

# Darkinjung Somersby Planning Proposal

PP-2023-4304

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 twofold, 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 will give effect to Chapter 3 – Aboriginal Land of *State Environmental Planning Policy (Planning Systems) 2021* and the *Darkinjung Development Delivery Plan* (Darkinjung 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 already 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 Planning Proposal (Nearmaps, 2023)

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

- enable limited low impact residential development on the site;
- protect culturally significant land;
- protect environmentally significant land that has high conservation values as part of a regional biodiversity corridor; and
- support the economic self-determination of the Darkinjung Local Aboriginal Land Council (LALC) and community.

The planning proposal primarily rezones land from RU2 Rural Landscape to C2 Environmental Conservation and C4 Environmental Living. The proposal also rezones a small area of land from C2 Environmental Conservation to C4 Environmental Living. A concept proposal is provided in Figure 2 below.

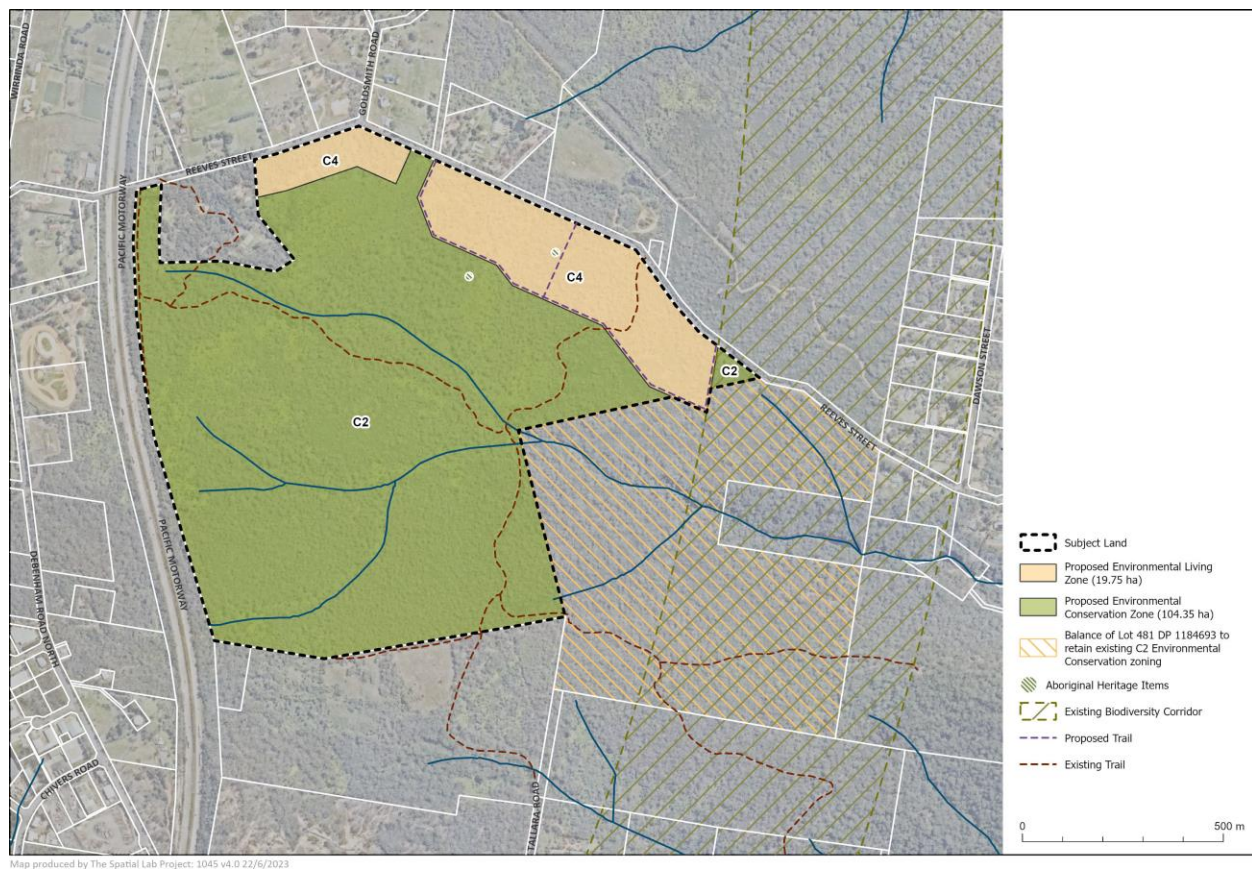


Figure 2: Concept proposal (Darkinjung LALC, 2023)

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

The amendment proposes the following changes to *Central Coast Local Environmental Plan 2022* (refer to Table 1).

Table 1: Explanation of Provisions

Amendment applies to	Explanation of provisions
Land Zoning Map	<p>Rezone 123.83ha of the land from RU2 Rural Landscape to:</p> <ul style="list-style-type: none"><li>• C4 Environmental Living (19.48ha); and</li><li>• C2 Environmental Conservation (104.35ha).</li></ul> <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>
Lot Size Map	<p>Amend the Minimum Lot Size from 20ha to:</p> <ul style="list-style-type: none"><li>• 1ha for that part of the site proposed to be zoned C4 Environmental Living to enable up to 14 allotments; and</li><li>• 40ha for that part of the site proposed to be zoned C2 Environmental Conservation.</li></ul> <p>Amend the Minimum Lot Size from 40 ha to 1 ha for the southeastern corner (0.27ha lip) of the proposed C4 Environmental Living part of the site currently zoned C2.</p>

Future development will be subject to the provisions of Central Coast Development Control Plan 2022, and other statutory provisions and requirements at the development application stage, including the *Environment Protection and Biodiversity Conservation Act 1999*, *Biodiversity Conservation Act 2016*, the *Rural Fires Act 1997*, and the *Water Management Act 2000*. It is also intended the site will be covered in the future by an overarching Development Control Plan applying to all Darkinjung lands which is being prepared by the Department of Planning and Environment.

In total the proposal results in 19.75ha of land zoned C4 Environmental Living and 104.35ha of land zoned C2 Environmental Conservation. Together with the balance of Lot 481, the total amount of land zoned C2 Environmental Conservation will be 158.75ha, which is 89% of the overall site area.

The proposed C4 zoning will facilitate environmental living development of up to 14 x 1 ha lots on the land, similar to the nature of development on the northern side of Reeves Street. The balance of the land will be zoned C2 in recognition of its environmental and cultural values, and to remove incompatible land uses, such as agriculture, extractive industries, garden centres, landscaping material supplies and plant nurseries currently permitted under the RU2 zone.

The proposed 1 ha minimum lot size in the C4 zone will limit the development footprint of the future development, avoiding areas of environmental value.

The proposed 40 ha minimum lot size for the C2 land will be consistent with the minimum lot size for the existing C2 zoned part of the site.

That part of the site to be zoned C2 will remain in the ownership of Darkinjung LALC for environmental protection and will be subject to ongoing management and stewardship through the Land Council. It is also intended that the site will be Biocertified in accordance with the *Biodiversity Conservation Act 2016*.

Existing and proposed mapping is shown in Figure 3 over the page:

The map displays the following details:

- Land Use Designations:** RU1, RU2, RU3, DM, C2, C3, E4.
- Parcel Identifiers:**
  - RU1: 5 DP261772, 83 DP753227, 482 DP134469, 481 DP134040, 484 DP1340939, 422 DP80343, 425 DP72506, 15 DP703427, 125 DP1261360, 416 DP1265171, 493 DP12616939.
  - RU2: 4 DP261507, 3 DP261507, 4 DP548037, 3 DP614003, 482 DP134469, 7800 DP1155040, 467 DP729569, 22 DP625539.
  - RU3: 484 DP1340939.
  - DM: 484 DP1340939.
  - C2: 493 DP12616939, 422 DP80343, 425 DP72506, 481 DP134040, 30 DP13406069, 4 DP261507, 2 DP135070R.
  - C3: 15 DP703427.
  - E4: 22 DP625539.
- Geographical Features:** A yellow line representing a road or boundary runs vertically through the left side of the map. A blue area is labeled 'E4'.
- Other Labels:** 'SOMERSBY' is written in the center of the map.

[illegible][illegible]

Figure 3: Existing and Proposed Statutory Mapping

## Part 3 – Justification for the provisions

### 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?

The proposed development of the site to support economic and social opportunities for Darkinjung Local Aboriginal Land Council and its community has been identified in the:

- **Central Coast Local Strategic Planning Statement (Central Coast LSPS).** Central Coast LSPS (August 2020) identifies the site on the housing precincts map, along with other Darkinjung-owned land that is identified under chapter 3 – Aboriginal Land of the *State Environmental Planning Policy (Planning Systems) 2021* (previously *State Environmental Planning Policy [Aboriginal Land] 2019*) (refer to Figure 4 below). Central Coast LSPS also sets out 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.

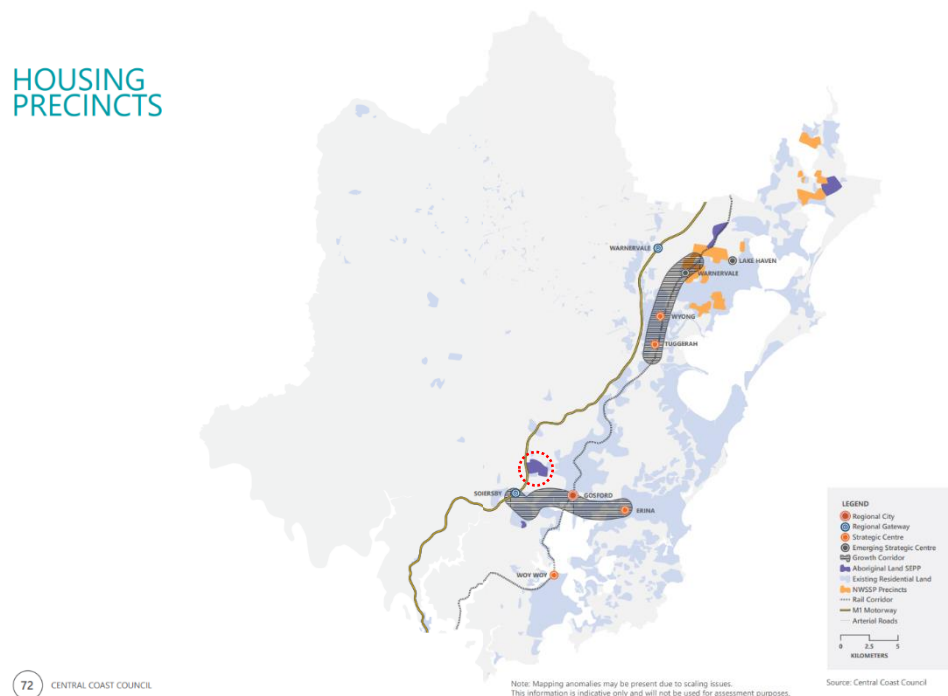


Figure 4: Housing Precincts map in Central Coast LSPS identifying land under Chapter 3 - Aboriginal Land from Planning Systems SEPP

- **Darkinjung Development Delivery Plan (DDP).** The site is one of 12 short-term priority development sites identified in the Darkinjung DDP and is identified for rural residential development and environmental conservation. The Darkinjung DDP was prepared in accordance with *State Environmental Planning Policy (Planning Systems) 2021* – Chapter 3 Aboriginal Land (the SEPP). The Darkinjung DDP was approved by the Minister for Planning on 16 December 2022.

