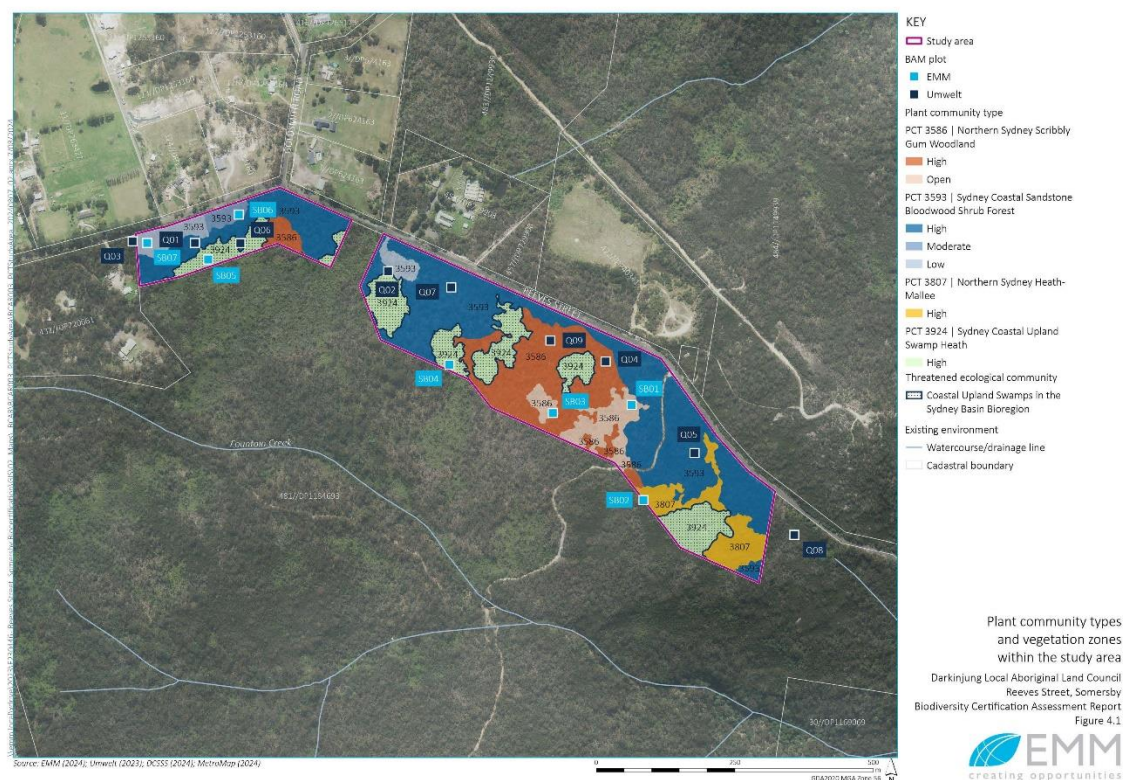


Figure 15: Plant community types and vegetation zones in the study area (EMM August, 2024)

Protection measures for Coastal Upland Swamp EEC

In considering whether the planning proposal should be submitted for Gateway determination, the Hunter and Central Coast Regional Planning Panel noted that the site has capacity to support onsite sewerage management systems. However, due to the sensitivity of the adjoining C2 zoned lands there is a need for further soil and geotechnical analysis and analysis of the groundwater regime to determine any indirect impacts to the Coastal Upland Swamp EEC.

Supplementary information was provided by EMM Consulting on 14 November 2023 (refer to Error! Reference source not found. Information) to respond to the Regional Planning Panel's recommendations and addresses potential impacts to the Coastal Upland Swamp.

Individual Coastal Upland Swamps are connected hydraulically through the soil profile. Groundwater percolates through the soil profile to seep into deeper groundwater systems and the soil profile absorbs excess sediments and nutrients with a general reduction in both through the gradient of the swamp. As the site slopes away from the Reeves Street frontage, impacts on groundwater would be restricted to the C4 land.

The condition of the Coastal Upland Swaps within the site is not consistent. Most of the Coastal Upland Swaps within the proposed C4 land, with the exception of the two western-most lots (see Figure 16), are lower condition forms of the plant community type, with shallower soils, lower moisture levels, and occur as discrete, unconnected patches and thus have less hydrological connectivity. As such, the Coastal Upland Swamp in the majority of the C4 area is considered at negligible risk of impacts.

