

## REZONING REVIEW – Briefing Report

<b>Date of referral</b>	31 January 2020
<b>Department ref. no.</b>	RR_2020_CCOAS_001_00
<b>LGA</b>	Central Coast
<b>LEP to be amended</b>	Gosford LEP 2014 (or draft Central Coast LEP if finalised)
<b>Address</b>	Lot 512 and Lot 513 DP 727686 300 Woy Woy Road, Kariong
<b>Reason for review</b>	Independent Proposal Review
<b>Is a disclosure statement relating to reportable political donations under s10.4 of the Act required and provided?</b>	Not required.  The proponent confirmed it had no donations or gifts to disclose.

### **1. SUMMARY OF THE PROPOSAL**

#### **1.1 Strategic Background**

While Local Aboriginal Land Councils can claim land under the *Aboriginal Land Rights Act 1983*, the planning framework applying to that land remains unchanged, leaving Local Aboriginal Land Councils to navigate the planning system to have land zoning and planning controls reconsidered. The NSW Standing Committee on State Development *Inquiry into economic development in Aboriginal communities (2016)* recommended the Department investigate planning system changes to facilitate Aboriginal economic development and the *Central Coast Regional Plan 2036* (CCRP) and other regional plans, includes directions and actions in response.

The CCRP includes a direction to strengthen the economic self-determination of Aboriginal communities and an action to strategically assess the landholdings of the Darkinjung Local Aboriginal Land Council (Darkinjung) and identify priority sites to create a pipeline of projects.

A suite of planning measures was released by the then Minister for Planning in 2019 and are being piloted on the Central Coast with the Darkinjung including:

- *State Environmental Planning Policy (Aboriginal Land) 2019*;
- Ministerial Direction 5.11 Development of Aboriginal Land Council land;
- Planning Circular PS 19-003 introducing independent reviews of planning proposals for identified Aboriginal land; and
- A process for the creation of Development Delivery Plans to identify a pipeline of development proposals for Aboriginal land.

This proposal is identified in the *Interim Darkinjung Development Delivery Plan* and is mapped in the Aboriginal Land SEPP. The current request is for an Independent Proposal Review by the Hunter and Central Coast Regional Planning Panel. If the Panel considers the proposal has strategic and site-specific merit it can recommend that a planning proposal be prepared and submitted for a Gateway determination.

A planning proposal would allow more detailed assessment and confirmation of site attributes as the basis for responsive future development controls.

## 1.2 Proposal Background

The proposal seeks to amend Gosford Local Environmental Plan (LEP) 2014 to:

- Rezone approximately 46% of the site from E2 Environmental Conservation to R2 Low Density Residential to facilitate residential development, including vehicular access, internal roads and infrastructure;
- Amend the Minimum Lot Size control to facilitate the development of 48-50 low density residential lots; and
- Retain the E2 Environmental Conservation zoning for the remaining 54% of the site.

## 1.3 Locality and Context

The site is located approximately 1km south east of the Kariong village centre. Woy Woy Road links to the Central Coast Highway which is located approximately 1.5km north of the site. The site is approximately 7.5 km south west of Gosford City Centre, which includes regional amenities and services, and approximately 3km south of the Somersby Business Park (Figure 1).