The Darkinjung DDP identifies the broader economic benefits and the social and environmental outcomes that development of the site can deliver for Darkinjung. It also identifies that the site has strategic merit based on the broader benefits to Darkinjung and will increase environmental protection for the land and support the delivery of additional housing for the region.

- *Central Coast Regional Plan 2041 (CCRP 2041)*, which identifies the site as a residential investigation area in the Narara district adjacent to the Somersby regionally significant growth area (refer to Figure 6 below).

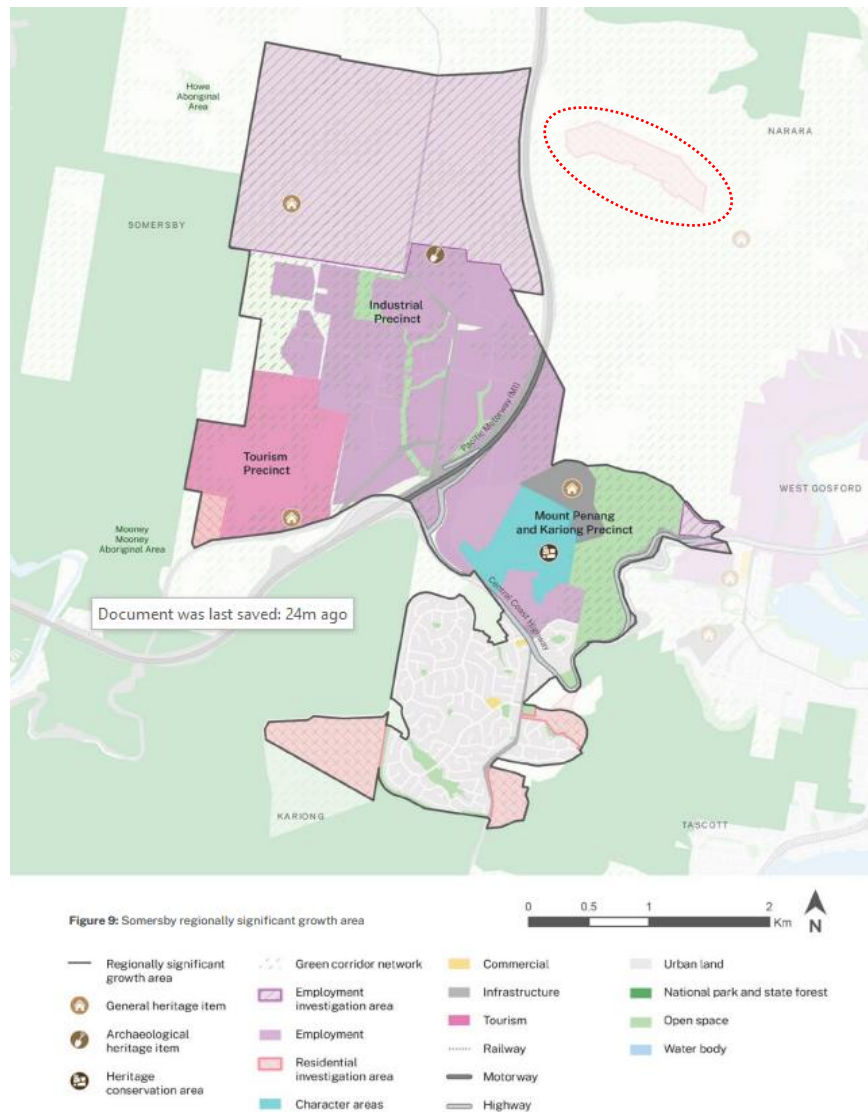


Figure 5: Reeves Street, Somersby site identified in CCRP 2041 as 'Residential investigation area'.



The Planning Proposal proposes to rezone most of the site to C2 Environmental Conservation to protect the site's high conservation values as part of a regional biodiversity corridor, which implements the outcomes of the:

- *Central Coast Region Plan 2041*, which identifies regionally significant biodiversity corridors traversing the subject site.

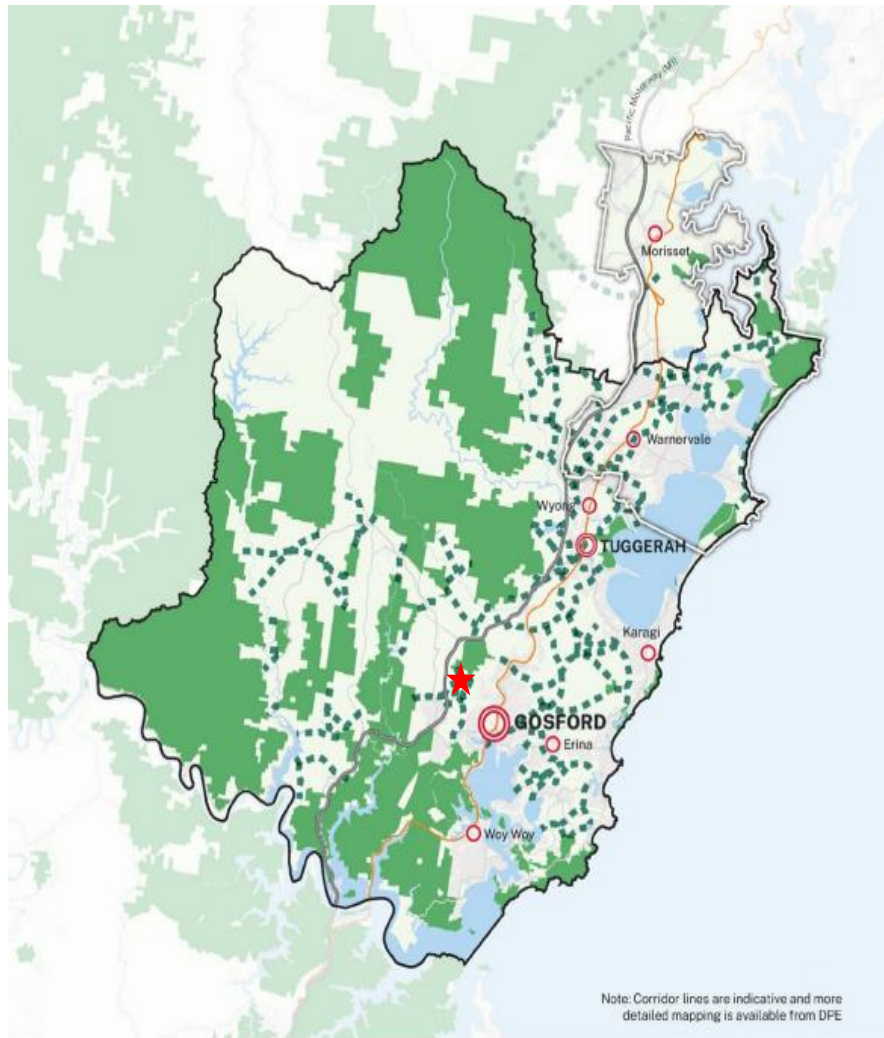


Figure 5: Biodiversity network



Figure 6: Biodiversity network map showing location of Reeves St, Somersby in CCRP 2041



Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The current zoning of the site, being RU2 Rural Landscape, does not reflect the environmental qualities of the site and restricts the ability to subdivide or develop the land. Low-impact rural residential development of a portion of the site fronting Reeves Street, and the proposal to secure the remainder of the site in a conservation zone to secure regional biodiversity corridors, cannot be achieved through other means such as a Clause 4.6 variation, and Central Coast Council does not intend to rezone the site through a Council-led Planning Proposal.

An earlier iteration of the Planning Proposal was lodged in 2019 and proposed to rezone part of the site to C3 Environmental Management. The updated Planning Proposal instead proposes to rezone a smaller portion of the site to C4 Environmental Living, reducing the development footprint and overall impacts of the development. The updated Planning Proposal is supported by a suite of technical studies included at Appendix A – Technical Studies.

A planning proposal that primarily rezones the land to C2 Environmental Conservation, with the capacity for limited rural residential development on less constrained land under zone C4 Environmental Living, is an appropriate means of achieving the objectives of the planning proposal and the Darkinjung DDP.

### Section B – Relationship to strategic planning framework

Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

#### Central Coast Regional Plan 2041

The proposal is consistent with the *Central Coast Regional Plan 2041* (CCRP 2041), which is the regional strategy applicable to the site. This planning proposal is a direct outcome of Action 2.1 (under Objective 2: *Support the right of Aboriginal residents to economic self-determination*) as it relates to one of 31 sites that have been identified for potential development in the Darkinjung DDP. It also delivers on Action 2.3 to accelerate the determination of Darkinjung LALC proposals.

The site is identified as a residential investigation area in the Narara district adjacent to the Somersby regionally significant growth area (refer to Figure 5). The site provides an opportunity to develop low scale rural residential dwellings and secures regional biodiversity corridors (refer to Figure 6) within an appropriate Conservation zoning.

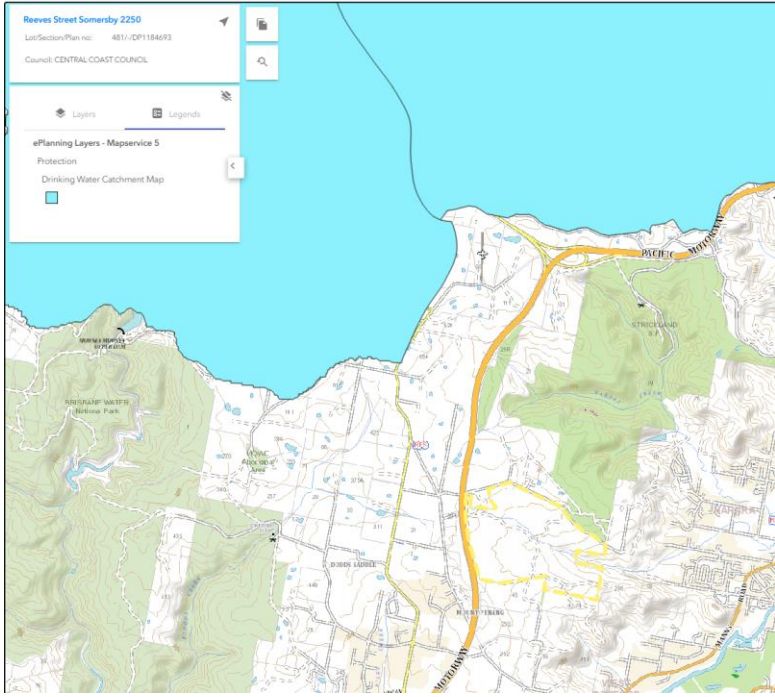
The area proposed for development adjoins existing rural residential land uses to the north of Reeves Street and west of the Pacific Highway representing a minor extension to the existing rural residential and rural land use footprint of Somersby. The planning proposal delivers on Objective 3: *Create 15-minute neighborhoods to support mixed, multi-modal, inclusive and vibrant communities*. This is as the proposed development fronting Reeves Street has existing road access to nearby local centres, shopping villages, schools and amenity within a 15-minute drive or 20–30-minute bus ride with services along Wisemans Ferry Road to the west of the site.