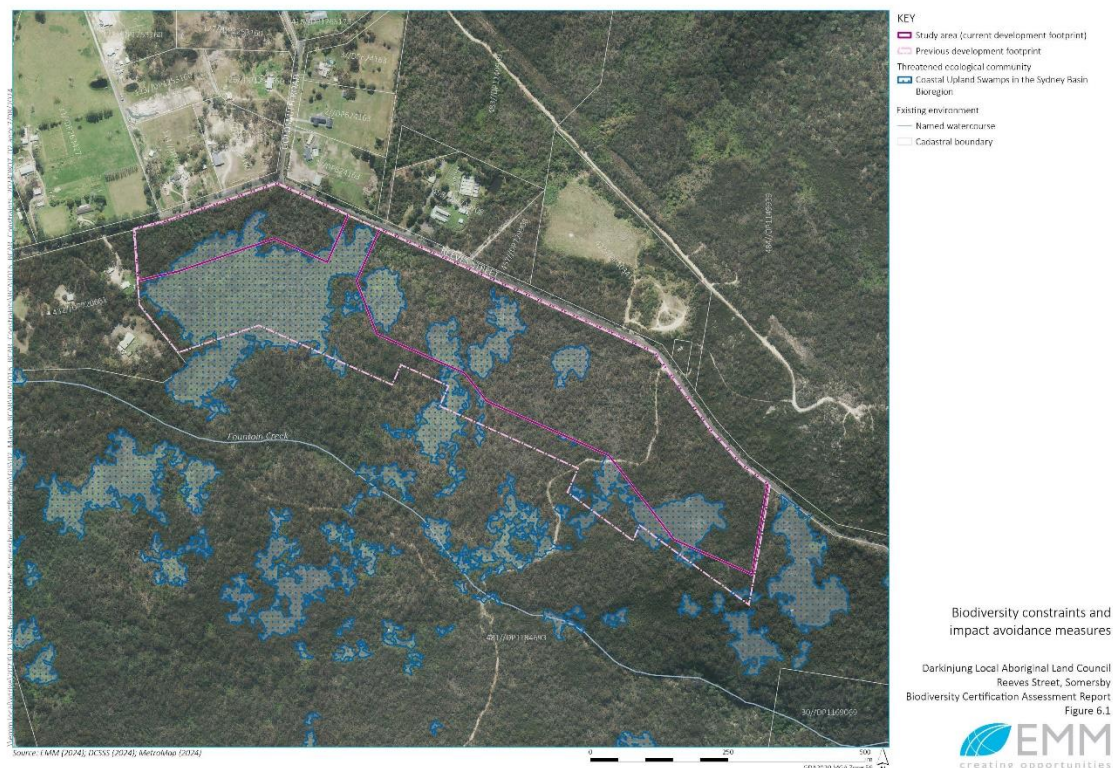


Figure 16: Coastal Upland Swamp areas (EMM Consulting, August 2024)

The impact on groundwater, including on the quality and quantity of water entering or traversing the Coastal Upland Swamp, will be managed through:

- on-site detention (i.e. domestic water tanks)/water harvesting for domestic re-use;
- designated on-site sewage management systems (OSSM); and
- controlling overflow from onsite detention to mimic natural conditions.

The key potential impact from OSSM systems will be increased nutrients such as nitrogen and phosphorous, encouraging the establishment of invasive species downstream of lots.

Each lot will have a designated OSSM system to treat and dispose of domestic sewerage. Depending on the location of future dwellings on each lot, it is expected that the OSSM system will be constructed within the building envelope or within the upper reaches of the APZ area. OSSM disposal areas are to be located more than 40 m away from the boundaries of lots that border Coastal Upland Swamp.

Options to appropriately treat runoff to a level required to avoid any impacts off lots include:

- surface spraying,
- below ground drip lines, or
- constructed landscaped mounds (often referred to as 'Turkey Mounds' – see Figure 17).

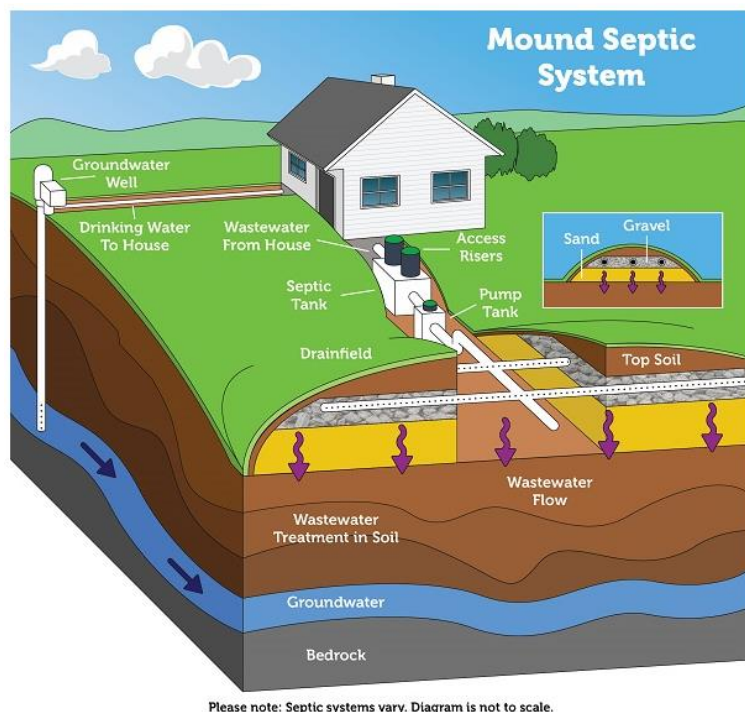


Figure 17: Illustration of mound septic system (United States Environmental Protection Agency, 2023)

The design of future OSSM systems will be in accordance with Australian Standards, Public Health, and Council regulations.

The construction of a dwelling upslope of the Coastal Upland Swamps is highly unlikely to result in any interception of or impacts to either shallow groundwater in the upper Hawkesbury or deeper regional aquifers.

The supplementary information provided by EMM confirms that there is sufficient capacity within the resulting 1 ha lots to accommodate residential dwellings and on-site sewerage management systems without impacting areas containing Coastal Upland Swamp EEC.

Strategic biocertification: Central Coast Strategic Conservation Plan

The Department is currently preparing the Central Coast Strategic Conservation Plan (CCSCP). This involves:

- Strategic biodiversity certification under the NSW *Biodiversity Conservation Act 2016*;
- and

- Strategic assessment under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

The CCSCP provides an option for the resolution of biodiversity outcomes. If Darkinjung LALC seeks to progress development ahead of finalisation of the CCSCP, or if the CCSCP does not come to fruition for some other reason, the requirements of the *Biodiversity Conservation Act 2016* will still need to be met prior to consent being granted to development.