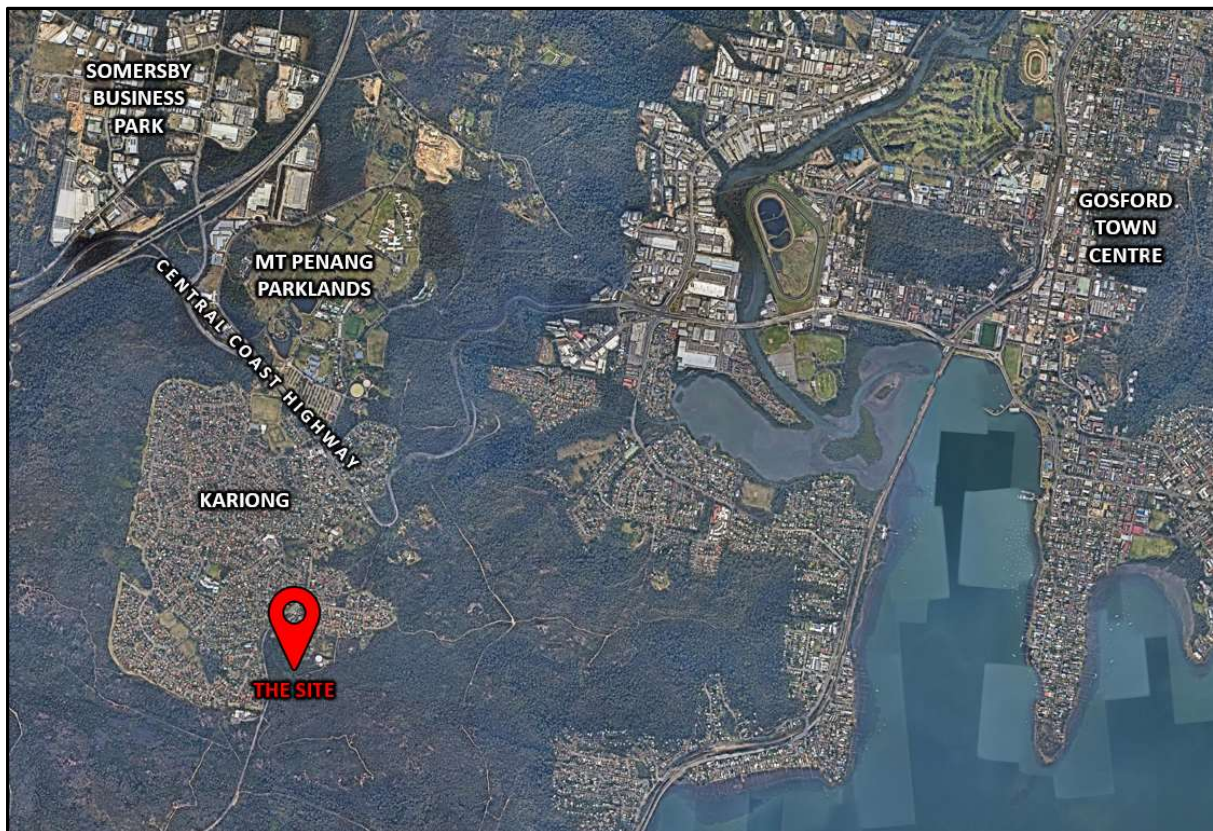


Figure 1: Locality map of site in relation to the Central Coast.



## 1.4 Site Description

The site is located at 300 Woy Woy Road, Kariong and is legally described as Lot 512 and Lot 513 DP 727686. (Figure 2). The site is irregular in shape and has an area of approximately 13.2ha. The site is bounded by large lot residential development to the immediate north with low density residential further north, Brisbane Water National Park to the east and south, and Woy Woy Road to the west. On the western side of Woy Woy Road is residential development.

The site is dissected by a fire trail containing power line infrastructure extending east-west through the site. The site falls to the west with average grades of 10%.

The site was previously zoned Special Uses 5(a) Community Uses under the *Gosford Planning Scheme Ordinance 1968* (GPSO) to facilitate a potential primary school. This former zone suggests that the site has been previously considered suitable for future urban development.



Figure 2: Aerial map of subject site.

## 1.5 Current Planning Provisions

The site is currently zoned E2 Environmental Conservation under the Gosford Local Environmental Plan 2014 (Figure 3).

The current maximum height of building is 8.5 metres and the minimum lot size is 40ha.