Table 2 over the page explains how the proposal relates to relevant Strategies in the regional strategy.

Table 2: Assessment against Central Coast Regional Plan 2041

Central Coast Regional Plan Strategy	Justification
<p>6.4 Planning proposals must ensure the biodiversity network is protected within an appropriate conservation zone. Unless an alternate zone is justified following application of the avoid, minimise, offset hierarchy.</p>	<p>The proposal will rezone 104.35 ha of the site to C2 Environmental Conservation. This ensures that the regionally significant biodiversity corridor (refer below) is protected in an appropriate conservation zone.</p> <div data-bbox="500 464 1190 1346"> <p><b>Figure 5c: Biodiversity network</b></p> <ul style="list-style-type: none"> <li>Central Lakes district boundary</li> <li>Regional boundary</li> <li>Metropolitan city</li> <li>Regional city</li> <li>Strategic centre</li> <li>Biodiversity corridors</li> <li>Railway</li> <li>Motorway</li> <li>Road</li> <li>National park and state forest</li> <li>Urban land</li> <li>Water body</li> </ul> <p>Note: Corridor lines are indicative and more detailed mapping is available from DPE</p> </div> <p>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.</p> <p>Darkinjung has indicated it is committed to providing a biodiversity offset strategy that appropriately compensates for the unavoidable loss of biodiversity values.</p> <p>Development of the area proposed to be zoned C4 would not compromise the regional biodiversity corridors that traverse the site.</p> <p>Future development of the site will be subject to legislative requirements relating to environmental protection, as well as <i>Central Coast Development Control Plan 2022</i> (CCDCP 2022) and a future overarching DCP applying to all Darkinjung lands which is being prepared by the Department of Planning and Environment.</p>



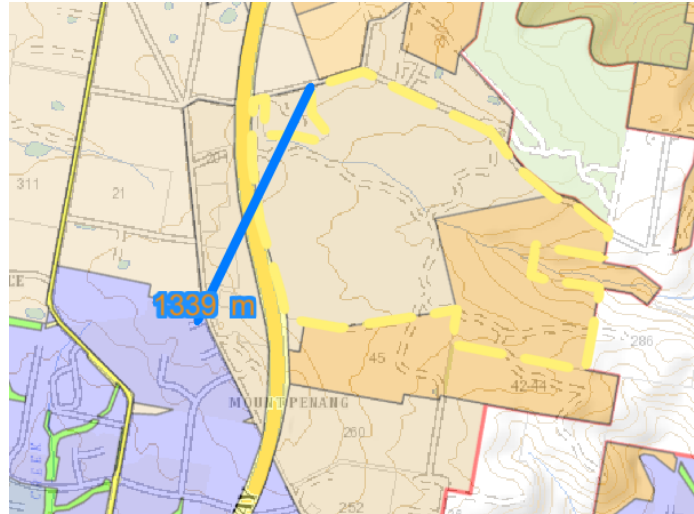
Central Coast Regional Plan Strategy	Justification
<p>6.5 Planning proposals should promote enterprises, housing and other uses that complement the biodiversity, scenic and water quality outcomes of biodiversity corridors. Particularly, where they can help safeguard and care for natural areas on privately owned land.</p>	<p><i>Complement the biodiversity outcomes:</i> Development of the area proposed to be zoned C4 would not compromise the regional biodiversity corridor located to the east of the site.</p> <p><i>Compliment scenic outcomes:</i> The site is capable of being developed in a way that respects the scenic values of the location and proximity of biodiversity corridors.</p> <p><i>Compliment water quality outcomes:</i> There are no identified waterways within the development footprint. The site does not lie in a drinking water catchment area.</p>
<p>6.12 Planning proposals will demonstrate that development within a drinking water catchment or sensitive receiving water catchment will achieve a neutral or beneficial effect on water quality.</p>	<p>The site does not lie within a drinking water catchment (DWC). The two nearest DWCs are to the north and north-west of the site, with the site draining to the south-east, away from the DWCs.</p> 

**Central Coast Regional  
Plan Strategy**

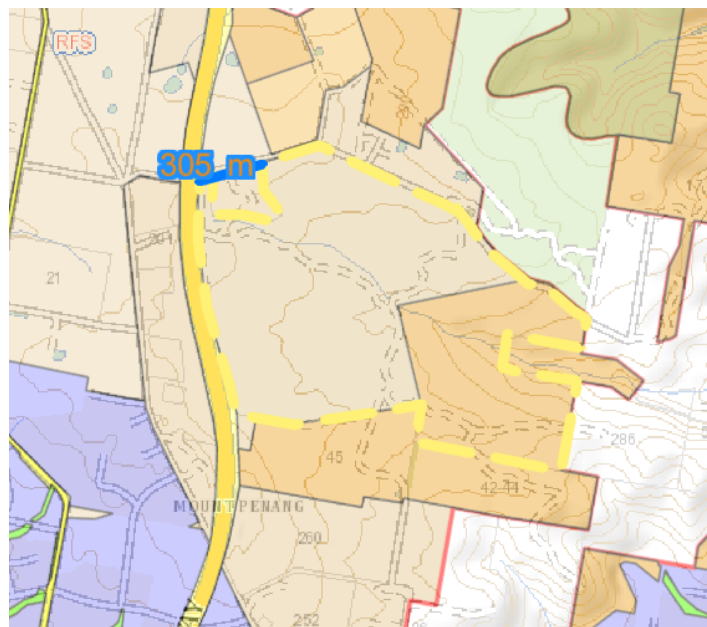
**Justification**

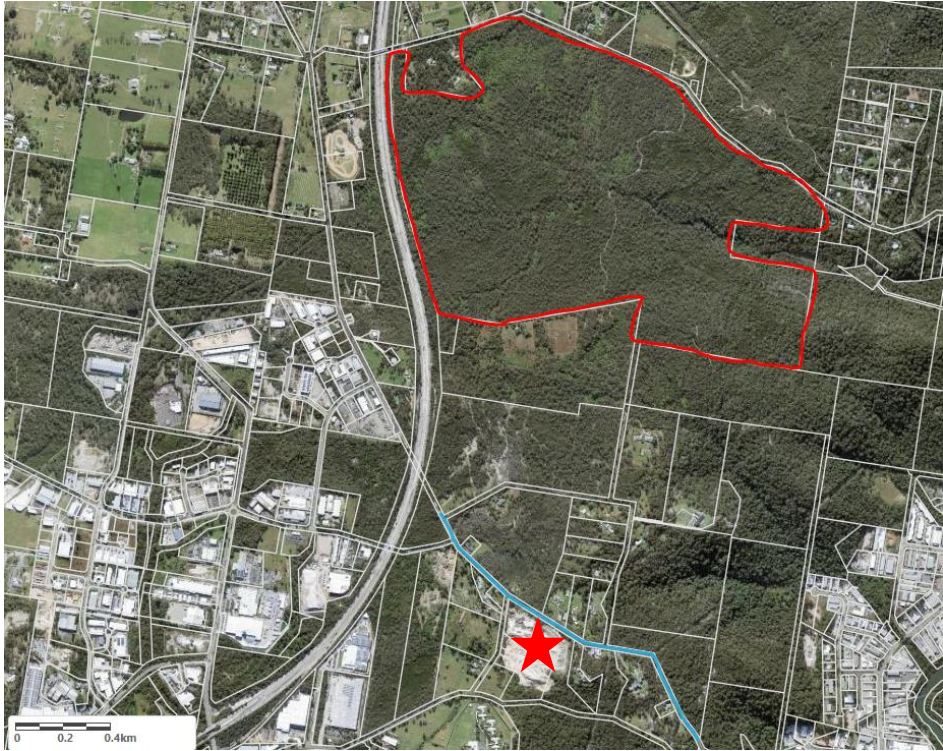
7.5 Planning proposals must protect sensitive land uses from sources of air pollution, such as major roads, railway lines and designated freight routes, using appropriate planning and development controls and design solutions to prevent and mitigate exposure and detrimental impacts on human health and wellbeing.

The site is bounded 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.



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.



Central Coast Regional Plan Strategy	Justification
<p>9.1 Planning proposals will consider the location of mineral and energy resources, mines and quarries and ensure sensitive land uses would not encroach on those operations. A noise study may be required to demonstrate impacts on the operations can be avoided or mitigated.</p>	<p>The subject area is located approximately 600 metres north of the blasting transition zone of Debenham Rd Quarry, the nearest extractive operation.</p>  <p>Advice received from the NSW Department of Regional NSW – Mining, Exploration &amp; Geoscience (MEG) – Geological Survey of NSW (GSNSW) on 16 June 2020, outlined that GSNSW had no objections to the proposal and no concerns regarding resource sterilisation.</p>

Q4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or another endorsed local strategy or strategic plan?

#### Central Coast Local Strategic Planning Statement

The *Central Coast Local Strategic Planning Statement* (LSPS) provides a land use vision that will guide the future growth and development across the Region to 2036 and beyond.

The site of the planning proposal is highlighted in the Housing Precincts Map within the LSPS along with the other Darkinjung-owned sites in the Planning Systems SEPP and Darkinjung DDP (Figure 7).