Q9. Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

Other potential environmental effects of the planning proposal and proposed management measures have been addressed throughout this planning proposal, including:

- Aboriginal cultural heritage (see response to Ministerial Direction 3.2 Heritage Conservation on page 31-32);
- Bushfire risk (see response to Ministerial Direction 4.3 Planning for Bushfire Protection on page 37-38);
- Contamination (see response to Ministerial Direction 4.4 Remediation of Contaminated Land on page 39-40);
- Stormwater management (see response to Ministerial Direction 3.10 Water Catchment Protection on page 33-36); and

Traffic

A Traffic Impact Assessment has been prepared by consultants Intersect Traffic (June 2023). In terms of traffic generation, the proposal would generate up to 12 trips in the AM peak and 13 trips in the PM peak. Daily traffic flows are typically 7.4 per lot per day providing 104 per day for the subject site. The Report concludes that the local and state road network currently has sufficient spare capacity to cater for the development traffic generated by this development without adversely impacting on either current level of service experienced by motorists on the road or the residential amenity of existing residents. The Report also concludes that suitable bushfire evacuation routes, that comply with the requirements of NSW Rural Fire Services Planning for Bushfire Protection, are available to support the site.

Earthworks

The site has a slope ranging from approximately 4-12% from west to east.

The Central Coast Development Control Plan (CCDCP) 2022 includes requirements for subdivision on sloped sites to ensure lot sizes take account of the natural features of a site and locality.

The CCDCP 2022 identifies sites with a slope from 0-10% as the lowest risk category (Category A) when considering site slopes. It requires residential lots within this category to have a minimum area of 450m² and a minimum width of 15m.

The planning proposal will be capable of complying with these requirements as the proposed minimum lot size is 1 ha.

Any future development application would need to include details of any necessary retaining walls (including height, location and extent of cut and/or fill) required to permit construction of a dwelling.

Site Servicing

A Preliminary Stormwater and Servicing report has been prepared by consultants Northrop (August 2023) addressing stormwater, flooding, and service infrastructure. No potable water infrastructure mains service the site and, in accordance with the stormwater management philosophy, future dwellings will be required to provide individual rainwater tanks to maximise the onsite harvesting potential. A water balance assessment to optimise tank storage volumes is recommended to be undertaken at the subdivision application stage.

There is no sewer infrastructure mains service the site. To manage sewerage, future dwellings will be required to provide an individual onsite wastewater treatment system, and a preliminary onsite wastewater disposal assessment has been undertaken to identify anticipated effluent disposal rates, suitable treatment and disposal mechanisms and typical application areas required for effluent disposal, including recommended buffer distances.

Future development applications for dwellings will address compliance with Central Coast Council requirements and AS1547-2012 'On-Site Domestic Wastewater Management (AS1547)', the Department of Environment and Conservation (DCE) Environmental Guideline 'Use of Treated Effluent for Irrigation' and requirements of the Environment and Health Protection Guideline 'On-site sewage Management for Single Households'.

Q10. Has the planning proposal adequately addressed any social and economic effects?

Social and economic benefits to the Aboriginal community

Economic development has been a key objective of the Aboriginal land rights movement in NSW throughout its 40-plus year history. The planning proposal can assist Darkinjung LALC realise economic and social benefits for Aboriginal people and help to compensate Aboriginal people for the dispossession of their land.

The planning proposal is consistent with the vision of the Darkinjung Community Land and Business Plan to strengthen and empower our community for all generations.

The planning proposal is part of a development pipeline to provide sustainable economic development opportunities for the Aboriginal community of the Central Coast. Rules governing local aboriginal land councils require profit from land development to be reinvested into the Aboriginal community. Proceeds from future development will be re-invested by Darkinjung LALC into the provision of significant community benefits, including Darkinjung's Affordable Housing Program and the continued operation of Darkinjung Barker College.

Proceeds from the development will also improve Darkinjung's capacity to manage the remainder of its estate, delivering environmental, social and cultural benefits to all residents of the Central Coast.

Broader social and economic benefits to the Central Coast community

The planning proposal will have positive social and economic benefits for the broader Central Coast community in the form of job creation through the dwelling construction phase, the opportunity for housing choice and diversity, and a small increase in the Somersby population able to contribute to the local economy and community life.

The creation of up to 14 low-impact rural-residential allotments will create jobs for local tradespeople during construction as well as support existing retail and service jobs in the Somersby area.

The proposal will provide the opportunity for greater housing choice and affordability that support varying household types and community needs.

The proposal will have minimal impacts on existing social infrastructure, such as schools and hospitals as the increase in population is small, being a maximum of 14 lots. The site has

good access to local schools and services with the nearby Kariong local centre being located a 15min drive. Somersby Public School is an estimated 6min drive or 7min bus from the proposed development site, and numerous childcare centres and local parks are an estimated 10-15min drive from the site.

Existing retail centres in Kariong, West Gosford, and Gosford will benefit from the small population increase. Kariong local centre is an estimated 15min drive from the site boundary, whereas West Gosford and Gosford retail centres are an estimated 10-15min drive from the site and are accessible by public transport with the existing Central Coast bus network services to West Gosford and Gosford.

The proposal will not generate the need for local public open space and green infrastructure. The site is located a 10-15min drive from local parks, regional parks, and state forests/recreation areas located in Somersby, Narara, Kariong and Gosford.

Section D – infrastructure (Local, State and Commonwealth)

Q11. Is there adequate public infrastructure for the planning proposal?

