

REZONING REVIEW – Briefing Report

Date of referral	26 August 2019
Department ref. no	RR_2019_CCOAS_002_00
LGA	Central Coast
LEP to be amended	Gosford LEP 2014 (or draft Central Coast LEP if finalised)
Address	Lot 481 DP 1184693, Reeves Street Somersby
Reason for review	Independent Proposal Review
Is a disclosure statement relating to reportable political donations under s10.4 of the Act required and provided?	<input type="checkbox"/> Provided <input checked="" type="checkbox"/> Not required Comment: The proponent confirmed it had no donations or gifts to disclose

1. SUMMARY OF THE PROPOSAL

1.1 Strategic background

The *Central Coast Regional Plan 2036* (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.

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 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 CCRP, and other regional plans, includes directions and actions in response.

Following community consultation, a suite of planning measures was released by the then Minister for Planning in Gosford in February 2019, comprising:

- *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 proposal 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* released in February 2019 and is mapped in the Aboriginal Land SEPP. This proposal is the first proposal made under the new independent review process identified in PS 19-003.

1.2 Proposal background

The proposal is to:

- Rezone land fronting Reeves Street from RU2 Rural Landscape to E3 Environmental Management and amend the Minimum Lot Size map to facilitate the development of approximately 8-14 rural residential lots.
- Rezone the remaining RU2 Rural Landscape land to E2 Environmental Conservation.
- Maintain the E2 Environmental Conservation zone on land currently zoned E2 Environmental Conservation
- Allow a site within the E2 Environmental Conservation land to be used for a dwelling house and a building or place to undertake cultural activities.

1.2 Locality and context

The site is bordered by the M1 Pacific Motorway to the west, rural residential properties to the north and bushland to the east and south. Further rural residential development occurs to the east along Reeves Street and Dawson Street (Approximately 20 lots).

An RSPCA animal shelter is situated on the northern side of Reeves Street opposite the northern boundary of Lot 481. A Girl Guide camp is situated on the southern side of Reeves Street near the north west corner of Lot 481 and is surrounded on three sides by Lot 481. A rural residential development adjoins the site to the south.

The site is approximately 10 kilometres by road from the Gosford city centre.

Land on the eastern side of the M1 Pacific Motorway above the escarpment is predominantly zoned in rural and environmental zones. The rural zones pre-date the building of the M1 Pacific Motorway and there is limited agricultural activity on this land. In a previous planning proposal (PP_2014_GOSF_001) land to the north of Reeves Street was rezoned from rural to environmental zonings with provisions allowing the creation of a small number of lots provided certain biodiversity provisions are met (refer entry 14 in Schedule 1 of Gosford LEP 2014).

Attachment A – locality map.

1.3 Site description

The site is approximately 178 hectares. The site drains to the east and contains the headwaters of Fountain Creek, a tributary of Narara Creek which flows to Brisbane Water. The site contains native vegetation including part of a regional biodiversity corridor identified in the CCRP.

Attachment B – site map.

1.4 Current planning provisions

The land is zoned RU2 Rural Landscape (124 ha) and E2 Environmental Conservation (54 ha) under Gosford LEP 2014.

The minimum lot size for these zones are 20 ha and 40 ha respectively. There is sufficient RU2 land to be create approximately 6 lots at or above the minimum lot size, subject to development approval.

Attachment C – existing zoning map.

1.5 Proposed planning provisions

The proposal is to rezone approximately 28 ha of land zoned RU2 Rural Landscape fronting Reeves Street to E3 Environmental Management and introduce provisions to allow subdivision into approximately 8-14 lots. (Note. while the proposal is to amend the minimum lot size map an alternative could be lot averaging provisions such as those applying to land to the north of Reeves Street discussed under 1.2 above. Drafting of planning provisions would be considered at planning proposal stage.)

The remainder of the RU2 Rural Landscape land would be zoned E2 Environmental Conservation and the existing E2 Environmental Conservation would remain E2 Environmental Conservation (it is noted that the indicative zoning map on page 10 of the proposal appears to show a small area rezoned from E2 to E3 but the text does not reflect this. Precise boundaries would be considered at planning proposal stage).