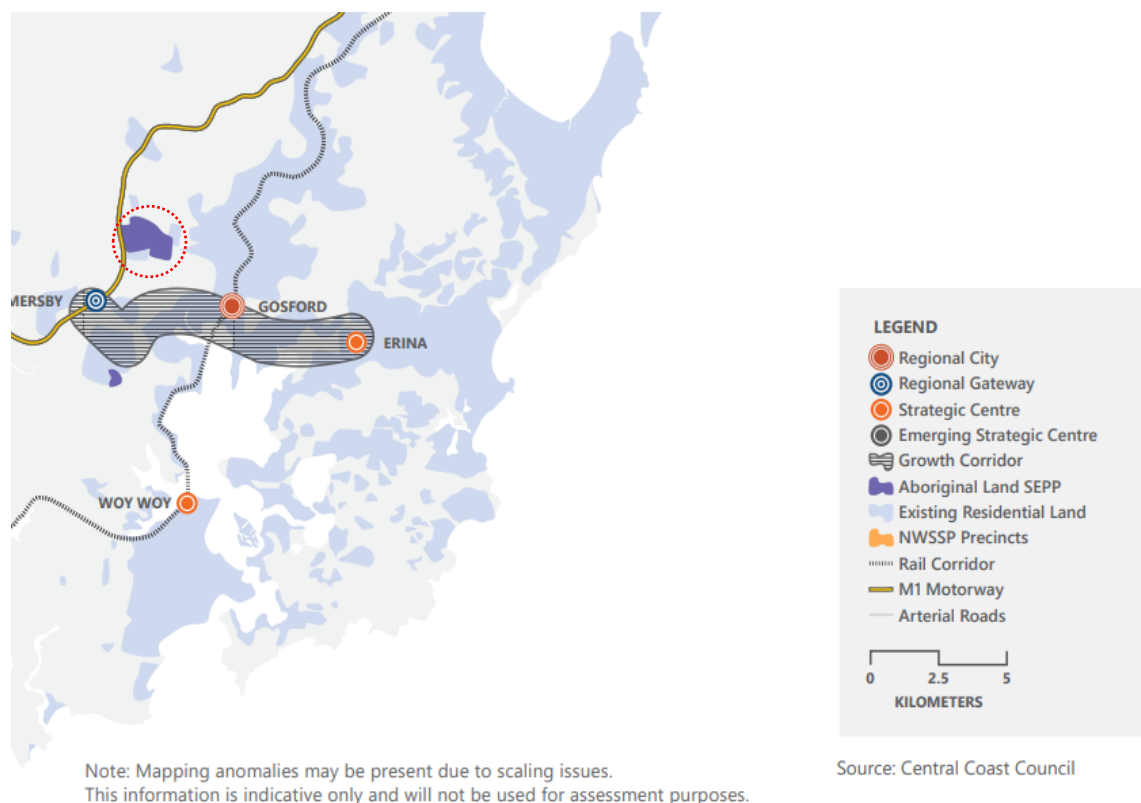


Figure 8: Excerpt of Housing Precincts Map from Central Coast LSPS indicating site location

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

#### NSW Housing Strategy

The planning 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' in the Narara district adjacent to the Somersby Regionally Significant Growth Area (refer to Figure 4);
2. Provide housing that is diverse and meets varied and changing needs by incorporating an environmental living zoning that will enable various different housing typology options to be developed and adapted over time;
3. Providing housing that is affordable and secure by providing new housing opportunities nearby to an established rural residential 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?

The Planning Proposal has been considered against relevant State Environmental Planning Policies (SEPP) as follows:



## State Environmental Planning Policy (Planning Systems) 2021

### *Chapter 3 – Aboriginal land*

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

In addition, Ministerial Direction 1.2 – *Development of Aboriginal Land Council Land*, requires a Planning Proposal Authority to take into account a Development Delivery Plan or Interim Development Delivery Plan where the site is shown on the land application map of the Planning Systems SEPP. The site is included in the Land Application Map of the SEPP and the Darkinjung DDP has been considered in preparing the Planning Proposal.

## State Environmental Planning Policy (Biodiversity and Conservation) 2021

### *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, and surveys undertaken by Umwelt did not detect any signs of koala habitats being located on the proposed development area (along the Reeves Street frontage). Surveying included tree cameras, vegetation assessments, nocturnal spotlight searches and call playbacks. Further surveying will be undertaken and will be detailed in the final BCAR submitted as part of the biocertification of the site.

Q7. Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?

*Table 3: Assessment Against Ministerial Directions*

Ministerial Direction	Consistency
<b>Focus area 1: Planning Systems</b>	
1.1 Implementation of Regional Plans  The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.	The proposal is consistent with the <i>Central Coast Regional Plan 2041</i> and thus consistent with this direction.  A detailed analysis of the proposal against relevant actions and strategies from the CCRP 2041 is provided in response to Question 3 above.

Ministerial Direction	Consistency
<p>1.2 Development of Aboriginal Land Council land</p> <p>The objective of this direction is 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.</p>	<p>The planning proposal is consistent with this direction as the planning proposal considers and implements the <i>Darkinjung Development Delivery Plan</i> (2022). The site is identified in Darkinjung DDP as site 3.</p> <div> <div>Site 3</div> <div>Somersby; Reeves Street</div>  </div>
<p>1.3 Approval and Referral Requirements</p> <p>The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p>	<p>No additional local provisions are proposed.</p> <p>The planning proposal is consistent with Direction 1.3 Approval and Referral Requirements.</p>
<p>1.4 Site Specific Provisions</p> <p>The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.</p>	<p>The planning proposal is consistent with this direction as it will rely on existing zones and uses in the land use table.</p>
<b>Focus area 1: Planning Systems – Place-based</b>	
Nil	

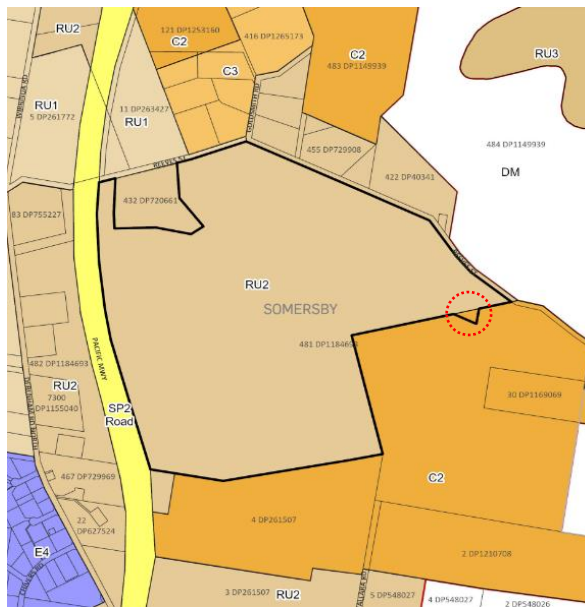
**Ministerial Direction****Consistency****Focus area 1: Design and Place**

Nil

**Focus area 3: Biodiversity and Conservation****3.1 Conservation Zones**

The objective of this direction is to protect and conserve environmentally sensitive areas.

The planning proposal will affect land within an existing Conservation zone.



The proposal is partly consistent and partly inconsistent with Ministerial Direction 3.1, and as such requires the Minister's approval to concur with the inconsistency.

The proposal rezones land from RU2 Rural Landscape to C2 Environmental Conservation (104.35 ha) and C4 Environmental Living (19.48 ha), which facilitates the protection and conservation of environmentally sensitive areas and allows development on less constrained parts of the site. Part of the proposal rezones land from C2 Environmental Conservation to C4 Environmental Living (0.27 ha – identified in the above zoning map) and is supported by a Flora and Fauna Assessment Report dated August 2023 which considers the objectives of this direction.

The planning proposal will rezone 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. 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.

Ministerial Direction	Consistency
	<p>The Flora and Fauna Assessment Report, in the format of a Biodiversity Certification Assessment Report (BCAR) demonstrates the avoidance and mitigation of biodiversity impacts, including a reduction in the development footprint and impacts on areas of upland swamp compared to the original planning proposal. It is intended the site will be biocertified and the flora and fauna assessment identifies the biodiversity impacts of the development. Credit obligations to offset any development impacts will be addressed through the relevant biodiversity approval pathways in accordance with the <i>Biodiversity Conservation Act 2016</i> and the <i>Environmental Planning and Assessment Act 1979</i>. This may include progressing:</p> <ul style="list-style-type: none"> <li>• strategic biocertification</li> <li>• the establishment and retirement of credits within a stewardship site.</li> <li>• securing required credits through the open credit market and/or</li> <li>• payments to the Biodiversity Conservation Fund.</li> </ul> <p>Further consideration of biodiversity values is provided in response to Question 8 of this planning proposal.</p> <p>Consultation will be required with the Biodiversity Conservation Division to determine any further requirements and consistency with the Direction.</p>
<p>3.2 Heritage Conservation</p> <p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p>	<p>The planning proposal is consistent with Ministerial Direction 3.2 Heritage Conservation.</p> <p><u>Aboriginal heritage</u></p> <p>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.</p> <p>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 and the Aboriginal Cultural Heritage Assessment provides recommendations for the management of this site at the subdivision stage and for both sites generally.</p> <p>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.</p> <p><u>Non-Aboriginal heritage</u></p> <p>The site does not contain any items of heritage significance listed in CCLEP 2022, the State Heritage Register and 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.</p>



Ministerial Direction	Consistency
<p>3.5 Recreation Vehicle Areas</p> <p>The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.</p>	<p>The proposal is consistent with the direction as it does not propose to enable land to be developed for a recreation vehicle area.</p>
<p>3.6 Strategic Conservation Planning</p> <p>The objective of this direction is to protect, conserve or enhance areas with high biodiversity value.</p>	<p>The planning proposal is consistent with Ministerial Direction 3.6 Strategic Conservation Planning.</p> <p>The site is not identified as avoided land or a strategic conservation area under <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>.</p> <p>It is noted that there is an opportunity for the site to form part of the Central Coast Strategic Conservation Plan (CCSCP).</p>

#### Focus area 4: Resilience and Hazards

##### 4.3 Planning for Bushfire Protection

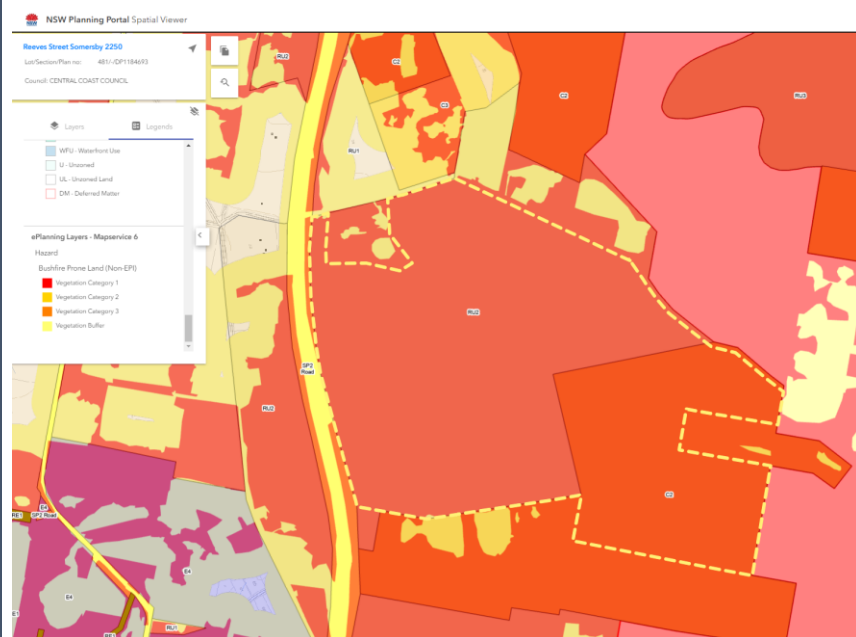
The objectives of this direction are to:

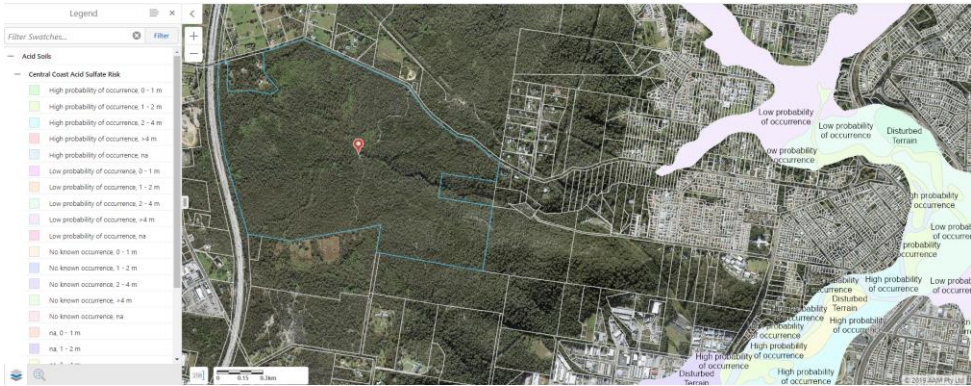
(a) protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas; and

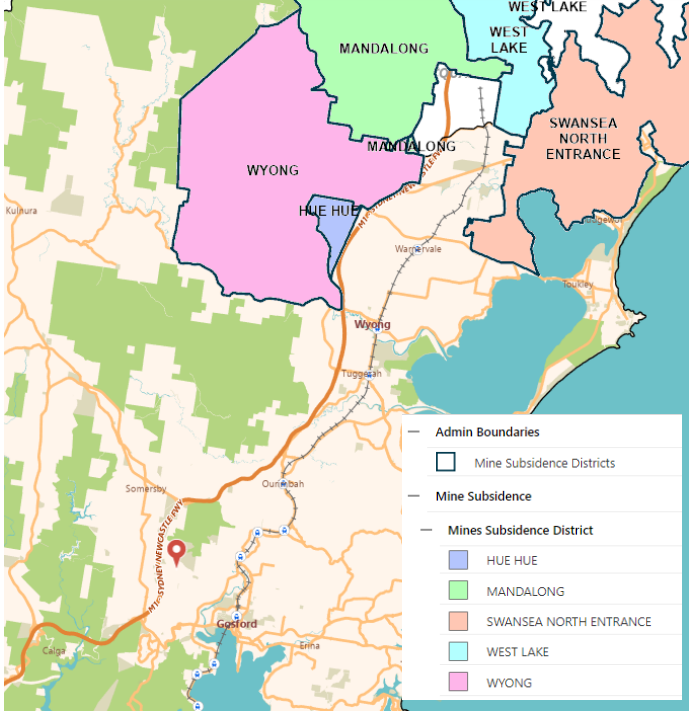
(b) encourage sound management of bush fire prone areas.

The site is identified as Bushfire Prone Land.

The 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.



Ministerial Direction	Consistency
	<p>The Strategic Bushfire Study report was prepared for the site in accordance with the requirements of <i>Planning for Bush Fire Protection 2019</i> (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.</p> <p>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.</p> <p>Further consideration of bushfire risk is provided in response to Question 9 of this planning proposal.</p>
<p>4.4 Remediation of Contaminated Land</p> <p>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</p>	<p>The planning proposal is consistent with this direction.</p> <p>A 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.</p> <p>The report concluded that the site would be generally compatible, from a site contamination perspective, with the proposed rural residential land uses.</p>
<p>4.5 Acid Sulfate Soils</p> <p>Aims to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p>	<p>The planning proposal is consistent with this direction.</p> <p>The site is not identified as containing Acid Sulfate soils under CCLEP2022. CCLEP 2022 and <i>Central Coast Development Control Plan 2022</i> contains appropriate controls to ensure acid sulphate soils impacts are considered and minimised at the time of development through the DA-stage.</p> 

Ministerial Direction	Consistency
<p>4.6 Mine Subsidence and Unstable Land</p> <p>The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially unstable.</p>	<p>The planning proposal is consistent with this direction.</p> <p>The site is not in a Mine Subsidence District (MSD), with the nearest MSD located in Wyong to the north.</p> 

#### Focus area 5: Transport and Infrastructure

Nil

#### Focus area 6: Housing

Ministerial Direction	Consistency
<p>6.1 Residential Zones</p> <p>The objectives of this direction are:</p> <ul style="list-style-type: none"> <li>• to encourage a variety and choice of housing types to provide for existing and future housing needs,</li> <li>• to make efficient use of existing infrastructure and services, and ensure that new housing has appropriate access to infrastructure and services, and</li> <li>• to minimise the impact of residential development on the environment and resource lands.</li> </ul>	<p>The planning proposal is consistent with this direction.</p> <p>The proposal encourages low-impact rural residential development of up to 14 lots fronting Reeves Street, Somersby, broadening the choice of building types and locations available in the rural residential housing market.</p> <p>Each lot will have frontage onto Reeves Street, providing access to existing infrastructure and services in Somersby and nearby Kariong and Gosford which is approximately 15-20 minutes by car.</p> <p>The environmental impact of the proposed low-impact rural residential development has been minimised (refer to the supporting Flora and Fauna Assessment prepared by EMM dated August 2023).</p>
6.2 Caravan Parks and Manufactured Home Estates	The planning proposal is consistent with this direction as it does not propose to alter provisions applying to Caravan Parks or Manufactured Home Estates.

#### Focus area 7: Industry and Employment

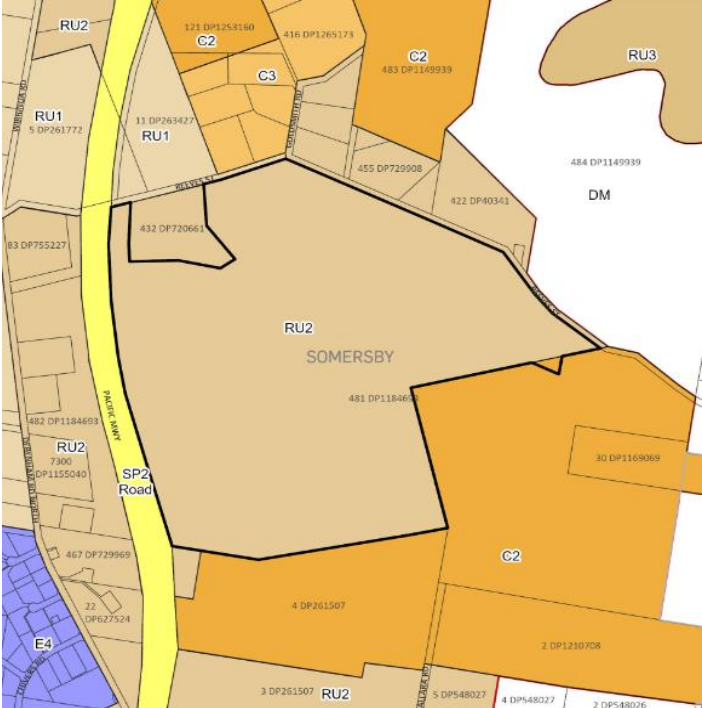
Nil	
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#### Focus area 8: Resources and Energy

8.1 Mining, Petroleum Production and Extractive Industries	<p>The proposed rezoning is consistent with the direction as it does not conflict with future resource extraction.</p> <p>Geological Survey NSW (GSNSW) confirmed (16 June 2020) that it is not likely that coal extraction would take place in this area due to depth and existing surface constraints. Accordingly, GSNSW did not raise concerns regarding resource sterilisation and had no objections to the planning proposal.</p>
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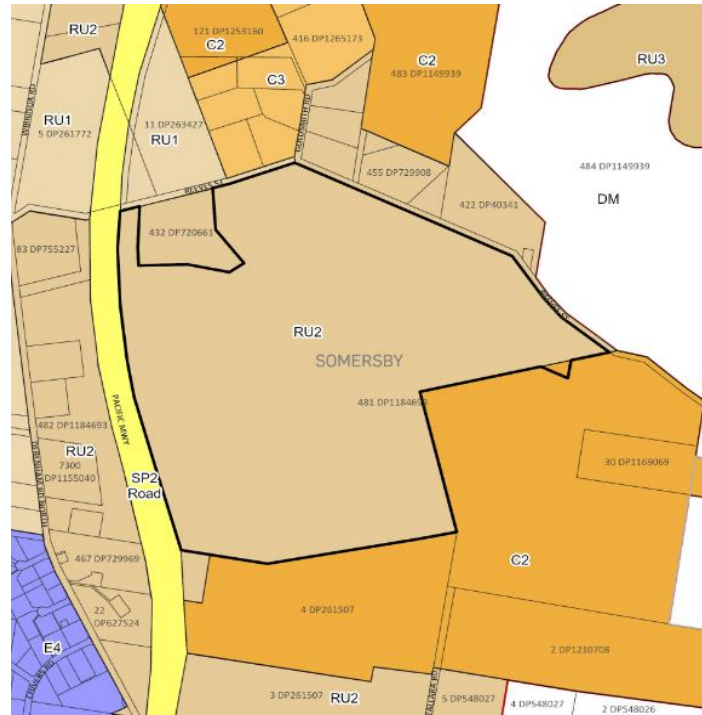
#### Focus area 9: Primary Production



Ministerial Direction	Consistency
<p>9.1 Primary Production</p> <p>The objective of this direction is to protect the agricultural production value of rural land.</p>	<p>The planning proposal will affect land within an existing rural zone and proposes to rezone land for environmental conservation and low-impact rural residential purposes.</p>  <p>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.</p> <p>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.</p>

**Ministerial Direction****Consistency****9.2 Rural Lands**

The planning proposal will affect land within an existing rural zone and proposes to change the existing minimum lot size.



The site does not hold any existing agricultural value. The site attributes, including topography and environmental values, do not indicate potential for future agricultural activity. 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.

The planning proposal is consistent with this direction.

## 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) prepared for the site determines that following the application of avoidance and mitigation measures, the direct impacts within the study area are:

- PCT 3586: Northern Sydney Scribbly Gum Woodland – 3.64 ha.
- PCT 3586: Northern Sydney Scribbly Gum Woodland – 10.09 ha.
- PCT 3807: Northern Sydney Heath-Mallee – 1.43 ha.
- PCT 3924: Sydney Coastal Upland Swamp Heath – 4.48 ha.
- Species credits for Giant Burrowing Frog (19.64 ha), Spreading Guinea Flower (18.21 ha), Squirrel Glider (15.16 ha), Red-crowned Toadlet (19.64 ha), Somersby Mintbush (18.21 ha assumed) and Eastern Pygmy-possum (19.64 ha assumed).

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 implement an Offset Strategy using one or more of the following:

- 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 principle of avoid and minimise impact has been applied and informed the planning proposal. 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.

### 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 Appendix A – 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 Swamps within the site is not consistent. Most of the Coastal Upland Swamps within the proposed C4 land, with the exception of the two western-most lots (see Figure 9), 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.