Yes. There is adequate public infrastructure (or arrangements for public infrastructure to be made available) to support the planning proposal as detailed below.

Essential services

A preliminary servicing assessment prepared by Northrop Consulting Engineers determined that the proposal is capable of being serviced by essential services, including:

Water supply

No potable water connection currently services the site.

Future servicing will require onsite domestic water tanks to maximise the onsite harvesting potential.

A water balance assessment to optimise tank storage volumes is recommended to be undertaken as part of the detailed subdivision application.

Comments from Central Coast Council Water and Sewer Department are included in Question 12 over.

Sewerage

The site is not currently serviced by sewer connections.

Future servicing will require on-site sewage management systems.

A preliminary onsite wastewater disposal assessment has been undertaken to identify anticipated effluent disposal rates, suitable treatment and disposal mechanisms and typical application areas required for effluent disposal. The report found that the site is suitable for the onsite application of treated domestic wastewater.

Comments from Central Coast Council Water and Sewer Department are included in Question 12 over.

Further investigations will only be required to support the detailed design of a future development application.

Stormwater

A preliminary management strategy for the site has been considered to outline the measures required to mitigate the effects of future development on stormwater quantity and quality.

Through hydrological modelling it was found that development would not be expected to have a significant impact on the downstream flow regime. Onsite detention measures have therefore not been proposed.

In accordance with Council's guidelines a treatment train approach could be implemented in the future with rainwater tanks and infiltration of the sheeting runoff through a vegetated buffer. Modelling of the proposed treatment train to illustrate compliance with the required pollutant load reduction targets is recommended to be undertaken as part of the detailed subdivision application.

Electricity

Electrical infrastructure exists along Reeves Street. Given the number and nature of the proposed future development it is expected that this system will have capacity to service the site. On 30 May, Ausgrid consented to the proposal, subject to relevant conditions in relation to providing electricity to site at subdivision stage. Confirmation of available capacity will be sought from Ausgrid at the subdivision application stage.

Telecommunications

Communications infrastructure currently exists along Reeves Street. It is anticipated that telecommunications infrastructure can be extended from adjacent low-impact rural

residential areas. Confirmation of connection requirements can be confirmed with applicable service providers at the development application stage.

NBN Co have advised the area is currently serviced by fixed wireless technology, and have provided further advice on the cost of providing NBN fibre to the proposal (refer Question 12).

Gas

Jemena have advised that properties along Reeves Street do not current have access to piped gas. The number and nature of the future lots are not likely to require future extension to mains. Should future lot owners require gas then bottled services can be arranged through local suppliers.

State infrastructure

There are no State infrastructure implications for the proposed development given the low lot yield.

Local infrastructure

Roadworks and traffic management

A Traffic Impact Assessment (Intersect Traffic, June 2023) determined that there are no traffic or access impediments to the proposal.

All traffic generated by the development will have origin/ destination west of the site via Debenham Road North (north and south) and Bimbil Road west to and from Wiseman's Ferry Road being the sub-arterial road network

The proposal will not result in any new public roads and associated infrastructure as all new individual lots would have independent direct vehicular access to Reeves Street.

TfNSW have advised they have no objection to the proposal as it is considered there will be no significant impact on the nearby classified (State) road network (refer to Question 12).

Open space facilities

The site is located a 10-15min drive to existing open space facilities. These include a mix of local and regional playspaces, public gardens, an off-leash dog area, and sporting ovals (Figure 18).

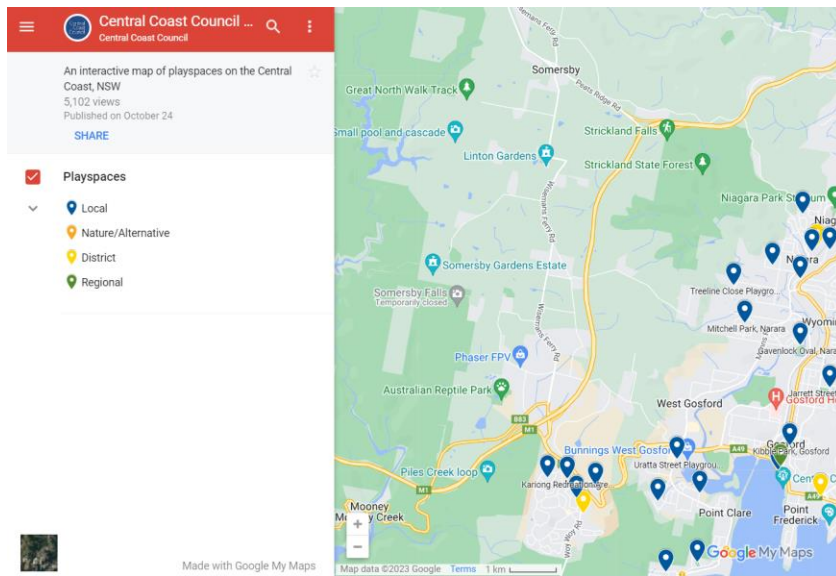


Figure 18: Local and Regional playspaces in Kariong (Central Coast Council)

Community facilities

Central Coast Council's *Regional Section 7.12 Development Contributions Plan 2019* applies to the site. Contributions collected from the new dwellings created by this proposal will go toward funding the improvement and embellishment of existing open space, community and cultural facilities, and recreational facilities such as cycle ways, wharves and boat ramps.

Existing community facilities, including the Kariong public library, Mount Penang Parklands, and Kariong sports fields are located within an estimated 10min drive from the development site (refer Figure 19).