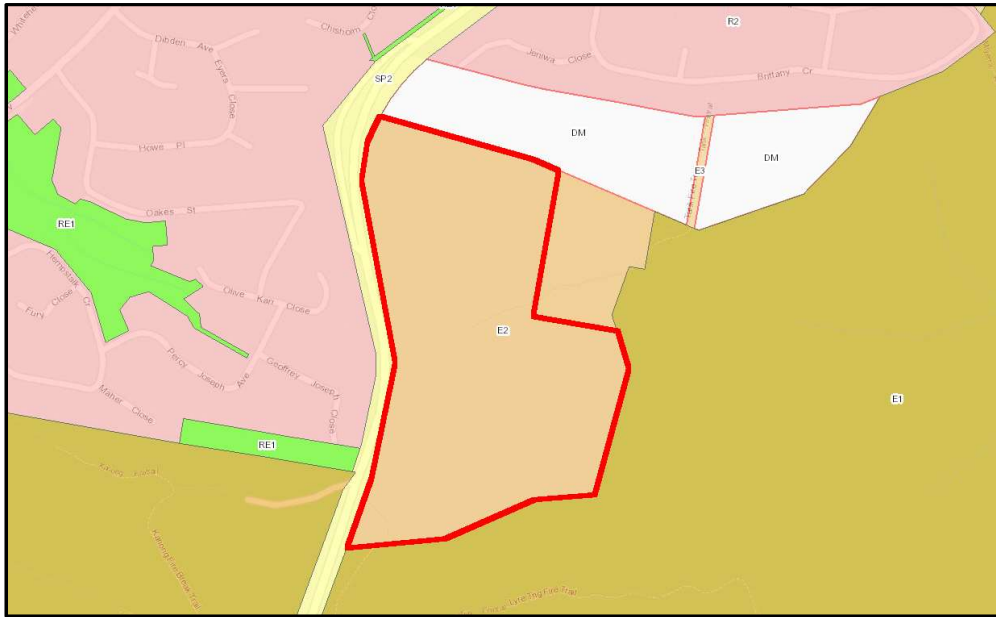


Figure 3: Current land use zone map.

## 1.6 Proposed Planning Provisions

The objectives of the proposal are intended to be achieved through rezoning the northern portion of the site to R2 Low Density Residential, representing a logical infill expansion of the existing Kariong urban area. It is anticipated this portion of residential zoning will allow for the development of 48-50 dwellings. The remainder of the site will be conserved by remaining E2 Environmental Conservation (Figure 4).

An indicative concept plan has been developed for the site that responds to the site constraints identified in preliminary environmental assessment (Figure 5). The concept plan could form the basis of a future site specific DCP.