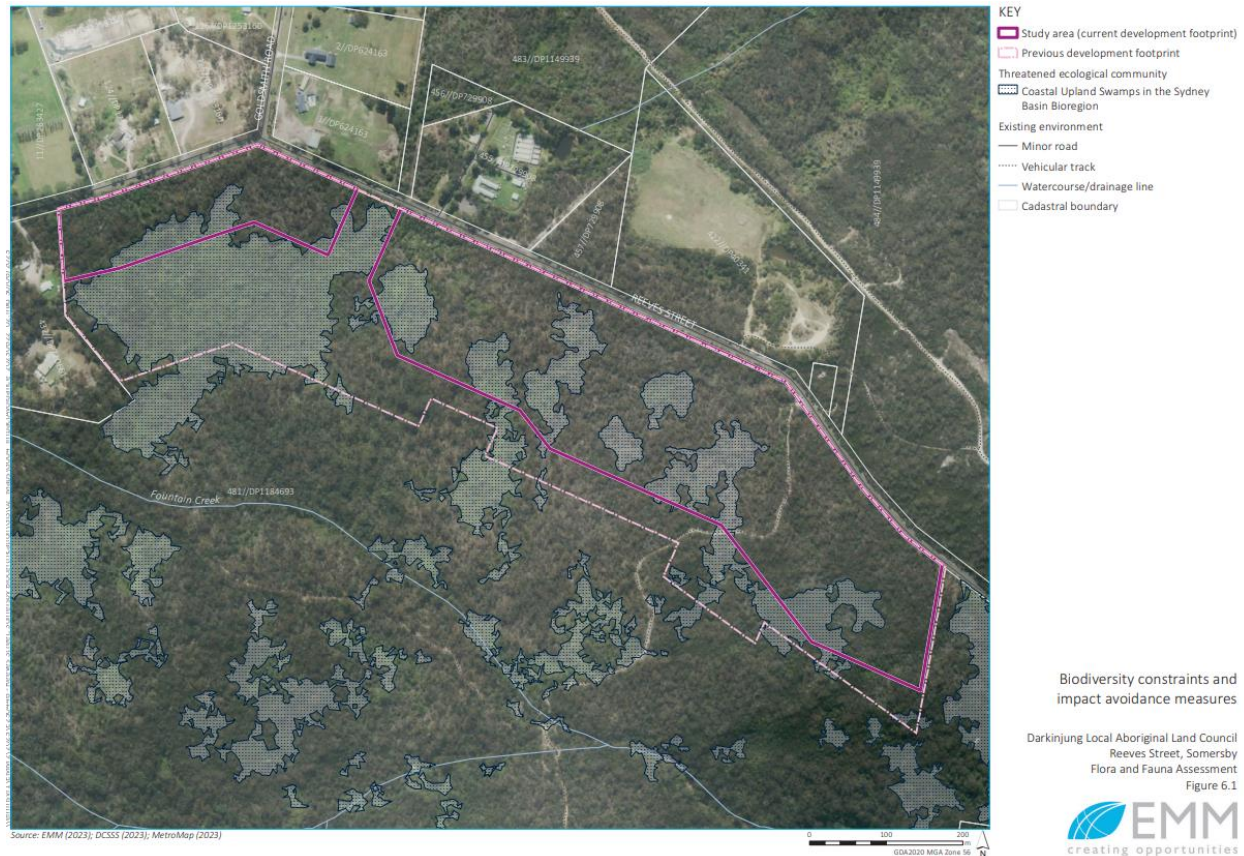


Figure 9: Coastal Upland Swamp areas (EMM Consulting, 2023)

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 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).



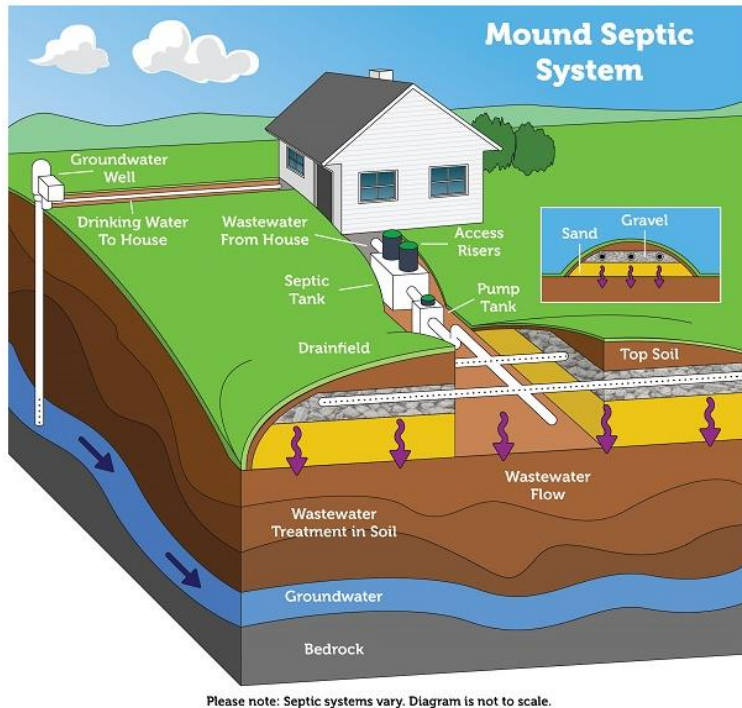


Figure 10: Illustration of mound septic system (United States Environmental Protection Agency, 2023)

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.

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

#### Bushfire

A Strategic Bushfire Study report has been prepared by consultants Clarke Dowdle & Associates (July 2023) addressing the requirements of *Planning for Bush Fire Protection 2019* (PBP) and in response to comments from NSW Rural Fire Service. The report concludes the Planning Proposal meets the aim and objectives of PBP 2019 and can achieve required APZs and other bushfire mitigation measures. It does not impose additional mitigation actions on adjoining land. The report also concludes the proposal satisfies the Ministerial Direction – 'Planning for Bush Fire Protection' and PBP 2019, and is not considered incompatible with the surrounding environment and bushfire risk. Consultation with NSW RFS, dated 19 September 2023, confirmed that the requirements have been satisfied.



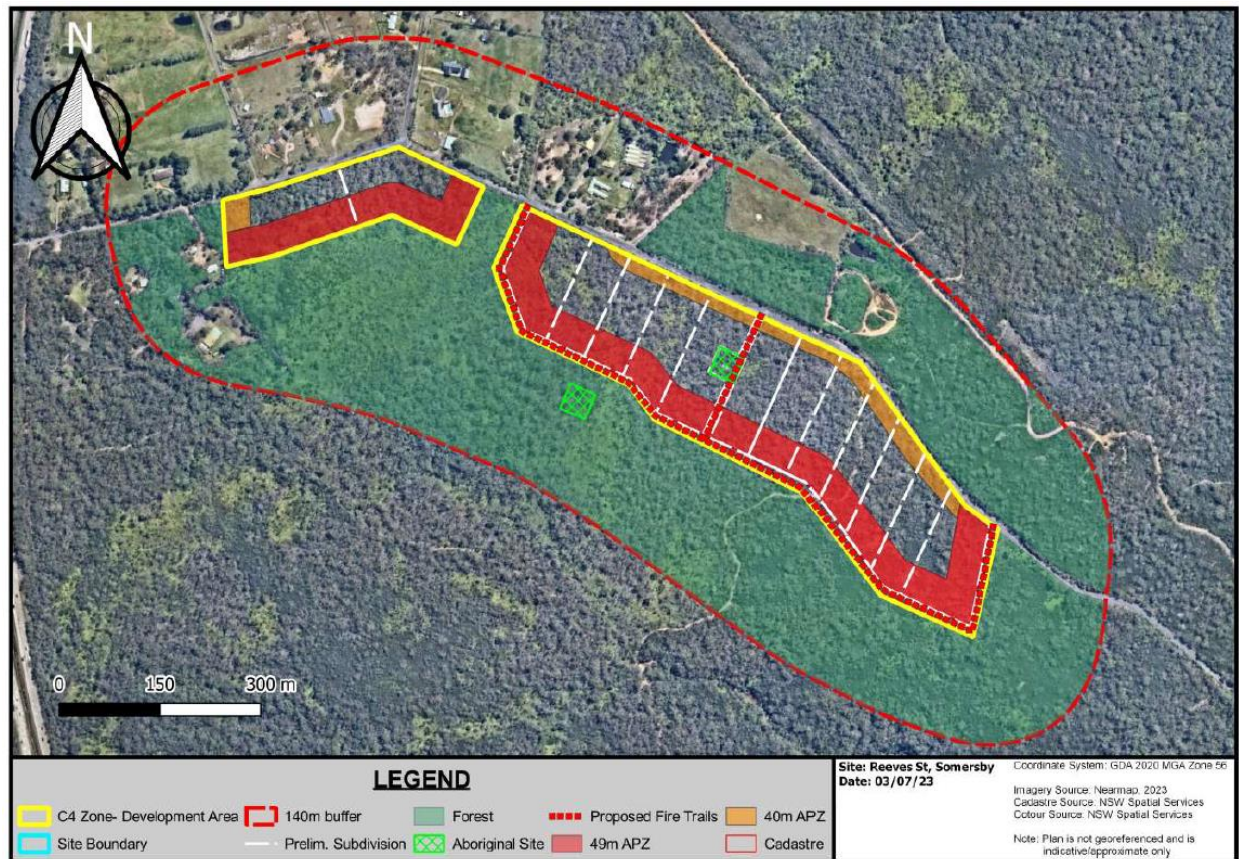


Figure 11: Environmental Living asset protection zone overlay (Clarke Dowdle & Associates, 2023)

### Aboriginal Cultural Heritage

An Aboriginal Cultural Heritage Assessment report has been prepared by consultants Heritage Now (September 2023). One Aboriginal heritage item has been recorded within the site. This identified item is located within the proposed C4 Environmental Living zone 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. These include 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.

### 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.

### Contamination

A preliminary contamination assessment report has been prepared by Qualtest (July 2023), which 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).

### Site Servicing

A Preliminary Stormwater and Servicing report has been prepared by consultants Northrop (August 2023) addressing stormwater and 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?

The planning proposal will facilitate social and economic outcomes for the Darkinjung Aboriginal Community. This planning proposal creates opportunities for economic development through the delivery of a small number of homes in an environmental setting that will help empower the Darkinjung Community to develop culturally, socially and economically.

The proposal will also provide increased environmental protection for most of the site. Darkinjung intends to securing the C2 zoned land in a biodiversity stewardship agreement.

## Section D – Infrastructure (Local, State and Commonwealth)

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

A preliminary servicing assessment was prepared by Northrop Consulting Engineers which determined that the site is capable of accommodating the future development envisaged under the Planning Proposal. This is on the grounds of stormwater flooding and essential services, and the site is considered to have sufficient capacity to accommodate the proposed rezoning. Further investigations will only be required to support the detailed design of a future subdivision application.