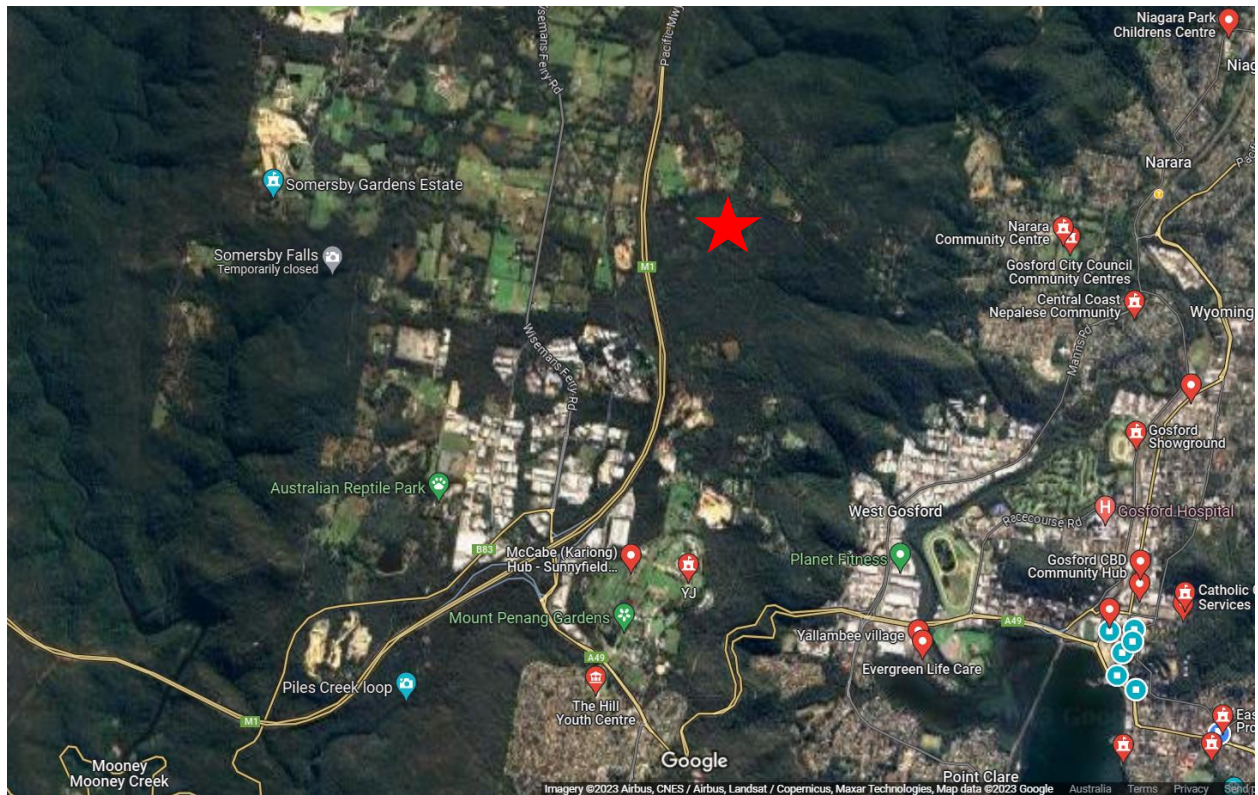


Figure 19: Location map showing existing community facilities (Google Maps)

Section E – State and Commonwealth interests

Q12. What are the views of state and federal public authorities and government agencies?

Consultation required by the Gateway determination

The following agencies and service authorities have been consulted following the Gateway determination. A copy of the submissions provided can be found at Appendix H of this planning proposal.

| Agency | Summary of submissions |
|--|---|
| Biodiversity and Conservation Division (BCD) | <p>On 10 May 2024, BCD provided advice which included:</p> <ul style="list-style-type: none">• previous comments should be considered for the planning proposal;• the planning proposal should have the same footprint as the BCAR; and• BCS considers the inconsistency with Ministerial Direction 3.1 to be minor and justified. |
| Central Coast Council | <p>On 7 May 2024, Central Coast Council provided comments on the proposal, including:</p> <ul style="list-style-type: none">• biodiversity impacts including on the Upland Swamp and other EEC's;• further technical report is required relating to soil analysis, geotechnical and ground water in relation to impacts on the upland Swamp. The supplementary EMM information (14.11.23) does not constitute a technical report;• onsite Sewerage Management and stormwater. The technical report needs to be updated with relevant weather source data, and evidence that a 40m buffer to the upland swamps can be achieved;• Council required further soil analysis such as soil bore logs,• request dwelling envelopes be established to manage site constraints; and |

| Agency | Summary of submissions |
|------------------------------|---|
| | <ul style="list-style-type: none"> • Council request the LEP not be finalised until the BCAR is in place. |
| Heritage NSW | <p>On 1 May 2024, Heritage NSW provided comments on the planning proposal, including:</p> <ul style="list-style-type: none"> • in relation to historic archaeology, if the proponent has not already undertaken their own investigation to assess the likelihood of ‘relics’ and any subsequent management required under the Heritage Act 1977, they should do so; and • advised on 1 May 2024 that they agree with the Aboriginal Cultural Heritage Assessment Report management recommendations and recognise that these should inform the planning proposal. |
| NSW Rural Fire Service (RFS) | <p>On 17 July 2023, RFS provided an initial acknowledgement of the request for comments on the planning proposal.</p> <p>On 19 September 2023, RFS advised it has no objection to the proposal subject to the implementation of the Bushfire Protection Measures identified in the Strategic Bushfire Study dated 3 July 2023. With the expectation of the inclusion of the following:</p> <ul style="list-style-type: none"> • the entirety of the areas identified as C4 Environmental Living be managed consistent with an APZ; • the APZ setbacks identified in the document be the subject of 88B easements to prohibit the construction of habitable structures; and • Fire Trails will be constructed consistent with the NSW RFS Fire Trails Standard Version 1.1 and be registered with a Fire Access and Fire Trail (FAFT) plan. <p>Note that RFS comments received in 2020 were considered sufficient and the updated planning proposal was substantially the same proposal as that previously considered. As such, the Gateway determination required no further consultation with NSW RFS.</p> |
| Ausgrid | <p>On 30 May 2024, Ausgrid consented to the proposal subject to conditions, including:</p> <ul style="list-style-type: none"> • Method of Electricity Connection |