Approximate areas before and after the planning proposal are:

Zone	Current	After planning proposal
RU2 Rural Landscape	124 ha	
E3 Environmental Management		28 ha
E2 Environmental Conservation	54 ha	150 ha

The proposal also indicates an intention to provide for a building or place and a dwelling house in which to undertake cultural activities in a discrete location on the land being rezoned from RU2 to E2 (indicative location is shown in the north west of the site). Under the E2 Environmental Conservation zone 'environmental facilities' are permitted with consent and the proposal may fall within this description (in GLEP 2014 environmental facility means *a building or place that provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, board walks, observation decks, bird hides or the like, and associated display structures.*). This too could be considered in more detail at planning proposal stage.

Proposed LEP amendments are shown on pages 10-11 of the submitted proposal.

2. INFORMATION ASSESSMENT

Does the proposal seek to amend a zone or planning control that is less than five years old?
No.

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. The proposed development of Reeves Street Somersby is one of four sites identified for development in that plan. The details of the proposal as submitted are consistent with the IDDDP.

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.

The CCRP proposes a series of regional biodiversity corridors. This site contains and adjoins land in a regional biodiversity corridor and the proposal will help to secure this part of the corridor.

While part of the land is currently zoned Rural Landscape, the land is not mapped as prime agricultural land under Sydney Regional Environmental Plan No. 8 Central Coast Plateau Areas and rezoning to an environmental zone is a more appropriate zone.

Responding to a change in circumstances that has not been recognised by existing planning controls

The proposal is identified in an Interim Development Delivery Plan that identifies the first stage of the Darkinjung development pipeline. Future Development Delivery Plans will be prepared following a land audit and strategic assessment of sites owned by Darkinjung to further expand the development pipeline and recognise proposals in the Aboriginal Land SEPP. Preparation of future DDPs would include Council, agency and community consultation.

The proposal has sufficient strategic merit to be considered for a Gateway determination.

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’. As discussed above, 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 considers biodiversity, bushfire and hydrology to determine land best suited for development. The proposal identifies that offset opportunities are likely available across the wider site to meet the biodiversity credit requirements in accordance with the Biodiversity Offsets Scheme. While considered unlikely, any residual credit could be provided for via additional stewardship agreements on Darkinjung land, purchasing of credits and/or via payments to the Biodiversity Conservation Trust Fund. A referral under Commonwealth biodiversity legislation may also be required.

A buffer zone between the proposed E3 zone and E2 zone is proposed to minimise edge effects.

The rezoning request documentation is at a preliminary stage. Further detailed environmental assessment will be undertaken during the planning proposal and subsequent development application stages. A list of proposed technical studies to support the planning proposal is on page 17 of the rezoning proposal.

The Environmental and Heritage Constraints Briefing Note (Appendix A of the rezoning proposal) concludes that bushfire, biodiversity and Aboriginal cultural heritage can be appropriately addressed through siting, mitigation and management measures.

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

Given the characteristics of the rural land to the north of Reeves Street opposite the proposed E3 land, it is unlikely that any land use conflicts would be created by the development. However, the potential noise impact from the RSPCA facility has not been considered. There is also an additional permitted use of Driver Training Facility to the north of Reeves Street and the impact of this facility on the proposal has not been considered. These matters can be further considered in the planning proposal.

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 land is shown to be capable of being serviced with water and onsite effluent management is possible. The Preliminary Stormwater and Servicing Report (Appendix B of the rezoning proposal) concludes the site has sufficient capacity to accommodate the proposed rezoning.

The proposal has adequate site-specific merit to be considered for a Gateway determination.

3. COUNCIL AND AGENCY VIEWS

Central Coast Council provided comment on the proposal on 14 August 2019. The Council generally supports the intended outcome of the proposal. Council does not support the inclusion of both proposed additional uses on the E2 land (but supports one). Additional recommendations are made concerning biodiversity and further assessment required during the planning proposal stage.

Attachment D – Council comments.

ATTACHMENTS

Attachment A – Locality Map

Attachment B – Site Map

Attachment C – Existing Zoning Map

Attachment D – Council Comments

Attachment E – DLALC proposal

Assessment officer: Garry Hopkins
Team Leader, Central Coast and Hunter
Contact: 0421 052 052