## Section E – State and Commonwealth interests

### Q12. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

#### NSW Rural Fire Service

The proposal must be accompanied by a Bush Fire Assessment Report (BFAR) that demonstrates how the proposed future subdivision will be able to comply with the requirements in Section 4 Strategic Planning and Section 5.1 Isolated Subdivisions of *Planning for Bushfire Protection 2019*. Preliminary advice received from NSW RFS raises no specific objection to the proposal, however, it identified further requirements for the proposal to satisfy.

Further consultation with NSW RFS is required to ensure all requirements have been satisfied with the refined proposal and supporting technical studies.

#### Biodiversity Conservation Division

The Biodiversity Conservation Division notes the CCSCP will provide sufficient justification (under Direction 3.1 – Consistency (b)) for the inconsistency with Direction 3.1 of the Section 9.1(2) of the *Environmental Planning and Assessment Act 1979* Ministerial Directions. Further consultation will be required regarding other biodiversity assessment pathways that may form the Offset Strategy as referenced in the Biodiversity Assessment Report.

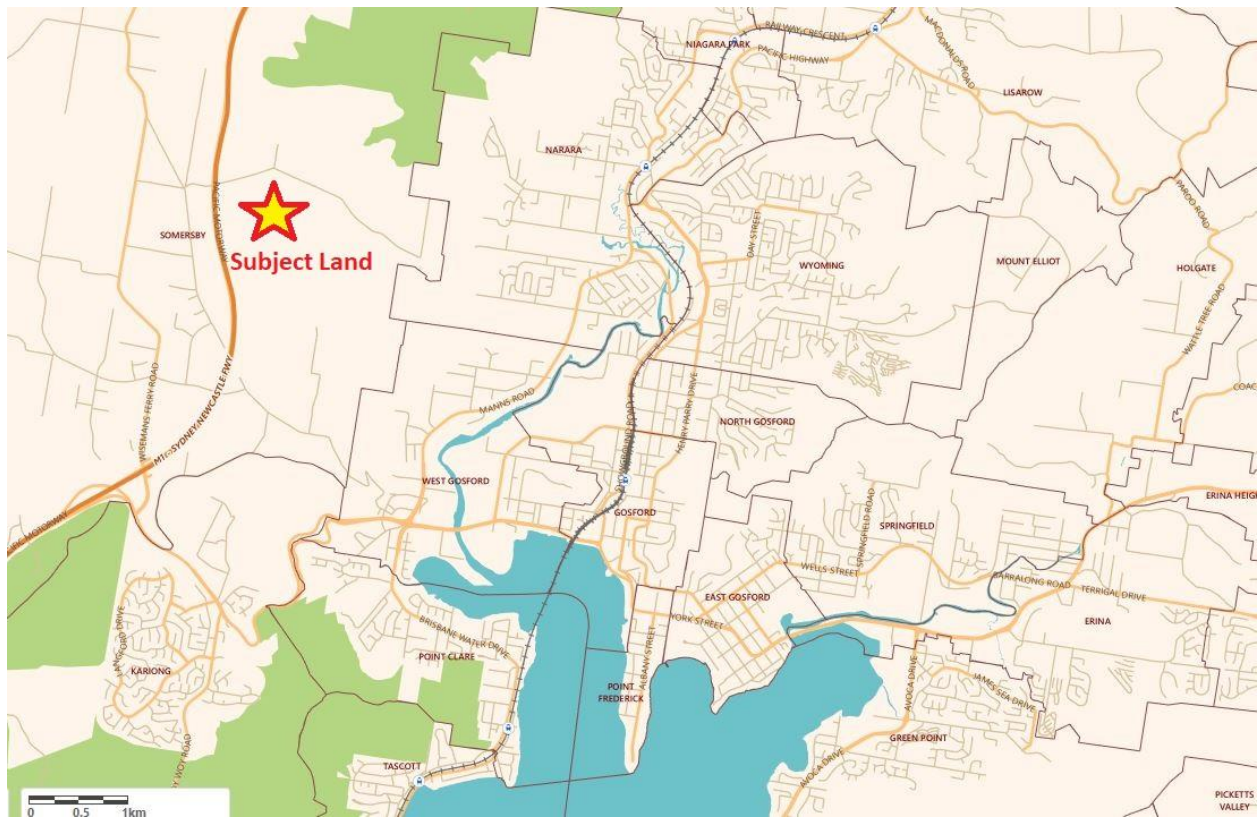
Further consultation with the following agencies and service authorities will be undertaken following Gateway determination:

- NSW Rural Fire Service
- Biodiversity Conservation Division
- Heritage NSW
- Central Coast Council – Water and Sewer Authority
- Transport for NSW
- Geological Survey NSW