| | |
|--|---|
| | <ul style="list-style-type: none"> • Supply of Electricity • Conduit Installation • Service Mains • Overhead Powerlines |
| DPI - Agriculture | On 3 May 2024, DPI Agriculture advised that they have no objections to the planning proposal. |
| NBN Co. | <p>On 7 June 2024, they advised that the area is currently serviced by fixed wireless technology.</p> <p>On 24 June 2024, they provided further advice on the cost of providing NBN fibre to the proposal.</p> |
| Transport for NSW | On 7 May 2024, TfNSW advised they have no objection to the planning proposal because it is considered there will be no significant impact on the nearby classified (State) road network, noting the proposed evacuation management plan does not involve immediate access onto the M1 (numerous local roads are required to be travelled before vehicles approach an interchange). |
| Hunter Water | The Gateway determination incorrectly noted Hunter Water as the water and sewer utility provided. This infrastructure is the responsibility of Central Coast Council - (see under). |
| Central Coast Council - Water and Sewer Department | <p>On 19 April 2024, Council's Water and Sewer Department raised no objection to the planning proposal and the buffer between the proposal area and the drinking water catchments was noted.</p> <p>The proposal describes a desire for water and sewerage services for the development. It is noted that large lot rural residential development within the proposed land zoning is not typically required to have reticulated water and sewer services. It is identified in the proposal that discussions are underway with Council's Water Assessment Team in this regard. It is unlikely to be cost effective for the developer to provide those services to development of this nature however that is not a barrier to the planning proposal being supported.</p> |