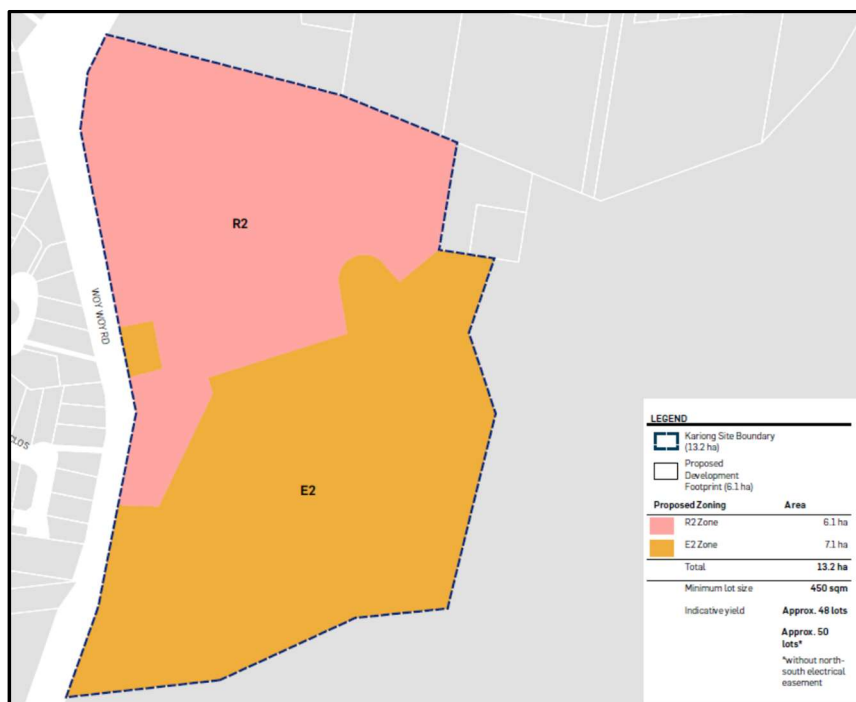


Figure 4: Site structure plan (source: Urbis 2020)





Figure 5: Concept Plan

## 2. INFORMATION ASSESSMENT

*Does the proposal seek to amend a zone or planning control that is less than five years old?*

No. The site was previously zoned Special Uses 5(a) Community Uses under the Gosford Planning Scheme Ordinance to facilitate a potential primary school. In 2008 the former Gosford City Council commenced a review of planning controls to reflect the Standard Instrument format. The rezoning proposal states that Darkinjung prepared a submission requesting the site be zoned RU2 Rural Landscape and not the SP2 zone proposed in the Draft Gosford LEP 2009. However, rather than providing a zone that would permit some economic development for the land council, consistent with the goals of the NSW Aboriginal land rights system and the previous status of the site as a future school site, the Council zoned the land E2 Environmental Conservation in Gosford LEP 2014.

### 2.1 Strategic Merit Test

*Consistency with any relevant interim development delivery plan, published on the Department's website.*

The *Interim Darkinjung Development Delivery Plan* (IDDDP) was published in February 2019. This site is one of four sites identified for development in that plan.

The IDDDP required DPIE to undertake an assessment of the Kariong area to inform preparation of planning proposals for urban expansion. A desktop assessment determined several sites in Kariong with potential to be considered for rezoning, including the subject site. A site assessment outlined principles to be taken into consideration by any planning proposal and these were communicated to Darkinjung and the Council. This advice is reproduced in full in the Council's submission

(**Attachment B**) and the rezoning proposal discusses how it has addressed these principles (**Attachment D**, pp. iii-v).

The proposal, as submitted, is consistent with the IDDDP. The principles have been addressed however further consideration of several matters, including densities, development areas and access, could be refined at planning proposal stage.

*Consistency with the relevant regional plan.*

Direction 6 of the CCRP seeks to strengthen the economic self-determination of Aboriginal communities. The proposal provides an opportunity for Darkinjung to increase the value of its land which it may in turn choose to develop or sell. Rules governing Local Aboriginal Land Councils require profit from land development to be reinvested into the Aboriginal community, consistent with the CCRP direction. More specifically, this project can contribute to the pipeline of projects envisaged by CCRP action 6.1, in turn, potentially providing funding to facilitate further projects in that pipeline.

Action 20.1 of the CCRP supports housing delivery in and near growth corridors and local centres. The site is adjacent to existing urban development in Kariong which lies within the Southern Growth Corridor identified in the CCRP. Action 22.2 is to review fringe urban zonings to identify areas suitable for urban development.

Council recently adopted the *Somersby to Erina Corridor Strategy* in response to the proposed Southern Growth Corridor in the CCRP. Council's strategy acknowledges the potential for development in Kariong under the Aboriginal Land SEPP and IDDDP.

The CCRP proposes regional biodiversity corridors with one located in close proximity to the east of the site. In this location the north-south corridor is secured by Brisbane Water National Park and the proposed development is in the north of the site to avoid severing east-west connectivity.

## **2.2 Site-Specific Merit Test**

*The social and economic benefit to the Aboriginal community facilitated by the proposal.*

The proposal is consistent with the vision of the Darkinjung Community Land and Business Plan, "to strengthen and empower our community for all generations". The proposal is part of a development pipeline to provide sustainable economic development opportunities for the Aboriginal community of the Central Coast.