## Part 4 – Mapping

### Locality Map

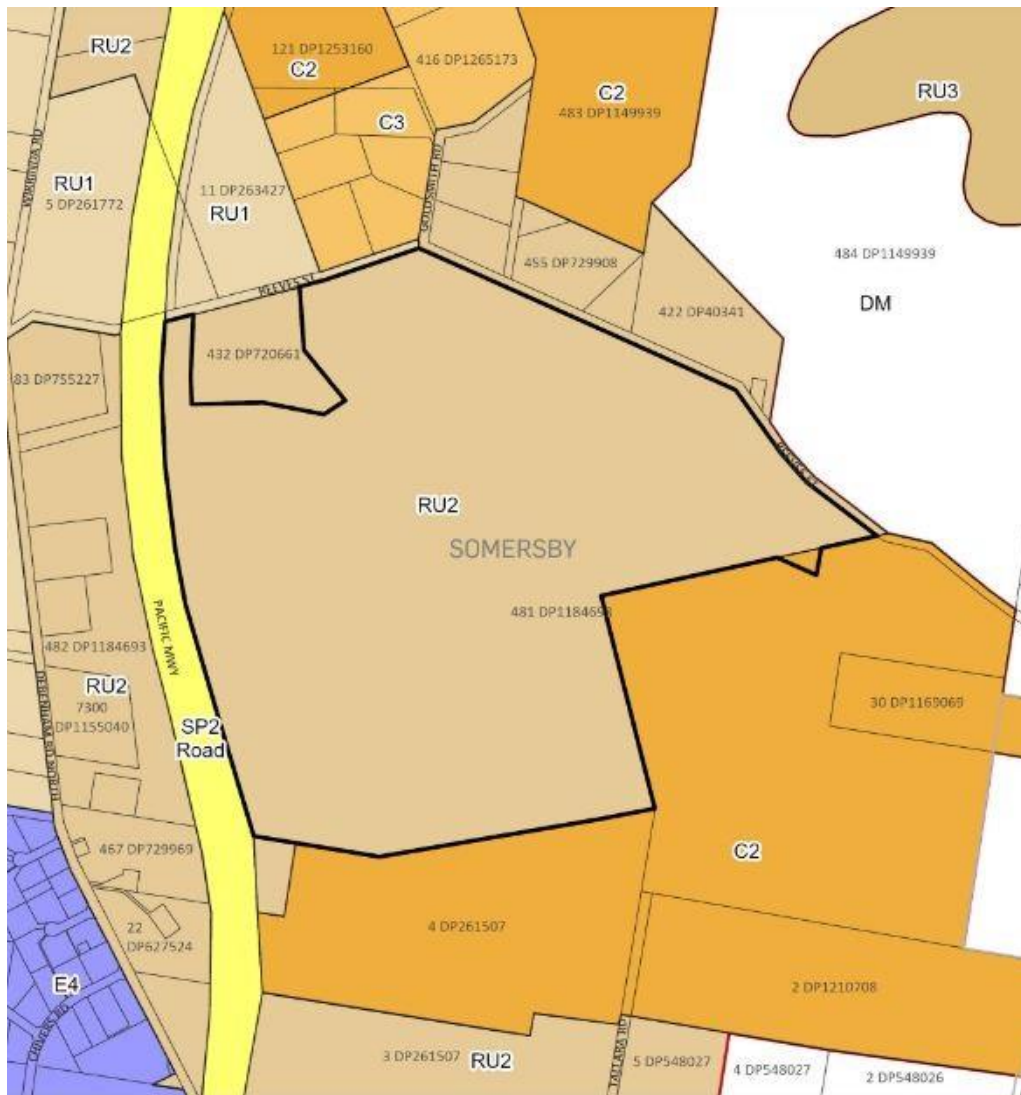




Aerial Photograph



## Existing Land Use Zones



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

## Existing

### Land Zoning Map

Central Coast Local Environmental Plan 2022

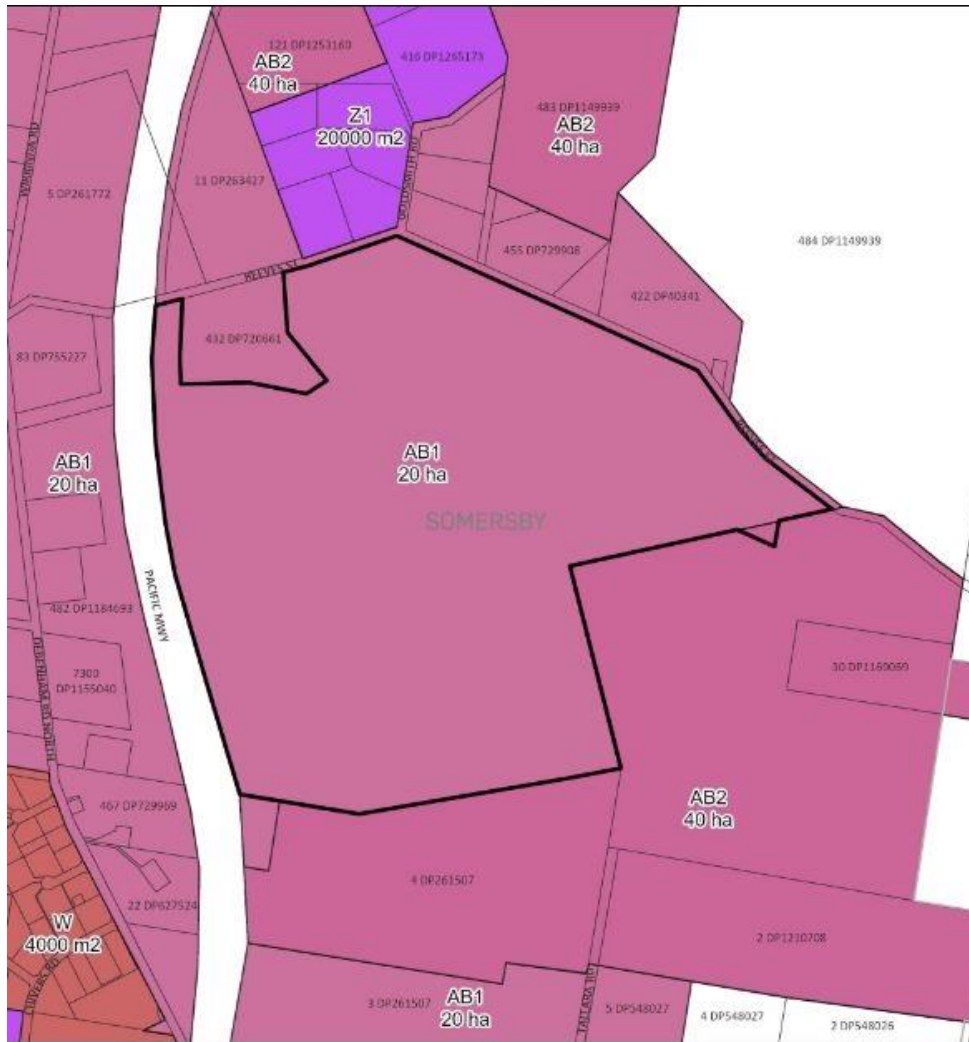
0 250 m



Projection GDA 2020  
MGA Zone 56

Date: 22/06/2023 Project: 1045

## Existing Lot Size



Subject Land

Minimum Lot Size

W 4000 sq m

Z1 2 ha

AB1 20 ha

AB2 40 ha

# Existing

Minimum Lot Size Map

Central Coast Local Environmental Plan 2022

0 250 m

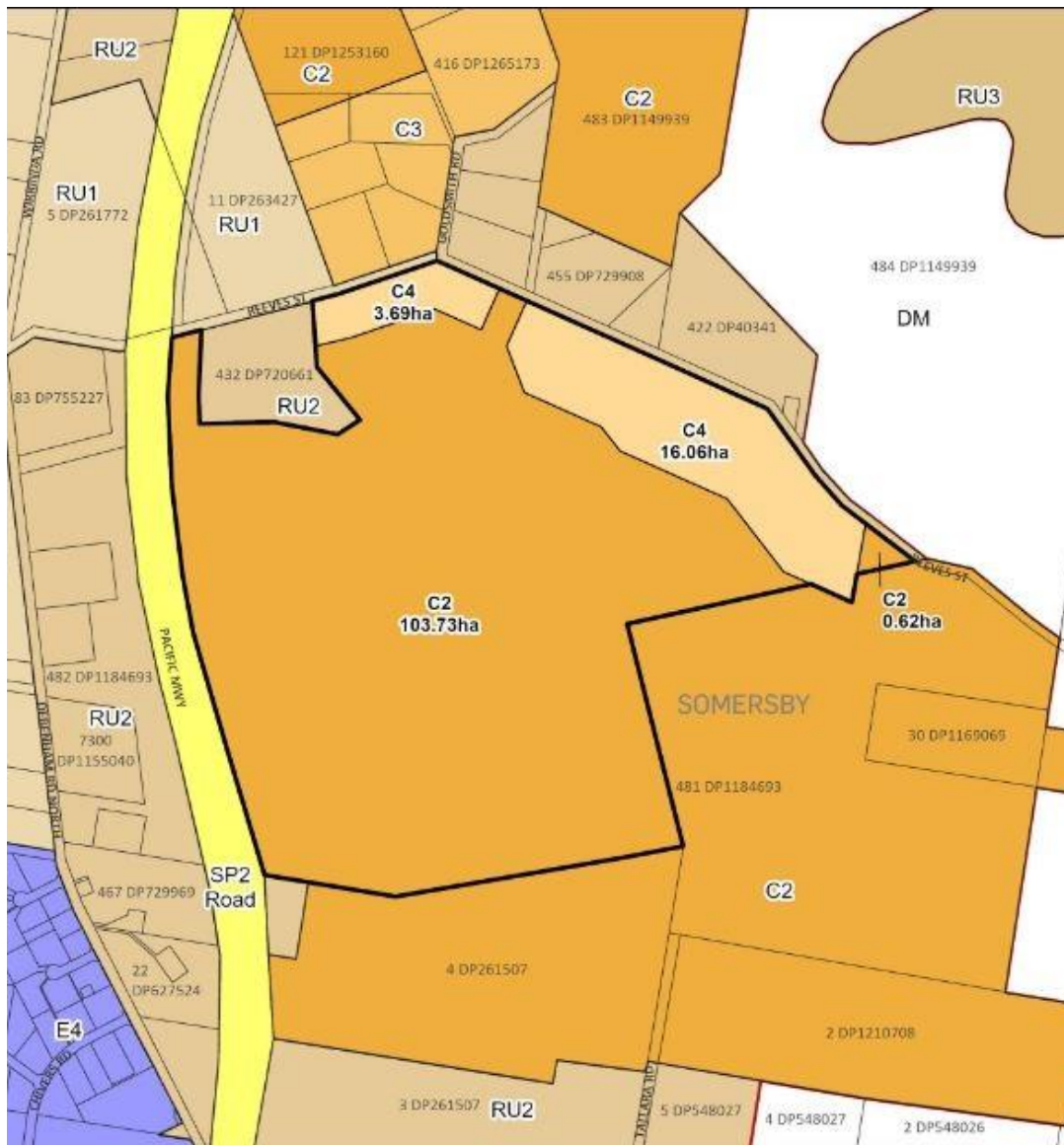


Projection GDA 2020  
MGA Zone 56

Date: 22/08/2023 Project: 1045



## Proposed Land Use Zones



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

# Proposed

## Land Zoning Map

Central Coast Local Environmental Plan 2022


0 250 m



Projection GDA 2020  
MGA Zone 56

Date: 22/06/2023 Project: 1045

[illegible]

 AB2 40 ha

Date: 22/06/2023 Project: 1045



## Part 5 – Community Consultation

The planning proposal will be placed on public exhibition for a period of at least 28 days, with public submissions invited during this time. Adjoining land holders will be notified of the exhibition of the planning proposal.

## Part 6 – Project timeline

The planning proposal is considered ‘complex’ given that 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 for complex planning proposals and including additional time for resolving technical studies<sup>1</sup>:

Stage	Standard Max Benchmark Timeframes	Milestone	Timeframe under LEP Guideline	Revised Benchmark Timeframes	Expected timeframe
Stage 2 – Planning Proposal	120 working days	Revised PP submitted to the Department	7 July 2023	82 working days	7 July 2023
		Pre-gateway agency and Council consultation	7 July 2023 – 4 & 11 August 2023		7 July 2023 – 4 & 11 August 2023
		Regional Planning Panel determines whether to forward for Gateway	5 October 2023		5 October 2023
Stage 3 – Gateway determination	45 working days	Gateway determination	30 November 2023	45 working days	30 November 2023
Stage 4 – Post-gateway	70 working days	Pre-exhibition	January-March 2024	15-20 working days	December 2023 OR January 2024*
Stage 5 – Public Exhibition & Assessment	115 working days	Commencement and completion of public exhibition period	March-April 2024	80 working days	January 2024 – February 2024
		Consideration of submissions	May 2024		February 2024
		Post-exhibition review	27 August 2024		March 2024

<sup>1</sup> It is noted that considerable work on the planning proposal, being a refined version of PP-2021-256, has been undertaken to date. As such, a revised more realistic timeline has been prepared that reflects this work and engagement with state agencies and council that has occurred. It is anticipated that the refined proposal will result in a speedier progression through the Local Environment Plan Making Guideline’s benchmark timeframes, including reduced pre- and post-exhibition periods.

Stage	Standard Max Benchmark Timeframes	Milestone	Timeframe under LEP Guideline	Revised Benchmark Timeframes	Expected timeframe
Stage 6 – Finalisation	70 working days	Submission to the local plan making authority for finalisation	28 August 2024	70 working days	April 2024
		Gazettal of LEP amendment	4 December 2024		30 July 2024
Total (end to end)	420 days			<b>292-297 working days</b>	

\*The post-gateway stage is intended to take account of the key steps in the *Local Environmental Plan Making Guideline* (DPE, August 2023) (refer Figure 12). The key steps include the preparation of additional studies, consultation with authorities and government agencies, and the updating of the planning proposal in response to additional studies and consultation. It is anticipated that these steps will not be required, or that less would be required, given the upfront work that has occurred in re-consulting with Agencies and Council in July-August 2023 and updating of studies in the first half of 2023.

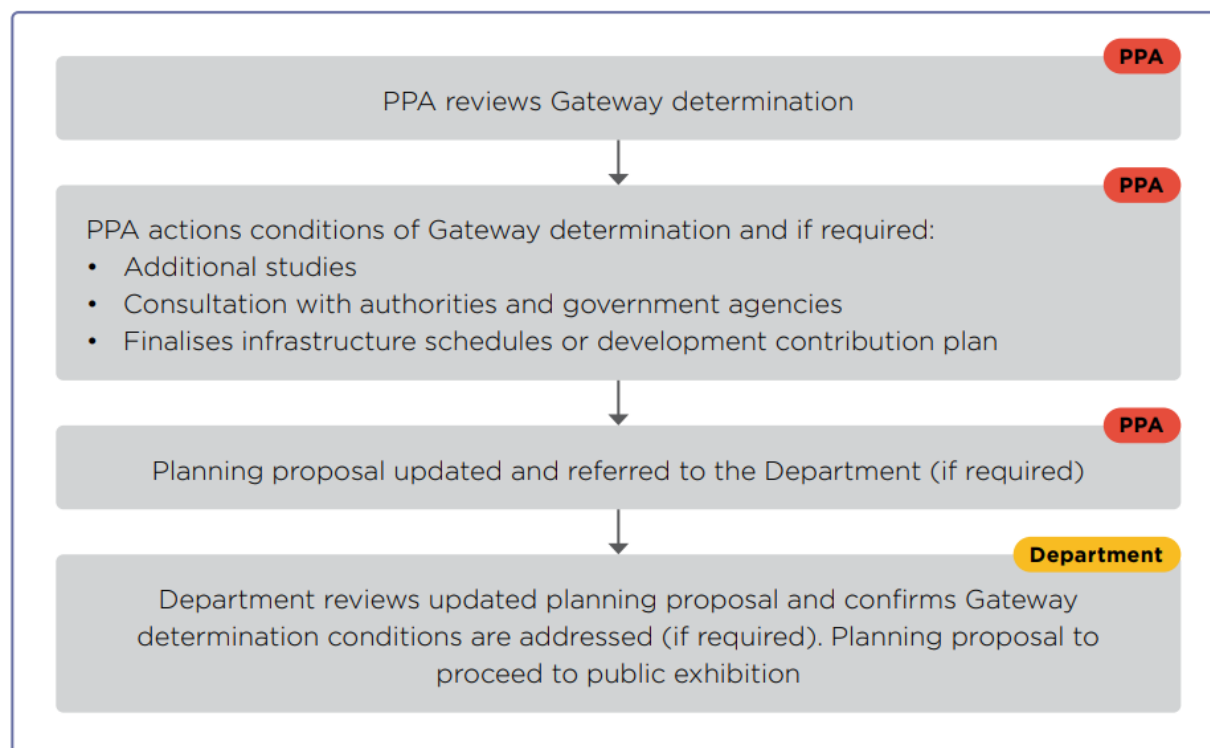


Figure 12: Key steps in the LEP Making Guideline

Appendix A – Technical Studies

Appendix B – Supplementary Information