Part 4 – Maps



Locality

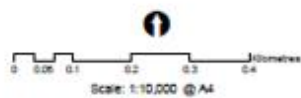


Aerial photograph



Legend

-  Subject Area
-  Cadastre 7/11/2023 © Spatial Services



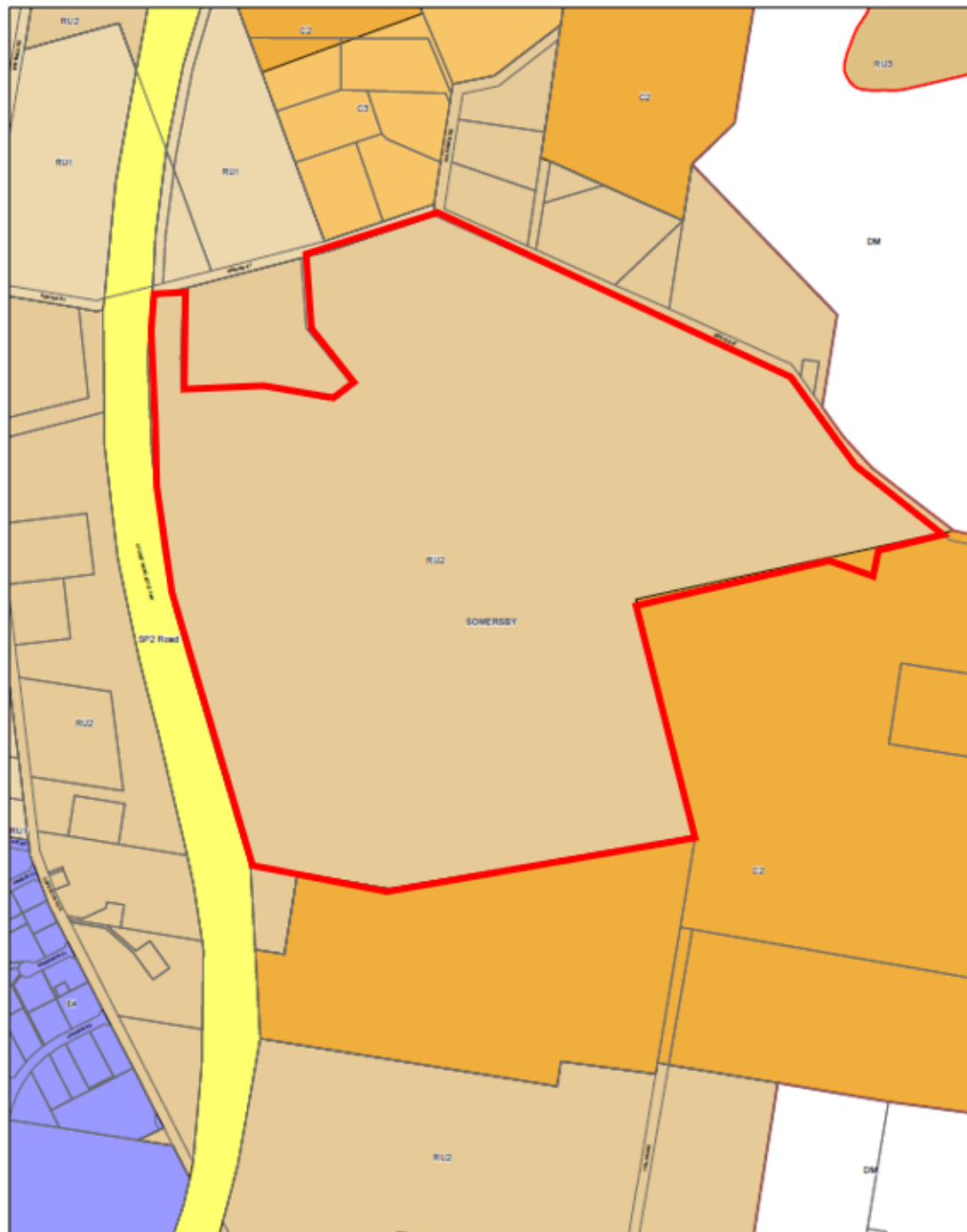
Map for exhibition

Land Application Map



Planning and

Existing zone



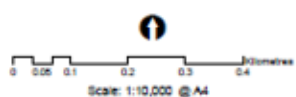
Legend

Zone

| | | | |
|--|----------------------------|--|--------------------|
| | Environmental Conservation | | Primary Production |
| | Environmental Management | | Rural Landscape |
| | Environmental Living | | Forestry |
| | Deferred Matter | | Infrastructure |
| | General Industrial | | |

Cadastral

Cadastral 7/11/2023 © Spatial Services

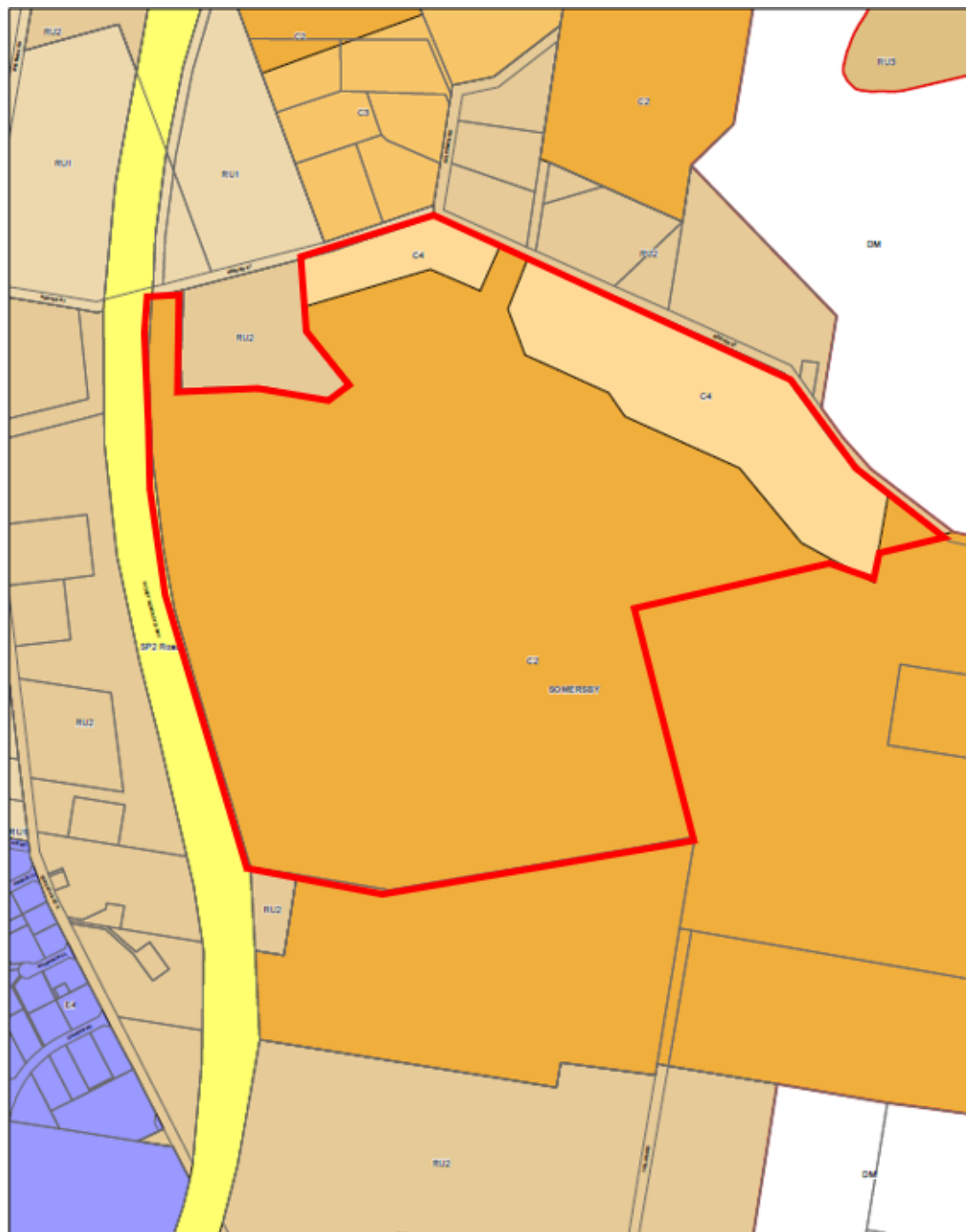


Map for exhibition

Existing Land Zoning Map



Proposed zone



Legend

Zone

| | |
|---|---|
| C2 Environmental Conservation | RU1 Primary Production |
| C3 Environmental Management | RU2 Rural Landscape |
| C4 Environmental Living | RU3 Forestry |
| DM Deferred Matter | SP2 Infrastructure |
| E4 General Industrial | |