*The natural environment (including known significant environmental values, resources or hazards).*

The proposal contains the findings of a draft Biodiversity Conservation Assessment Report (BCAR), which identified threatened species within the proposed development footprint. While the current proposed footprint will impact on threatened species habitat and endangered ecological communities, the proposal concludes sufficient offset opportunities are likely to be available across the wider site to the south, via additional Stewardship Agreements on DLALC land, purchasing of credits from the market and/or via payments to the Biodiversity Conservation Trust in accordance with the Biodiversity Offsets Scheme.

Darkinjung is committed to delivering a Biodiversity Offset Strategy that appropriately compensates for the unavoidable loss of biodiversity values as a result of the

proposed rezoning, and as required under the *Biodiversity Conservation Act, 2016*. A Commonwealth referral is likely to be required to support the final planning proposal.

There is potential presence of sites of high Aboriginal Cultural Heritage significance. Further assessment is proposed and will be incorporated into the final planning proposal to avoid and mitigate any impacts on Aboriginal Cultural Heritage.

The bushfire assessment found that there are areas within the development footprint that are suitable for residential housing subject to the creation of appropriate Asset Protection Zones (APZs). The southern portion of the development footprint is constrained for dwellings by bushfire risk from downslope vegetation to the south and east of the study area. The assessment found the requirements of *Planning for Bushfire Protection* can be met.

*The existing uses, approved uses and likely future uses of land in the vicinity of the proposal.*

The development objectives for the site have been prepared having regard to surrounding existing and approved uses, and future uses of land in the vicinity of the site.

Appropriate buffers will be provided to the undeveloped bushland areas to the south and east of the site to ensure that the proposed residential uses will not impact on the National Park. The proposed residential use within the northern portion of the site is comparable with the existing low-density residential development to the west of the site adjacent to Woy Woy Road. The proposal forms a logical infill expansion of the existing Kariong urban area.

The land to the north is currently developed for large lot residential development with lot sizes from 0.4 to 1.6 hectares. Council's exhibited draft consolidated LEP proposed the lots to the north, currently zoned 7(c2) under *Gosford Interim Development Order 122*, to be zoned E4 Environmental Living however Council is yet to support this proposal proceeding to finalisation. Council also proposes a future comprehensive review of its planning provisions.

The current proposal is for larger lot sizes to adjoin this area to provide a buffer to this lower density development.

*The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.*

The rezoning proposal is supported by a Servicing Report which concludes the site has sufficient capacity to accommodate the proposed rezoning subject to further investigations required to support detailed design of the subdivision application.

Augmentation to existing infrastructure would be undertaken by the developer in conjunction with infrastructure authorities and neighbouring development.

The proposal currently considers access from Woy Woy Road, but other options could be considered at planning proposal stage such as access from the existing fire trail to the north-east.

### **3. COUNCIL AND AGENCY VIEWS**

Central Coast Council provided comment on the proposal on 25 March 2020. Central Coast Council provided comment on the proposal on 25 March 2020. The Council has concerns over the increased density of the proposal and does not support the

concept plan (development footprint), minimum lot size or proposed access to the site. Council suggests investigating large lot residential development, with a reduced development footprint (**Attachment A and B**). The Department has provided comment on Council's submission for the consideration of the Panel. (**Attachment C**).

## **ATTACHMENTS**

Attachment A – Central Coast Council Cover Letter

Attachment B – Central Coast Council Submission

Attachment C – DPIE Response to Council's Submission

Attachment D – Darkinjung LALC Proposal

Attachment E – Servicing Report

Attachment F – Environmental and Heritage Constraints Briefing Note

Attachment G – Preliminary Stormwater and Servicing Report

Attachment H – Transport Advice

Attachment I – Urban Design Report

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