Cadastral

Cadastral 7/11/2023 © Spatial Services



Map for exhibition

Proposed Land Zoning Map



Legend

Minimum Lot Size (sq m)

| | |
|--------------|----------------|
| 4,000 | 200,000 (20ha) |
| 10,000 (1ha) | 400,000 (40ha) |
| 20,000 (2ha) | |

Cadastral

Cadastral 7/11/2023 © Spatial Services

Map for exhibition

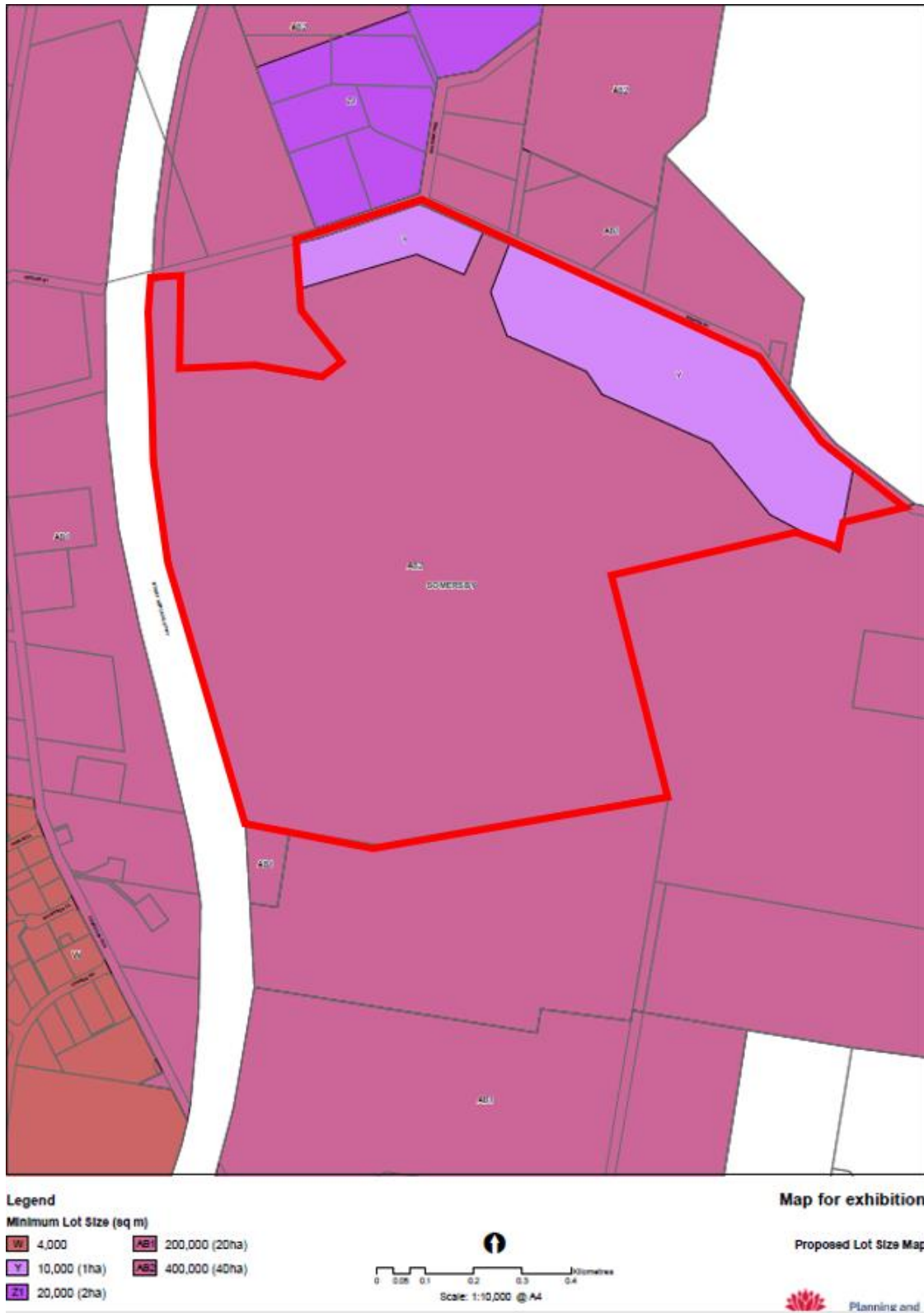
Existing Lot Size Map

Scale: 1:10,000 @ A4

0 0.05 0.1 0.2 0.3 0.4 Kilometres

NSW Planning and Environment

Proposed lot size



Part 5 – Community consultation

The planning proposal will be placed on public exhibition for a period of at least 20 working days, with public submissions invited during this time.

Adjoining landholders will be notified of the exhibition of the planning proposal.

Part 6 – Project timeline

The planning proposal is categorised as ‘complex’ given that it is being progressed under the Planning Systems SEPP.

Below is the anticipated project timeline as per the Local Environment Plan Making Guideline’s benchmark timeframes:

| Stage | Timeframe and/or date |
|--|-------------------------|
| Gateway determination | December 2023 |
| Post-Gateway stage | January – February 2024 |
| Commencement and completion of public exhibition period | October – November 2024 |
| Consideration of submissions | December 2024 |
| Post-exhibition review | January 2025 |
| Submission to the local plan making authority for finalisation | February 2025 |
| Gazettal of LEP amendment | March 2025 |